

Amendments to the Capital Requirements Regulation in the area of resolution (“daisy chain” proposal)

2021/0343(COD) - 27/10/2021 - Legislative proposal

PURPOSE: to amend Regulation (EU) No 575/2013 on prudential requirements for credit institutions and investment firms (CRR) and Directive 2014/59/EU establishing a framework for the recovery and resolution of credit institutions and investment firms (Bank Recovery and Resolution Directive or BRRD) as regards the prudential treatment of global systemically important institution groups with a multiple point of entry resolution strategy and a methodology for the indirect subscription of instruments eligible for meeting the minimum requirement for own funds and eligible liabilities (the so-called ‘daisy chain’ proposal).

PROPOSED ACT: Regulation of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: the proposal is part of a **reform of EU banking regulation** aimed at ensuring that EU banks become more resilient to possible future economic shocks, while contributing to Europe's recovery from the COVID-19 pandemic and the transition to climate neutrality.

In addition to this proposal, the package presented by the European Commission consists of a [legislative proposal](#) to amend the Capital Requirements Directive (Directive 2013/36/EU) and a [legislative proposal](#) to amend the Capital Requirements Regulation (Regulation (EU) No 575/2013 or CRR).

Largely based on international standards agreed with the EU's international partners, in particular the Basel Committee on Banking Supervision (BCBS), the CRR and CRD were adopted in the wake of the financial crisis of 2008 and 2009 with the aim of increasing the resilience of institutions operating in the EU.

The CRR was subsequently amended to address remaining weaknesses in the regulatory framework. A major revision was brought by the ‘Risk Reduction Measures Package’, which was adopted by the European Parliament and the Council on 20 May 2019. This reform implemented in the Union the international Total Loss-Absorbing Capacity (**TLAC**) standard for global systemically important institutions (G-SIIs) adopted by the Financial Stability Board (FSB) in November 2015 and enhanced the application of the minimum requirement for own funds and eligible liabilities (**MREL**) for all institutions established in the Union.

The TLAC standard requires G-SIIs to hold a sufficient amount of highly loss-absorbing (bail-inable) liabilities to ensure smooth and fast absorption of losses and recapitalisation in the event of resolution. TLAC and MREL are thus essential to effectively manage bank crises and reduce their negative impact on financial stability and public finances. TLAC and the revised rules on MREL became applicable in the Union on 27 June 2019 and 28 December 2020, respectively.

In line with international standards, EU law recognises both the Single Point of Entry (SPE) resolution strategy and the Multiple Point of Entry (MPE) resolution strategy. Under the **MPE resolution strategy**, more than one entity of the banking group may be resolved. The underlying principle of the MPE

resolution approach is to enable the resolution of a given resolution group in a feasible and credible way without undermining the resolvability of other resolution entities and resolution groups in the same consolidated banking group.

The revised bank resolution framework provides that MREL for resolution entities should be set at the consolidated level of a resolution group ('external MREL'). In addition, that framework envisages how the loss absorption and recapitalisation capacity should be allocated within resolution groups ('internal MREL').

CONTENT: the proposed regulation **supplements and amends existing EU legislation (CRR and BRRD) on the application of capital requirements and eligible liabilities**. It aims to: (i) fully harmonise the prudential treatment of the holdings by intermediate parents of internal MREL eligible resources of their subsidiaries and; (ii) revise in a targeted manner the requirements for own funds and eligible liabilities for G-SIIs and for material subsidiaries of non-EU G-SIIs.

The proposed changes include:

- incorporate directly into the CRR a dedicated prudential treatment related to the indirect subscription of instruments eligible for internal MREL (daisy chain approach);
- clarify the provisions of the CRR relating to the comparison between the sum of the effective TLAC requirements of all resolution groups within a G-SII group with an MPE resolution strategy with the theoretical SPE requirement of that G-SII group;
- amend the formula for the calculation of the TLAC/MREL surplus of a subsidiary in the context of the general deduction regime applicable to G-SIIs with an MPE resolution strategy to ensure that that formula takes into account both the risk-based and the non-risk-based TLAC/MREL requirements of the subsidiary, in line with the TLAC standard;
- clarify some CRR provisions applicable G-SIIs with an MPE resolution strategy to allow for the consideration of subsidiaries established outside of the Union;
- provide targeted clarifications in the context of the requirement for own funds and eligible liabilities for institutions that are material subsidiaries of non-EU G-SIIs ('internal TLAC') are needed to ensure that debt instruments issued by those institutions could meet all eligibility criteria for eligible liabilities instruments.

By facilitating the indirect subscription of internal MREL within resolution groups, by better aligning the regulatory treatment of banking groups with an MPE resolution strategy with the TLAC standard, and by specifying further some of the criteria for eligibility for compliance with the internal TLAC requirement, the proposal will **improve the application of the existing Union rules as regards ensuring the resolvability of banking groups**.

The proposed amendments would further promote a **uniform application of prudential requirements**, the convergence of supervisory practices and ensure a level playing field throughout the single market for banking services.

In the Commission's view, there is a need for an expedited adoption given that banking groups need clarity on the daisy chain mechanism to decide how best to preposition their internal MREL capacity in view of the general MREL compliance deadline that is set to 1 January 2024, with binding intermediate targets needing to be complied with by 1 January 2022.