Procedure file

Basic information

COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	2011/0202(COD)	Procedure completed

Prudential requirements for credit institutions and investment firms. Capital Requirements Regulation (CRR)

Amending Regulation (EU) No 648/2012 2010/0250(COD)
See also 2011/0203(COD)
Amended by 2015/0225(COD)
Amended by 2015/0295(COD)
Amended by 2016/0360A(COD)
Amended by 2016/0360B(COD)
Amended by 2017/0359(COD)
Amended by 2018/0042(COD)
Amended by 2018/0060(COD)
Amended by 2020/0066(COD)
Amended by 2020/0156(COD)
Amended by 2021/0343(COD)

Subject
2.50.03 Securities and financial markets, stock exchange, CIUTS, investments
2.50.04 Banks and credit
2.50.05 Insurance, pension funds
2.50.08 Financial services, financial reporting and auditing
2.50.10 Financial supervision

Key players

European Parliament	Committee responsible	Rapporteur	Appointed
	ECON Economic and Monetary Affairs		20/10/2009
		PPE KARAS Othmar	
		Shadow rapporteur	
		S&D BULLMANN Udo	
		ALDE BOWLES Sharon	
		Verts/ALE LAMBERTS Philippe	
		ECR FORD Vicky	
	Committee for opinion	Rapporteur for opinion	Appointed
	JURI Legal Affairs	The committee decided not to give an opinion.	
Council of the European Union	Council configuration	Meeting	Date
	Employment, Social Policy, Health and Consumer Affairs	3247	20/06/2013
	Economic and Financial Affairs ECOFIN	3227	05/03/2013
	Economic and Financial Affairs ECOFIN	3220	12/02/2013
	Economic and Financial Affairs ECOFIN	3215	22/01/2013
	Economic and Financial Affairs ECOFIN	3205	04/12/2012
	Economic and Financial Affairs ECOFIN	3198	13/11/2012
	Economic and Financial Affairs ECOFIN	3189	09/10/2012
	Economic and Financial Affairs ECOFIN	3181	10/07/2012
	Economic and Financial Affairs ECOFIN	3167	15/05/2012

	Economic and Financial Affairs ECOFIN	3163	02/05/2012
	Economic and Financial Affairs ECOFIN	3129	30/11/2011
European Commission	Commission DG	Commissioner	
	Financial Stability, Financial Services and Capital Markets Union	BARNIER Michel	
European Economic and Social Committee			

Key events

20/07/2011	Legislative proposal published	COM(2011)0452	Summary
17/11/2011	Committee referral announced in Parliament, 1st reading		
30/11/2011	Debate in Council	3129	Summary
02/05/2012	Debate in Council	3163	Summary
14/05/2012	Vote in committee, 1st reading		
15/05/2012	Debate in Council	3167	Summary
11/06/2012	Committee report tabled for plenary, 1st reading	A7-0171/2012	
10/07/2012	Debate in Council	3181	Summary
09/10/2012	Debate in Council	3189	Summary
13/11/2012	Debate in Council	3198	
04/12/2012	Debate in Council	3205	
22/01/2013	Debate in Council	3215	
12/02/2013	Debate in Council	3220	
05/03/2013	Debate in Council	3227	Summary
16/04/2013	Results of vote in Parliament		
16/04/2013	Debate in Parliament		
16/04/2013	Decision by Parliament, 1st reading	T7-0115/2013	Summary
20/06/2013	Act adopted by Council after Parliament's 1st reading		
26/06/2013	Final act signed		
26/06/2013	End of procedure in Parliament		
27/06/2013	Final act published in Official Journal		

Technical information

Procedure reference	2011/0202(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation

	Amending Regulation (EU) No 648/2012 2010/0250(COD) See also 2011/0203(COD) Amended by 2015/0225(COD) Amended by 2015/0295(COD) Amended by 2016/0360A(COD) Amended by 2016/0360B(COD) Amended by 2017/0359(COD) Amended by 2018/0042(COD) Amended by 2018/0060(COD) Amended by 2020/0066(COD) Amended by 2020/0156(COD) Amended by 2021/0343(COD)
Legal basis	Treaty on the Functioning of the EU TFEU 114-p1
Other legal basis	Rules of Procedure EP 159
Mandatory consultation of other institutions	European Economic and Social Committee
Stage reached in procedure	Procedure completed
Committee dossier	ECON/7/07784

Documentation gateway

Legislative proposal		COM(2011)0452	20/07/2011	EC	Summary
Document attached to the procedure		SEC(2011)0949	20/07/2011	EC	
Document attached to the procedure		SEC(2011)0950	20/07/2011	EC	
Committee draft report		PE478.506	16/12/2011	EP	
Economic and Social Committee: opinion, report		CES0145/2012	18/01/2012	ESC	
European Central Bank: opinion, guideline, report		CON/2012/0005 OJ C 105 11.04.2012, p. 0001	25/01/2012	ECB	Summary
Document attached to the procedure		N7-0075/2012 OJ C 175 19.06.2012, p. 0001	10/02/2012	EDPS	Summary
Amendments tabled in committee		PE483.850	07/03/2012	EP	
Amendments tabled in committee		PE483.852	08/03/2012	EP	
Amendments tabled in committee		PE483.853	09/03/2012	EP	
Amendments tabled in committee		PE483.854	09/03/2012	EP	
Amendments tabled in committee		PE483.855	09/03/2012	EP	
Committee report tabled for plenary, 1st reading/single reading		A7-0171/2012	12/06/2012	EP	
Text adopted by Parliament, 1st reading/single reading		T7-0115/2013	16/04/2013	EP	Summary
Commission response to text adopted in plenary		SP(2013)338	15/05/2013	EC	
Draft final act		00014/2013/LEX	26/06/2013	CSL	
Follow-up document		COM(2014)0327	05/06/2014	EC	Summary

Follow-up document		COM(2015)0388	05/08/2015	EC	Summary
Follow-up document		COM(2015)0509	20/10/2015	EC	Summary
Follow-up document		COM(2015)0685	06/01/2016	EC	Summary
Follow-up document		COM(2016)0021	26/01/2016	EC	Summary
Follow-up document		COM(2016)0510	28/07/2016	EC	Summary
Follow-up document		SWD(2016)0265	28/07/2016	EC	
Follow-up document		SWD(2016)0266	28/07/2016	EC	
Follow-up document		COM(2017)0121	08/03/2017	EC	Summary
Document attached to the procedure		SWD(2017)0481	21/12/2017	EC	Summary
Follow-up document		COM(2018)0172	09/04/2018	EC	Summary
Follow-up document		SWD(2018)0089	09/04/2018	EC	
Follow-up document		COM(2021)0062	16/02/2021	EC	

Additional information

National parliaments	IPEX
European Commission	EUR-Lex

Final act

Regulation 2013/575
OJ L 176 27.06.2013, p. 0001 Summary

Corrigendum to final act 32013R0575R(01)
OJ L 208 02.08.2013, p. 0068 Summary

Corrigendum to final act 32013R0575R(02)
OJ L 321 30.11.2013, p. 0006 Summary

Corrigendum to final act 32013R0575R(04)
OJ L 020 25.01.2017, p. 0002

Final legislative act with provisions for delegated acts

Delegated acts

2015/2769(DEA)	Examination of delegated act
2014/2510(DEA)	Examination of delegated act
2014/2572(DEA)	Examination of delegated act
2014/2665(DEA)	Examination of delegated act
2014/2673(DEA)	Examination of delegated act
2014/2675(DEA)	Examination of delegated act
2014/2501(DEA)	Examination of delegated act
2014/2662(DEA)	Examination of delegated act
2014/2663(DEA)	Examination of delegated act
2014/2674(DEA)	Examination of delegated act

2014/2890(DEA)	Examination of delegated act
2014/2891(DEA)	Examination of delegated act
2014/2820(DEA)	Examination of delegated act
2015/2724(DEA)	Examination of delegated act
2014/3013(DEA)	Examination of delegated act
2014/3021(DEA)	Examination of delegated act
2015/2545(DEA)	Examination of delegated act
2015/2591(DEA)	Examination of delegated act
2014/2880(DEA)	Examination of delegated act
2015/2929(DEA)	Examination of delegated act
2016/2551(DEA)	Examination of delegated act
2016/2590(DEA)	Examination of delegated act
2015/2617(DEA)	Examination of delegated act
2015/2748(DEA)	Examination of delegated act
2017/2713(DEA)	Examination of delegated act
2017/2806(DEA)	Examination of delegated act
2018/2809(DEA)	Examination of delegated act
2017/2912(DEA)	Examination of delegated act
2017/2984(DEA)	Examination of delegated act
2019/3007(DEA)	Examination of delegated act
2018/2547(DEA)	Examination of delegated act
2018/2644(DEA)	Examination of delegated act
2016/2906(DEA)	Examination of delegated act
2017/2823(DEA)	Examination of delegated act
2016/2972(DEA)	Examination of delegated act
2020/2926(DEA)	Examination of delegated act
2022/2567(DEA)	Examination of delegated act
2022/2595(DEA)	Examination of delegated act
2020/2867(DEA)	Examination of delegated act
2021/3007(DEA)	Examination of delegated act
2020/2668(DEA)	Examination of delegated act
2022/2551(DEA)	Examination of delegated act
2021/2573(DEA)	Examination of delegated act
2021/2574(DEA)	Examination of delegated act

2021/2943(DEA)	Examination of delegated act
2022/2680(DEA)	Examination of delegated act
2022/2792(DEA)	Examination of delegated act
2022/2973(DEA)	Examination of delegated act
2022/2687(DEA)	Examination of delegated act
2022/2876(DEA)	Examination of delegated act
2022/2727(DEA)	Examination of delegated act
2022/2728(DEA)	Examination of delegated act
2022/2790(DEA)	Examination of delegated act
2022/2873(DEA)	Examination of delegated act

Prudential requirements for credit institutions and investment firms. Capital Requirements Regulation (CRR)

PURPOSE: to strengthen prudential requirements for credit institutions and investment firms that relate strictly to the functioning of banking and financial services markets and are meant to ensure the financial stability of the operators on these markets as well as a high level of protection of investors and depositors.

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

BACKGROUND: the extent of the financial crisis has exposed unacceptable risks pertaining to the current regulation of financial institutions. According to IMF estimates, crisis-related losses incurred by European credit institutions between 2007 and 2010 are close to 1 trillion or 8% of the EU GDP. In order to restore stability in the banking sector and ensure that credit continues to flow to the real economy, both the EU and its Member States adopted a broad range of unprecedented measures with the taxpayer ultimately footing the related bill. In this context, by October 2010 the Commission has approved 4.6 trillion of state aid measures to financial institutions of which more than 2 trillion were effectively used in 2008 and 2009.

The level of fiscal support provided to credit institutions needs to be matched with a robust reform addressing the regulatory shortcomings exposed during the crisis.

Priorities and challenges: it should be noted that one of the priorities of the Commission in the reform of EU financial services regulation has been to ensure that the banking sector is able to fulfil its fundamental purpose, namely lending to the real economy and providing services to citizens and businesses in Europe.

The proposal is designed to tackle regulatory shortcomings in the following areas:

- Management of liquidity risk: existing liquidity risk management practices were shown by the crisis to be inadequate in fully grasping risks linked to originate-to-distribute securitization, use of complex financial instruments and reliance on wholesale funding with short term maturity instruments.
- Definition of capital: institutions entered the crisis with capital of insufficient quantity and quality. Given the risks they faced, many institutions did not posses sufficient amounts of the highest quality capital instruments that can absorb losses effectively as they arise and help to preserve an institution as a going concern.
- Counterparty credit risk: the crisis revealed a number of shortcomings in the current regulatory treatment of counterparty credit risk arising from derivatives, repo and securities financing activities. It showed that the existing provisions did not ensure appropriate management and adequate capitalisation for this type of risk.
- Options, discretions and harmonisation (entire Regulation): in 2000, seven banking directives were replaced by a single Directive. This directive was recast in 2006 while introducing the Basel II framework in the EU. As a result, its current provisions include a significant number of options and discretions. Moreover, Member States have been permitted to impose stricter rules than those of the Directive. As a result, there is a high level of divergence which is particularly burdensome for firms operating cross-border. It also gives rise to the lack of legal clarity and an uneven playing field.

Action at international level: the G20 Declaration of 2 April 2009 on Strengthening of the Financial System called for internationally consistent efforts that are aimed at strengthening transparency, accountability and regulation by, improving the quantity and quality of capital in the banking system once the economic recovery is assured. In December 2010, the Basel Committee on

Banking Supervision (BCBS) issued detailed rules of new global regulatory standards on credit institution capital adequacy and liquidity that collectively are referred to as Basel III. This proposal directly relates to the regulatory standards included in Basel III. At the same time, in the process of developing this legislative proposal, the Commission has made particular efforts in making sure that certain major European specificities and issues are appropriately addressed.

Creating a new legal framework: Directive 2006/48/EC relating to the taking up and pursuit of the business of credit institutions and Directive 2006/49/EC on the capital adequacy of investment firms and credit institutions ("institutions") have been significantly amended on several occasions. Many provisions of Directives 2006/48/EC and 2006/49/EC are applicable to both credit institutions and investment firms. In order to ensure a coherent application of those provisions, it would be desirable to merge these provisions into new legislation applicable to both credit institutions and investment firms. For sake of clarity, the provisions of the Annexes to those Directives should be integrated into the enacting terms of this new legislation. That new legislation should consist of two different legal instruments, a Directive and this Regulation. Together, both legal instruments should form the legal framework governing the access to the activity, the supervisory framework and the prudential rules for credit institutions and investment firms. This Regulation should therefore be read together with the Directive.

IMPACT ASSESSMENT: altogether, 27 policy options have been assessed and compared with a view to addressing the various issues identified. Preferred options are as follows:

· Introduce Liquid Coverage Ratio (LCR) adopted by Basel Committee subject to observation period.

· Introduce Net Stable Funding ratio (NSFR) adopted by Basel Committee subject to observation period.

· Modify eligibility criteria and regulatory adjustments based on Basel approach, with some adjustments for EU specificities.

· Enhance Counterparty credit risk (CCR) requirements and differentiate treatment of exposures to Central Counterparties.

· Introduce leverage ratio.

· Conduct extensive monitoring of leverage ratio.

· Conservation capital buffer.

· Maximum harmonization with some exceptions.

· Limit scope of the CRD and propose a regulation.

Cumulative impacts of the proposed package are as follows:

- this proposal together with CRD III is estimated to increase the risk-weighted assets of large credit institutions by 24.5% and of small credit institutions by a modest 4.1%;
- the need to raise new own funds due to the new requirement and the conservation buffer is estimated to be 84 billion by 2015 and 460 billion by 2019;
- there are clear net long term economic benefits of an annual increase in the EU GDP in the range of 0.3%-2%. They stem from a reduction in the expected frequency and probability of future systemic crises;
- the proposal would reduce the probability of a systemic banking crisis in seven Member States within the range of 29% to 89% when credit institutions recapitalise to a total capital ratio of at least 10.5%.

LEGAL BASIS: Article 114(1) TFEU provides a legal basis for a Regulation creating uniform provisions aimed at the functioning of the internal market.

CONTENT: the proposed Regulation streamlines the prudential requirements for credit institutions and investment firms, which are currently set out in two different Directives (2006/48/EC and 2006/49/EC), in one legal instrument, which considerably simplifies the applicable legal framework.

The individual policy measures proposed are as follows:

Management of liquidity risk:

- To improve short-term resilience of the liquidity risk profile of financial institutions, a Liquidity Coverage Ratio (LCR) will be introduced after an observation and review period in 2015. LCR would require institutions to match net liquidity outflows during a 30 day period with a buffer of 'high quality' liquid assets. The outflows covered (the denominator) would reflect both institution-specific and systemic shocks built upon actual circumstances experienced in the global financial crisis. The provisions on the list of high quality liquid assets (the numerator) to cover these outflows should ensure that these assets are of high credit and liquidity quality. Based on the LCR definition included in Basel III, compliance with this requirement in the EU is expected to produce net annual GDP benefits in the range of 0.1% to 0.5%, due to a reduction in the expected frequency of systemic crises.
- To address funding problems arising from asset-liability maturity mismatches, the Commission will consider proposing a Net Stable Funding Ratio (NSFR) after an observation and review period in 2018.

Definition of capital:

- The proposal builds upon the changes made in CRD2 to strengthen further the criteria for eligibility of capital instruments. Furthermore, it introduces significant harmonisation of the adjustments made to accounting equity in order to determine the amount of regulatory capital that it is prudent to recognise for regulatory purposes. This new harmonised definition would significantly increase the amount of regulatory capital required to be held by institutions.
- The new requirements for going concern regulatory capital - Common Equity Tier 1 and Tier 1 capital - would be implemented gradually between 2013 and 2015. The new prudential adjustments would also be introduced gradually, 20% per annum from 2014, reaching 100% in 2018. Grandfathering provisions over 10 years would also apply to certain capital instruments in order to help to ensure a smooth transition to the new rules.

Counterparty credit risk:

- Requirements for management and capitalisation of the counterparty credit risk will be strengthened. Institutions would be subject to an additional capital charge for possible losses associated with the deterioration in the creditworthiness of a counterparty.
- Risk weights on exposures to financial institutions relative to the non-financial corporate sector will be raised.
- The proposal would also enhance incentives for clearing over-the-counter instruments through central counterparties.

Leverage ratio: in order to limit an excessive build-up of leverage on credit institutions' and investment firms' balance sheets and thus help containing the cyclicality of lending, the Commission also proposes to introduce a non-risk based leverage ratio. As agreed by BCBS, it will be introduced as an instrument for the supervisory review of institutions. The impacts of the ratio will be monitored with a view to migrating it to a binding pillar one measure in 2018, based on appropriate review and calibration, in line with international agreements.

Single rule book (entire Regulation): the proposal harmonises divergent national supervisory approaches by removing options and discretions almost altogether. Some specific well defined areas, where divergences are driven by risk assessment considerations, market or product specificities and Member States' legal frameworks, are exempted, allowing Member States to adopt stricter rules.

BUDGETARY IMPACT: EBA will play an important role in achieving the objective of this Regulation, as the proposals ask it to develop more than 50 binding technical standards (BTS) on various policy issues. BTS which would eventually be endorsed by the Commission will be key to ensure that provisions of highly technical nature are implemented uniformly across the EU and that the proposed policies work as intended. For this significant workload, EBA would need more resources than those already provided within the context of its establishment under Regulation (EU) 1093/2010. Further details are set out in the attached legislative financial statement.

DELEGATED ACTS: the proposal contains provisions empowering the Commission to adopt delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union.

Prudential requirements for credit institutions and investment firms. Capital Requirements Regulation (CRR)

OPINION OF THE EUROPEAN CENTRAL BANK on a proposal for a Directive on the access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms and a proposal for a Regulation on prudential requirements for credit institutions and investment firm.

For reasons of efficiency and clarity, the ECB has decided to issue a single opinion on these two legislative proposals.

General observations: the ECB welcomes the Unions strong commitment to implement international standards and agreements in the field of financial regulation, while taking into consideration, where relevant, specific features of the Unions legal and financial system. Furthermore, the ECB strongly supports the timely and effective implementation of the Basel capital and liquidity standards.

Reform of Union banking legislation: the ECB welcomes the innovative approach taken by the Commission, in particular with regard to the proposed regulation, which incorporates most of the technical Annexes to Directives 2006/48/EC and 2006/49/EC and limits Member State options and discretion. As regards future reviews of the proposed regulation and as pointed out in previous opinions, the ECB recommends ensuring that only framework principles contained in the proposed regulation reflecting basic political choices and substantive matters remain subject to the ordinary legislative procedure. Technical rules, including those in the proposed regulation, should be adopted as delegated or implementing acts in accordance with Articles 290 and 291 of the Treaty, which will thereby emerge as the main body of rules applying to Union financial institutions.

Single European rulebook in the financial sector: the ECB strongly supports the development of a single European rulebook for all financial institutions as it promotes the smooth functioning of the single market within the Union and facilitates greater financial integration in Europe. Furthermore, harmonised rules improve transparency and reduce regulatory and compliance costs.

ECBs advisory role regarding draft delegated and implementing acts: against the backdrop of Court of Justice rulings, and in order to deploy the full benefits of the exercise by the ECB of its advisory role, the ECB should be consulted in due time on any draft Union acts, including draft delegated and implementing acts, falling within its fields of competence. The ECB will exercise its advisory role on matters within the ECBs competence taking into utmost account the timelines for adoption of these acts and the need to ensure the smooth adoption of implementing legislation.

Specific observations

1) Macro-prudential supervision and scope for stricter rules: the ECB strongly supports the Commissions approach, which effectively establishes a single European rulebook for financial institutions. It fully supports the aim of addressing targeted risk exposures concerning, inter alia, certain sectors, regions or Member States through delegated acts.

- Nonetheless, the delegated acts the Commission can adopt should extend to prudential requirements on large exposures and disclosure requirements as well as to leverage and liquidity requirements, once leverage and liquidity requirements effectively become part of the applicable Union regulatory framework. The ECB notes, however, that a timeframe of six months or less for the imposition of stricter requirements to address such risks will be insufficient in many cases and would require a much longer timeframe, e.g. two years or more, to be effective and to achieve the desired objective.

- The ECB considers it important that the proposed regulation makes it possible for Member States to apply more stringent prudential requirements where systemic risks to financial stability arise. The scope of the proposed framework could be extended to cover stricter requirements for: (a) capital; (b) limits on large exposures; (c) liquidity requirements and leverage ratio, once introduced into the Union regulatory framework.

- With a view to maintaining transparency and ensuring the consistency of measures adopted within the Union, the ECB recommends that the possible application of more stringent requirements by national authorities be subject to safeguards. In this regard, the ESRB could play an important coordinating role. Moreover, the EBA and the ESRB should publish regular updates on their respective websites of measures adopted by Member States that are more stringent than those in the proposed regulation.

2) Own funds: the ECB strongly supports the proposed strengthening of the eligibility criteria for regulatory own funds as well as the further harmonisation of deductions.

- In line with the Basel III agreement, the capital instruments referred to in the proposed regulation should consist solely of shares in companies as defined under the respective national laws in the Member States (with the exception of capital instruments issued by mutuals, cooperative societies and similar institutions) and should qualify as common equity tier 1 items only if they meet all the conditions defined in the proposed regulation.

The ECB also recommends that the Commission, through the adoption of an implementing act, endorse the list of forms of the shares eligible as common equity tier 1 capital established by the EBA in order to give the list a binding effect.

- As regards significant investments in insurance undertakings, reinsurance undertakings and insurance holding companies, the Basel III agreement requires that, over a certain threshold, these investments be deducted from common equity tier 1 capital, i.e. the corresponding deduction approach.

The proposed regulation maintains the possibility, already present in Directive 2006/48/EC, for competent authorities to authorise the application of the methods set out in Directive 2002/87/EC as an alternative to deduction.

The ECB supports addressing the issue of double use of regulatory own funds both at the banking group level, i.e. consolidation of all subsidiaries that are institutions and financial institutions, and at the financial conglomerate level. In this context, application of the methods set out in Annex I to Directive 2002/87/EC should not at any time result in higher regulatory own funds for groups of institutions and financial institutions as referred to in the proposed regulation vis-à-vis what would be the regulatory own funds if the deduction approach applied.

Taking into account the Basel III agreement and also, as appropriate, the international principles of the Joint Forum on Financial Conglomerates, the ECB recommends ensuring full cross-sectoral consistency among these texts, which requires aligning the proposed regulation with the corresponding provisions of Directives 2009/138/EC and 2002/87/EC.

3) Capital buffers: the ECB welcomes the choice of the proposed directive for the introduction of the framework for capital buffers. In this regard, the ECB emphasises that a decision with regard to a counter-cyclical capital buffer by national authorities should be subject to unconstrained reciprocity requirements up to 2.5 % of risk- weighted assets, while voluntary reciprocity should apply above this threshold.

In addition, the ECB supports the proposal that national authorities have the ability to set a counter-cyclical capital buffer that takes into account any financial and economic variables considered relevant for the assessment of excessive credit growth and the build-up of systemic risks. However, these variables should not be structural in nature as the counter-cyclical capital buffer should not aim at addressing structural risks in the financial system.

4) Liquidity: the ECB welcomes the Commissions unequivocal commitment to introduce into Union legislation both a liquidity coverage requirement (LCR) and a net stable funding ratio (NSFR), in line with the Basel III agreements.

With regard to the proposed liquidity framework, the ECB would like to highlight the following points:

- regarding reporting on liquid assets, the ECB recommends the adoption of a single and transparent list of the items to be reported. As regards the treatment of shares or units in collective investment undertakings (CIUs) as liquid assets, it is important to limit the relative amount of these instruments in the total LCR, in addition to setting an absolute amount threshold of EUR 250 million, in order to limit concentration risks in small institutions;

- central banks should be involved in determining the extent to which central bank reserves may count towards the stock of liquid assets in times of stress;

- the ECB recommends being consulted by the EBA when developing a uniform definition of high quality assets as well as on the assessment by 31 December 2015 on how to ensure that institutions use stable sources of funding;

- the EBA, in cooperation with the ESRB, should be involved in formulating guidance on the possible release and subsequent build-up of the liquidity buffer in times of stress;

- the introduction of the NSFR will ensure that credit institutions have stable funding to meet their obligations. The ECB suggests drafting changes to avoid any possible ambiguity in the implementation of this requirement.

5) Leverage: the ECB welcomes the Commissions commitment to introduce a non- risk based leverage ratio as a binding requirement, subject to appropriate review and calibration by making maximum use of the agreed review period. Against this background, the ECB suggests clarifying in the proposed regulation the legislators commitment to introducing this requirement.

6) Supervisory reporting: the supervisory reporting frameworks of financial reporting (FINREP) and common reporting (COREP) have been last developed by the Committee of European Banking Supervisors. These frameworks are currently based on non-binding guidelines and reporting templates. In this context, the ECB recommends: (a) clarifying in the proposed regulation the COREP reporting framework; (b) introducing a clear legal basis for FINREP; and (c) further specifying the scope of the draft technical standards to be developed by the EBA in this field. In particular, it is proposed that EBA and ESRB should cooperate to define the scope of financial information necessary for the purposes of macro- prudential oversight.

7) Enhancement of information-sharing arrangements: the ECB suggests reflecting the changes introduced by the supervisory reform in the proposed directive and further improving the exchange of information between supervisory authorities and ESCB central banks, including the ECB, when this information is relevant for the performance of their respective tasks

The ECB would also recommend that the Commission, with the assistance of the relevant institutions and authorities (including the ECB, the ESRB and the EBA) undertake, within two years following the entry into force of the proposed directive, a full review of the effectiveness of these arrangements and, where appropriate, formulate proposals to further enhance this framework at Union level.

Lastly, the ECB recommends an in-depth assessment by the Commission, based on a report of the EBA, of the application of the proposed directive and regulation with regard to Union and Member State cooperation with third countries.

Prudential requirements for credit institutions and investment firms. Capital Requirements Regulation (CRR)

Opinion of the European Data Protection Supervisor (EDPS) on the Commission proposals for a Directive on the access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, and for a Regulation on prudential requirements for credit institutions and investment firms.

The EDPS notes that while most of the provisions of the proposed instruments relate to the pursuit of the activities of credit institutions, the implementation and application of the legal framework may in certain cases affect the rights of individuals relating to the processing of their personal data.

Several provisions of the proposed Directive allow for the exchange of information between the authorities of the Member States and, possibly, third countries. This information may well relate to individuals, such as the members of the management of the credit institutions, their employees and shareholders. Furthermore, under the proposed Directive competent authorities may impose sanctions directly on individuals and are obliged to publish the sanctions inflicted, including the identity of the individuals responsible. In order to facilitate the detection of violations, the proposal introduces the obligation for the competent authorities to put in place mechanisms encouraging the reporting of breaches.

Moreover, the proposed Regulation obliges credit institutions and investment firms to disclose information relating to their remuneration policies, including the amounts paid segregated per categories of staff and per pay-bands.

The EDPSs opinion focuses on the following aspects of the packet of measures relating to data protection:

(1) Applicability of data protection legislation: Recital 74 of the proposed Directive contains a reference to the full applicability of data protection legislation. However, a reference to the applicable data protection legislation should be inserted in a substantive article of the proposals according to the EDPS.

(2) Transfers to third countries: the EDPS recommends: i) clarifying that agreements with third countries or third countries authorities for the transfer of personal data must comply with the conditions for the transfer of personal data to third countries contained in Chapter IV of Directive 95/46/EC and Regulation (EC) No 45/2001; ii) inserting in the draft directive a provision similar to that contained in Article 23 of the proposal Regulation of the European Parliament and the Council on insider dealing and market manipulation (market abuse).

(3) Professional secrecy and use of confidential information: the EDPS recommends extending the prohibition of disclosing confidential information contained in the proposal to cases where individuals are identifiable (i.e. not only individual credit institutions). In other words, the provision should be reformulated so as to prohibit the disclosure of confidential information, except in summary or collective form, such that individual credit institutions and individuals cannot be identified.

(4) Mandatory publication of sanctions: the EDPS is of the view that the provision on the mandatory publication of sanctions as it is currently formulated does not comply with the fundamental right to privacy and data protection.

The legislator should carefully assess the necessity of the proposed system and verify whether the publication obligation goes beyond what is necessary to achieve the public interest objective pursued and whether there are less restrictive measures to attain the same objective.

Subject to the outcome of this proportionality test, the publication obligation should in any event be supported by adequate safeguards to ensure respect of the presumption of innocence, the right of the persons concerned to object, the security/accuracy of the data and their deletion after an appropriate period of time.

(5) Reporting of breaches: Article 70 of the proposed Directive deals with mechanisms for reporting violations, also known as whistle-blowing schemes. The EDPS welcomes the fact that the Proposal contains specific safeguards, to be further developed at national level, concerning the protection of the persons reporting on the suspected violation and more in general the protection of personal data.

- The EDPS highlights the need to introduce a specific reference to the need to respect the confidentiality of whistleblowers' and informants' identity. In view of the above, the EDPS recommends to adding to Article 70 (2)(b) the following provision: the identity of these persons should be guaranteed at all stages of the procedure, unless its disclosure is required by national law in the context of further investigation or subsequent judicial proceedings.

- The EDPS further highlights the importance of providing appropriate rules in order to safeguard the access rights of the accused persons, which are closely related to the rights of defence.

- The EDPS suggests adding, in the proposed Directive, the provision on insider dealing and market manipulation, which requires Member State to put in place appropriate procedures to ensure the right of the accused person of defence and to be heard before the adoption of a decision concerning him and the right to seek effective judicial remedy against any decision or measure concerning him.

- Lastly, as regards Article 70(2)(c) the EDPS is pleased to see that this provision requires Member States to ensure the protection of personal data of both the accused and the accusing person, in compliance with the principles laid down in Directive 95/46/EC. He suggests however removing the principles laid down in, to make the reference to the Directive more comprehensive and binding.

Prudential requirements for credit institutions and investment firms. Capital Requirements Regulation (CRR)

The Committee on Economic and Monetary Affairs adopted the report drafted by Othmar KARAS (EPP, AT) on the proposal for a regulation of the European Parliament and of the Council on prudential requirements for credit institutions and investment firms.

It recommends that the European Parliaments position at first reading, under the ordinary legislative procedure, should amend the Commissions proposal as follows:

Objective of the Regulation: considering the devastating effects of the latest financial crisis the overall objectives of this regulation are to encourage economically useful banking activities that shall serve the general interest and to discourage unsustainable financial speculation without a real added value. This implies a comprehensive reform of the ways savings are channelled into productive investments.

Capital: in order to safeguard a sustainable and diverse banking environment in Europe, competent authorities should be empowered to impose significantly higher capital requirements for systemically important institutions that are able, due to their business activities, to pose a threat to the global economy.

Monitoring requirements should be equivalent throughout the Union taking into account the different risk profiles of the institutions. This Regulation should not apply to other types of institution, such as financial institutions that do not take deposits from the public.

Extending the EBAs activities: in assessing systemic relevance of institutions EBA should have regard to size, crossborder distribution and spill over effect, taking into account branch or subsidiary structure, interconnectedness via similarity of business model, or cross-guarantee schemes, or insurance clusters of independent entities with similar business models which may have systemic collective effects.

Given the inevitable extension of powers and tasks for EBA foreseen by this Regulation, the European Parliament, the Council and the Commission should see to it that adequate human and financial resources are made available without delay.

Revising the current regulatory and supervisory framework: supervisory approaches are based on a time horizon of no more than one year (calculation of value at risk, liquidity ratio), thus increasing investors propensity to shorten their investment horizons. The current regulatory and supervisory framework therefore needs to be revised in order to introduce provisions that will foster the long-term investment that the real economy needs. Alongside supervisory surveillance aimed at ensuring financial stability, there is a need for enhancing mechanisms designed to develop an effective surveillance and prevention of potential bubbles in order to ensure optimum allocation of capital in the light of the macroeconomic challenges and objectives, in particular with respect to long term investment in the real economy.

Loans to SMEs and consumers: in order to stimulate growth and job creation, Members have introduced new rules to reduce the risk weighted exposure amounts for credit risk for loans to SMEs and start-ups.

Ensuring maximum harmonisation: for reasons of legal certainty and because of the need for a level playing field within the Union, a single set of regulations for all market participants is a key element for the functioning of the internal market. In order to avoid market distortions and regulatory arbitrage, Pillar 1 measures should therefore ensure maximum harmonisation. As a consequence, the transitional periods provided for in this Regulation are essential for the smooth implementation of this Regulation and to avoid uncertainty for the markets. Member States and competent authorities should avoid adopting any diverging or frontrunning rules that impact or weaken the principle of maximum harmonisation under Pillar Competent authorities should be able to evaluate, under the applicable Pillar 2 processes, whether supervisory action is needed with regard to a certain credit institution or a group of credit institutions.

Deduction of the minority interests included in consolidated Common Equity Tier 1 capital: where the deduction of the minority interests included in consolidated Common Equity Tier 1 capital results in a disproportionate increase of capital requirement for certain types of credit institutions or investment firms, such institutions or firms should be exempted from the application of such rule.

Intermediate financial holding companies: the minority interests arising from intermediate financial holding companies that are subject to the requirements of this Regulation on a sub-consolidated basis may also be eligible (within the relevant limits) to the Common Equity Tier 1 of the group on a consolidated basis, as the Common Equity Tier 1 capital of an intermediate financial holding company attributable to minority interests and the part of that same capital attributable to the parent company support both pari passu the losses of their subsidiaries when they occur.

Overreliance on external credit ratings shall be reduced according to Members and all the automatic effects deriving from ratings should be gradually eliminate. Regulation should, therefore, require credit institutions and investment firms to put in place sound credit granting criteria and credit decision processes. External credit ratings may be used as one factor among others in this process but they should not rely solely or mechanistically on external ratings and these should not prevail.

International cooperation and coordination: these are vital in order to achieve an international level playing field and avoid regulatory arbitrage. In the context of the reluctant implementation of Basel III by the United States of America (USA), it is necessary to ensure that the economy and the banking system in the Union are not be placed at a competitive disadvantage. The Commission should therefore establish, by March 2012, which provisions in this Regulation cannot be implemented in the Union without a simultaneous implementation in the USA.

Accounting standards: common global accounting standards have still to be agreed, which could lead to inconsistency in comparing global implementation of Basel requirements, especially with regard to the calculation of risk-weighted assets, the leverage ratio, liquidity coverage ratio and the definition of groups. In this respect the Commission must strive towards achieving globally consistent accounting standards and at the very least achieving global comparability for prudential regulatory purposes.

Implementation of Basel III: the Commission should provide update reports on an ongoing basis, and at least following the publication of each Progress Report on Basel III implementation by the Basel Committee on Banking Supervisors, on the implementation and domestic adoption of Basel III in other major jurisdictions, including an assessment of the consistency of other countries' legislation or regulations with the international minimum standard to identify differences that could raise level playing field concerns.

Prudential requirements for credit institutions and investment firms. Capital Requirements Regulation (CRR)

The European Parliament adopted by 595 votes to 40 with 76 abstentions, a legislative resolution on the proposal for a regulation of the European Parliament and of the Council on prudential requirements for credit institutions and investment firms.

Parliament adopted its position at first reading under the ordinary legislative procedure. The amendments adopted in plenary are the result of a compromise agreement between Parliament and Council. They amend the Commissions proposal as follows:

Merger of provisions applicable both to credit institutions and investment firms: in order to ensure a coherent application of those provisions, the text stresses the need to merge these provisions into new legal acts: a Directive and this Regulation.

A Regulation would ensure that all credit institutions and investment firms defined as such follow the same rules in the entire Union, which would also boost confidence in the stability of credit institutions and investment firms, especially in times of stress.

In order to avoid market distortions and regulatory arbitrage, the measures will ensure maximum harmonisation. Transitional periods are provided for in this Regulation for smooth implementation and to avoid uncertainty for the markets.

In areas not covered in this Regulation, competent authorities or Member States will be able to impose national rules, provided that they are not inconsistent with the Regulation.

Macroprudential and systemic risks: a number of tools to prevent and mitigate macroprudential and systemic risks have been built into the Directive and Regulation ensuring flexibility. The use of these tools is subject to appropriate control in order not to harm the functioning of the internal market.

Where macro-prudential or systemic risks concern a Member State, the competent or designated authorities of the relevant Member State will be able to address those risks by certain specific national macro-prudential measures, when this is considered more effective to tackle those risks.

The European Systemic Risk Board (ESRB) and the European Banking Authority (EBA) will have the opportunity to provide their opinions on whether the conditions for such national macro-prudential measures are met. A Union mechanism will prevent national measures from proceeding, where there is very strong evidence that the relevant conditions are not satisfied.

Until the harmonisation of liquidity requirements in 2015 and the harmonisation of a Leverage Ratio in 2018 Member States may apply these measures as they find appropriate, including mitigation of macroprudential or systemic risk in the sense of a risk of disruption in the financial system with the potential to have serious negative consequences to the financial system and the real economy in a specific Member State.

Stricter requirements: the Commission shall be empowered to adopt a temporary increase in the level of own funds, risk weights, requirements for large exposures and public disclosure. Such provisions will be applicable for a period of one year, unless the European Parliament or the Council has objected to the delegated act within a period of 2 months. The Commission shall state the reasons for the use of this procedure. The Commission is only empowered to impose stricter prudential requirements for exposures that arise from market developments in the Union or outside the Union affecting all Member States.

Extension of tasks for EBA: given the inevitable extension of powers and tasks for the EBA set out by the Regulation, the European Parliament, the Council and the Commission should see to it that adequate human and financial resources are made available without delay.

Close cooperation between the EBA and the ESRB is essential to give full effectiveness to the functioning of the ESRB and the follow-up to its warnings and recommendations. In particular, the EBA should be able to transmit to the ESRB all relevant information gathered by competent authorities in accordance with the reporting obligations set out in the Regulation.

It should also keep an up-to-date list of all of the forms of capital instruments in each Member State that qualify as CET1 instruments.

Encourage economically useful banking activities: considering the devastating effects of the last financial crisis the overall objectives of the Regulation are to encourage economically useful banking activities that serve the general interest and to discourage unsustainable financial speculation without real added value. This implies a comprehensive reform of the ways savings are channelled into productive investments.

Alongside surveillance aimed at ensuring financial stability, the text stresses the need for enhancing mechanisms designed to develop an effective surveillance and prevention of potential bubbles in order to ensure optimum allocation of capital, in particular with respect to long term investment in the real economy.

In order to safeguard a sustainable and diverse banking environment in Europe, competent authorities will be empowered to impose higher capital requirements for systemically important institutions that, due to their business activities, are able to pose a threat to the global economy.

Small and medium sized enterprises: the new rules aim to fill the existing funding gap for SMEs and ensure an appropriate flow of bank credit to them. Capital charges for exposures to SMEs will be reduced to allow credit institutions increase lending to SMEs. To achieve this objective, credit institutions will effectively use the capital relief for the exclusive purpose of providing an adequate flow of credit to EU SMEs.

Intermediate financial holding companies: the amended text states that the minority interests arising from intermediate financial holding companies that are subject to the requirements of the Regulation on a sub consolidated basis may also be eligible (within the relevant limits) to the Common Equity Tier 1 of the group on a consolidated basis.

Proportionality principle: Member States should ensure that the requirements laid down in this Regulation apply in a manner proportional to the nature, scale and complexity of the risks associated with an institution's business model and activities. The EBA should ensure that all regulatory and implementing technical standards are drafted in such a way that they are consistent with and uphold the principle of proportionality.

Large exposures: the Commission will review the rules for large exposures by 31 December 2015 at the latest. Pending the outcome of this review, Member States will continue being allowed to decide on the exemption of certain large exposures from those rules for a sufficiently long transitional period.

Covering liquidity needs: the text provides that credit institutions and investment firms should hold a diversified buffer of liquid assets that they can use to cover liquidity needs in a short term liquidity stress.

The Commission is empowered to adopt a delegated act to introduce a detailed and harmonised liquidity coverage requirement for the Union.

To this end, during the observation period set out in the Regulation, the EBA should review and assess, the appropriateness of a threshold of 60% on level 1 liquid assets, a cap of 75% of inflows to outflows and the phase-in of the LCR from 60% from 1 January 2015 increasing on a graduated basis to 100%.

The EBA should set up a coherent reporting framework on the basis of a harmonised set of standards for liquidity requirements that should be applied across the Union. Until the date of application of the full liquidity requirements, institutions should continue to meet their national reporting requirements.

Separation of retail and investment banking activities: the amended text states that the structural separation of retail and investment banking activities within a banking group could be one of the key tools to support the objective of ensuring the operation of vital services to the real economy while limiting the risk of moral hazard. No provision in the regulation will therefore prevent the introduction of measures to effect such a separation. The Commission will be required to analyse the issue of structural separation in the Union and produce a report, accompanied, if appropriate, by legislative proposals, to the European Parliament and Council.

Protecting depositors: with a view to protecting depositors and preserving financial stability, Member States will be permitted to adopt structural measures that require credit institutions authorised in that Member State to reduce their exposures to different legal entities depending on their activities, irrespective of where those activities are located.

However, because such measures could have a negative impact by fragmenting the single market, they will only be approved subject to strict conditions pending the entry into force of a future legislative proposal explicitly harmonising such measures.

Implementation of Basel III: the Commission must provide updated reports on an ongoing basis, and at least following the publication of each Progress Report on Basel III by the Basel Committee on Banking Supervisors, on the implementation and domestic adoption of Basel III in other major jurisdictions, including an assessment of the consistency of other countries' legislation or regulations with the international minimum standard, to identify differences that could raise concerns regarding a level playing field.

Prudential requirements for credit institutions and investment firms. Capital Requirements Regulation (CRR)

See the summary of the corrigendum to final act 32013R0575R(02), OJ L 321 30.11.2013, p. 0006.

Prudential requirements for credit institutions and investment firms. Capital Requirements Regulation (CRR)

CORRIGENDUM to Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (OJ L 176, 27.6.2013, p. 1).

LEGISLATIVE ACT: Regulation (EU) No 575/2013 of the European Parliament and of the Council on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012.

PURPOSE: to strengthen the prudential requirements of banks, requiring them to keep sufficient capital reserves and liquidity in order to make EU banks more robust and resilient in periods of economic stress (?CRD4 legislation).

CONTENT: this Regulation and Directive 2013/36/EU together form the legal framework governing the access to the activity, the supervisory framework and the prudential rules for credit institutions and investment firms in the internal market.

The two pieces of legislation amend the existing directives on capital requirements. They are aimed at transposing into EU law an international agreement endorsed by the G20 in November 2010 and ensure the uniform application of global standards as regards bank capital requirements in all EU countries ("Basel III").

The main points of the Regulation are as follows:

Own funds requirements: the Regulation:

- (Articles 92 and 465) obliges the banks and institutions to satisfy at all times the following own funds requirements: (i) a Common Equity Tier 1 capital ratio of 4.5 % (between 4% and 4.5% until 31 December 2014); (ii) a Tier 1 capital ratio of 6 % (between 5.5% and 6% until 31 December 2014).; (iii) a total capital ratio of 8 %.
- (Article 26) defines Common Equity Tier 1 items of institutions as: (i) capital instruments, (ii) share premium accounts related to the instruments; (iii) retained earnings; (iv) accumulated other comprehensive income; (v) other reserves; (vi) funds for general banking risk.
- (Article 28) defines Common Equity Tier 1 instruments using fourteen criteria already included in the Basel III Agreement and instructs the European Banking Authority (EBA) to monitor the quality of instruments issued by the institutions. To be eligible, instruments must, for example: (i) be issued directly by the institution with the prior approval of the owners of the institution; (ii) be released without their purchase being directly or indirectly financed by the institution; and (iii) be presented clearly and separately on the balance sheet in the institution's financial statement.

(Article 494): by way of derogation, eligible capital may include Tier 2 capital up to the following amounts: (i) 100 % of Tier 1 capital during the period from 1 January 2014 to 31 December 2014; (ii) 75 % of Tier 1 capital during the period from 1 January 2015 to 31 December 2015; (iii) 50 % of Tier 1 capital during the period from 1 January 2016 to 31 December 2016.

(Article 490) Tier 2 items with an incentive to redeem: during the period from 1 January 2014 to 31 December 2021, certain items whose contractual conditions provide for a call with an incentive for them to be redeemed by the institution are subject to the Regulation.

Items are not eligible as Tier 2 capital items from 1 January 2014 if the institution did not exercise the call involving an incentive to redeem only between 31 December 2011 and 1 January 2013 or if the institution did not exercise the call on the date of the effective maturity of the items.

Liquidity requirements (Articles 412, 413 and 460): so that banks have adequate capital, the Regulation introduced liquidity requirements throughout the EU, following an initial observation period. It stipulated that the institutions shall:

- hold liquid assets, the sum of the values of which covers the liquidity outflows less the liquidity inflows under stressed conditions so as to ensure that institutions maintain levels of liquidity buffers which are adequate to face any possible imbalance between liquidity inflows and outflows under gravely stressed conditions over a period of thirty days;
- ensure that long term obligations are adequately met with a diversity of stable funding instruments under both normal and stressed conditions.

The liquidity coverage requirement shall be introduced in accordance with the following phasing-in: (i) 60 % of the liquidity coverage requirement in 2015; (ii) 70 % as from 1 January 2016; (iii) 80 % as from 1 January 2017; (iv) 100 % as from 1 January 2018.

The Commission shall adopt the delegated act on the liquidity requirements which shall enter into force by 31 December 2014, but shall not apply before 1 January 2015.

A review will take place in 2016: it will enable the Commission to delay the introduction of the 100% ratio, if justified by international developments. Until the liquidity coverage ratio is fully introduced, Member States may maintain or introduce national liquidity requirements.

Leverage ratio: the Regulation introduced a new regulatory instrument called the leverage ratio. Its aim is to limit banks from incurring excessive debts on financial markets. From 2015, banks have to publicly disclose their leverage ratio. If appropriate, the Commission will propose legislation to make this new ratio binding for banks as of 2018.

During the period from 1 January 2014 to 31 December 2017, competent authorities may permit institutions to calculate the end-of-quarter leverage ratio.

Macro-prudential or systemic risk identified at the level of a Member State (Article 458): the Regulation allows Member States to impose stricter macro-prudential requirements for domestically authorised financial institutions in order to address increased risks to financial stability.

These stricter measures can apply to: (i) the level of own funds; (ii) liquidity requirements; (iii) large exposures requirements; (iv) the level of the capital conservation buffer; (v) public disclosure requirements; (vi) intra-financial sector exposures, and (vii) risk weights for targeting asset bubbles in the property sector. The Council can reject, by qualified majority, stricter national measures proposed by a Member State

Enlargement of EBA tasks: the EBA must be able to: (i) transmit to the European Systemic Risk Board (ESRB) all relevant information gathered by competent authorities in accordance with the reporting obligations set out in the Regulation; (ii) keep an up-to-date list of all of the forms of capital instruments in each Member State that qualify as Common Equity Tier 1 instruments; (iii) develop a classification of business models and risks on the basis of data received and the findings of the supervisory review during an observation period.

Separation of retail and investment banking activities: no provision in the Regulation will therefore prevent the introduction of measures to effect such a separation. The Commission will be required to present a report on the issue, accompanied, if appropriate, by legislative proposals.

ENTRY INTO FORCE: 28/06/2013.

APPLICATION: from 01/01/2014, with the exception of certain provisions relating to the derogation from the application of liquidity requirements on an individual basis and stable funding which shall apply from 1 January 2015 and 1 January 2016 respectively.

DELEGATED ACTS: the Commission may adopt delegated acts regarding draft regulatory technical standards developed by EBA in the areas of mutuals, cooperative societies, savings institutions or similar institutions, certain own funds instruments, prudential adjustments, deductions from own funds, additional own funds instruments, minority interests, services ancillary to banking, the treatment of credit risk adjustment, probability of default, and loss given default.

The power to adopt delegated acts shall be conferred for an indeterminate period of time from 28 June 2013. The European Parliament or the Council may object to a delegated act within a period of three months of notification (which may be extended by three months). If Parliament or Council object to the act, the latter shall not come into force.

Prudential requirements for credit institutions and investment firms. Capital Requirements Regulation (CRR)

PURPOSE: Corrigendum to Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (Regulation first published in OJ L 176 of 27.6.2013).

The corrigenda concern the dates and time limits set out previously, relating to:

Common Equity Tier 1 items:

- With respect to issuances after 28 June 2013 (and not 31 December 2014), institutions shall classify capital instruments as Common Equity Tier 1 instruments only after permission is granted by the competent authorities, which may consult EBA.
- The EBA shall establish and publish a list of all the forms of capital instruments in each Member State that qualify as Common Equity Tier 1 instruments by 1 February 2015 for the first time.
- The EBA may, after the review process set out in the Regulation, decide to remove non-State aid capital instruments issued after 28 June 2013 (and not 31 December 2014) from the list and may make an announcement to that effect.

Draft regulatory technical standards: the EBA shall submit draft regulatory technical standards to the Commission by 28 July 2013 and not (1 February 2015) with regard particularly to: certain elements of own assets, reporting obligations, information to be published by the authorities, additional reductions, etc.

Other amendments are made to dates and time limits initially provided, with regard to: the percentages applicable to deductions, the Commission report on the impact of the own funds requirements and the delegation of power to the Commission.

Prudential requirements for credit institutions and investment firms. Capital Requirements Regulation (CRR)

The Commission presented a report on the legal obstacles to the free movement of funds between institutions within a single liquidity sub-group.

Regulation (EU) No 575/2013 ("CRR") and Directive 2013/36/EU ("CRD") form the legal framework governing the access to the activity and the supervisory framework and prudential rules for credit institutions and investment firms, it provides

CRR contains the prudential requirements for institutions that relate to the functioning of banking and financial services markets. According to Article 8 CRR, the competent authorities may waive in full or in part the application of Part Six of CRR, i.e. the liquidity requirements, to an institution and to all or some of its subsidiaries in the Union and supervise them as a single liquidity sub-group, so long as they fulfil all stated conditions.

In the past few months, the European Commission has consulted directly with both industry and national public authorities to identify possible obstacles to the free movement of funds between institutions within a SLSG in the EU; to consider how these might be overcome; and whether there is a need for regulatory action at EU level. The Commission has also discussed this topic in the Commission Expert Group on Banking, Payments and Insurance in September 2013.

The report indicates that there do not appear to be substantial legal obstacles preventing institutions from entering into contracts that provide for the free movement of funds between them, at least not in the sense of unsubstantiated legal obstacles. As a result, the Commission does not see a need currently to present a legislative proposal on this matter.

The Commission is preparing a delegated act, to introduce a detailed and harmonised liquidity coverage requirement in the Union. This delegated act shall enter into force by 31 December 2014, but shall not apply before 1 January 2015.

The Commission will explore whether the forthcoming liquidity coverage ratio delegated act can help to limit any undesirable practices that trap liquidity within national borders. In this respect, it can seek to develop uniform, detailed and binding rules on liquidity, thereby promoting mutual supervisory confidence between competent authorities. More particularly, the delegated act could be an opportunity to establish additional objective criteria facilitating the allowance of a preferential treatment for cross-border intra-group inflows and outflows, thereby clarifying and improving the operation of cross-border intra-group flows.

Moreover, the report underlines that there is a steady process improving the alignment of objectives of public stakeholders through greater European integration with a Single Rulebook, the EBA and especially through the Banking Union.

The Commission is confident that a Single rulebook together with the Banking Union will ensure consistency and safeguard financial stability. It will continue to closely monitor and review the situation and should this deteriorate, the Commission will reassess the need to make such a legislative proposal.

Prudential requirements for credit institutions and investment firms. Capital Requirements Regulation (CRR)

In accordance with the mandates given to the Commission by the European Parliament and the Council, the report aims to evaluate the appropriateness of the rules governing the levels of application of the prudential requirements set out in Directive 2013/36/EU (CRD) and Regulation (EU) No 575/2013 (CRR), in particular the exemption regime.

The report is based on the opinion delivered by the European Banking Authority (EBA) in consultation with national competent authorities on 31 October 2014.

In accordance with the general rule of dual-level supervision, a banking group that is composed of one or more institutions is subject to prudential requirements on both individual and consolidated bases. However, the principle of dual-level supervision is subject to exceptions.

Commissions mandate: the Commissions mandate is to review the application of Part One, Title II and Article 113(6) and (7) of CRR, and report:

- Part One, Title II of CRR specifies the rules for applying on an individual or a consolidated basis all the other prudential requirements set out in CRD and CRR to institutions, including those in cooperative networks and institutional protection schemes.
- Article 113(6) and (7) of CRR specifies the conditions to be satisfied to exempt from liquidity requirements on an individual basis institutions which are members of the same institutional protection schemes or institutions which are linked by a relationship within the meaning of Directive 83/349/EEC on consolidated accounts.

The report sets out the different rules governing the level of application of prudential requirements and discusses the challenges. It analyses the differences, and inconsistencies as well as problems of interpretation. Lastly, it sets out a path to follow.

Recourse to waivers in the EU: the report notes that the use of some waivers appears relatively limited across the EU. Thus:

- only 5 of 28 Member States grant the waiver under Article 7 of CRR, which states that competent authorities in a Member State may exempt a subsidiary or its parent from solvency requirements on an individual basis where the subsidiary and its parent are established in that Member State, are supervised on a consolidated basis and subject to the same risk management framework without obstacles to the transfer of funds;
- only three Member States allow parent institutions to consolidate subsidiaries in accordance with Article 9 of CRR;
- only a small number of group entities are excluded from the scope of prudential consolidation pursuant to Article 19 of CRR;

While appearing of lesser material importance, waivers may strongly influence the structure and internal organisation of EU banking groups and the way competent authorities supervise banking groups. The Commission considers that changes to the existing rules might result in potentially far-reaching adjustments and costs for institutions, competent authorities, and EBA. However, there may be some merit in reviewing the derogation regime in the future to take account of the lessons learnt from the application of the liquidity coverage requirement and the Single Supervisory Mechanism (SSM).

Issues identified: the analysis of the rules governing the levels of application of prudential requirements raises differences, inconsistencies and interpretation issues that merit further consideration:

- differences in the derogations applied to credit institutions and investments firms: the Commission considers that there may be some merit in maintaining less stringent rules for investment firms, given their size, the nature of their activities or their risk profiles. It will be therefore important to understand whether such differentiated treatment could give rise to negative effects;

- no integration of resolution aspects in the rules: the conditions for exempting institutions from prudential requirements on an individual basis do not take resolution aspects into consideration. These conditions could be reviewed in light of the new requirements introduced in Directive 2014/59/EU (BRRD) to maintain coherence between banking resolution and the way banking groups are supervised.

- existence of derogations with inappropriate scope of application: Article 9 of CRR does not allow for exempting institutions from leverage requirements, which is permitted under Article 7 of CRR. It might be worth considering the possibility of better aligning these two articles;

- incomplete conditions for the application of waivers: parent institutions and their subsidiaries may be exempted from prudential requirements on an individual basis under Article 7 of CRR, provided that certain conditions are met. However, there might be some merit in adding further specifications e.g. a control relationship between the parent undertaking and the subsidiaries should be assumed where the parent undertaking has the power to issue binding instructions to its subsidiaries;

- misalignment of exemption rules between CRD and CRR: the levels of application of the internal capital adequacy assessment process (ICAAP) and the prudential rules on governance arrangements, risk management and remuneration policies as set out in Articles 108 and 109 of CRD could be made consistent with the levels of application of the other prudential requirements set out in CRR and CRD.

Together with ICAAP requirements on a consolidated basis, where applicable, the ICAAP could apply on an individual basis to any institution, including those belonging to banking groups, except where competent authorities make use of the derogations under Article 7, 9 or 10 of CRR, taking account of the significance of the institution in relation to the rest of the group.

Amongst the interpretation issues identified are the following:

- risk of divergent interpretation on how to apply remuneration rules on a consolidated basis;
- risk of diverging interpretation of the conditions to the application of waivers;
- unclear treatment of institutions holding participations in financial entities established in third countries.

In conclusion, the Commission does not consider it appropriate to propose amendments to the current rules. It states that it needs to continue to reflect further on the exceptions and conditions for application of the exceptions. Some of these considerations would be particularly apposite in the context of SSM.

Moreover, it is necessary to acquire greater experience with the application of the rules, so that the Commission may carefully assess the feasibility of amending the existing rules.

Before considering the possibility of changing the rules applicable to investment firms, the Commission considers it important to take account of the conclusions of the report on the prudential regime for European investment firms, which the Commission will issue in accordance with the CRR.

Lastly, the experience gained by competent authorities in the implementation of the liquidity coverage requirement and the application of the provisions laid down in the BRRD will contribute to the reflection of the Commission on whether amendments to the application regime for banking prudential requirements would be appropriate.

Prudential requirements for credit institutions and investment firms. Capital Requirements Regulation (CRR)

The Commission presents a report on capital requirements for covered bonds.

Article 503 of Regulation (EU) No 575/2013 (the "CRR") on a number of items related to the regulatory capital treatment of covered bonds under the CRR, having regard to the recommendations made by the European Banking Authority ("EBA") bearing in mind the recommendation of the European Banking Authority (EBA).

To recall, covered bonds are debt obligations issued by credit institutions and secured on the back of a ring-fenced pool of assets (the "cover pool" or "cover assets") which bondholders have direct recourse to as preferred creditors. At the same time bondholders remain entitled to a claim against the issuing entity or an affiliated entity of the issuer as ordinary creditors for any residual amounts not fully settled with the liquidation of the cover assets.

This "dual recourse" mechanism contributes to making covered bond low-risk debt instruments. Credit institutions investing in covered bonds qualifying under Article 129 are allowed to hold lower levels of regulatory capital in relation to those instruments than would otherwise apply to senior unsecured bank debt. These comparative lower capital requirements are referred to by the CRR as "preferential risk weights".

The report discusses four points:

1) Whether the preferential risk weights are adequate for qualifying covered bonds: on the general question concerning the appropriateness of the preferential risk weights, the EBA considered that - due to the good historical default/loss performance of covered bonds in the EU, the dual recourse principle embedded in covered bond frameworks, the special public supervision and the existence of qualifying criteria in Article 129 of the CR - the preferential risk weight treatment laid down in Article 129 of the CRR is, in principle, an appropriate prudential treatment.

The Commission agrees with the EBA 's recommendation and submits the following:

- preferential risk weights should continue to be applied uniformly to all qualifying covered bonds, without distinction between asset classes or Member State of origination;
- the disclosure requirements towards investors forming part of the eligibility criteria in Article 129 of the CRR should not be changed at this juncture;
- at this stage, there should be no changes to Article 129 of the CRR taking into account the risk to which other creditors of the issuer institution are exposed.

In order to justify the continuation of the preferential prudential treatment, the EBA recommends more convergence between Member States' covered bond laws. The Commission intends to seek stakeholder feedback on the convenience and shape of an integrated EU covered bond framework through a dedicated consultation paper on covered bonds, as announced in the Capital Markets Green Paper on 18 February.

2) Whether preferential risk weights are appropriate for aircraft loans: having regard to the EBA's analysis and recommendation on this matter, the Commission does not intend to make any proposals at this juncture to amend Article 129 of the CRR in order to include aircraft loans as eligible assets. The Commission does, however, intend to seek feedback from stakeholders on the appropriate treatment for securities backed by loans that fund non-financial activities (which would include not only aircraft but also ship and SME loans).

3) Whether preferential risk weights are appropriate for guaranteed residential loans: the EBA concluded that it was appropriate to maintain residential loans secured by a guarantee within the scope of preferential risk weight treatment. It also deems it appropriate that, in addition to the qualifying criteria currently included in Article 129(1)(e) of the CRR, two additional criteria be considered for inclusion.

The Commission is of the view that it is appropriate to continue treating qualifying guaranteed residential loans as eligible assets. In relation to the additional criteria recommended by the EBA, the first one is already included in the eligibility requirements in Article 129 of the CRR. The Commission intends to seek stakeholder feedback on the second additional criterion.

4) Review of the Article 496 derogation: Article 496 of the CRR concerns a derogation from the 10% limit for senior units issued by French FCCs or equivalent securitisation instruments laid down in points (d) and (f) of Article 129(1) of the CRR which competent authorities may grant to credit institutions until 31 December 2017.

The EBA expresses overarching prudential concerns on the use of securitisation instruments as cover assets in excess of the 10% threshold. It considers it appropriate that the derogation to the 10% limit for senior securitisation units be removed after 31 December 2017.

The Commission will wait to review stakeholder feedback to the consultation paper to decide whether it would be appropriate to let Article 496 derogation lapse, make it permanent or replace it with a covered bond framework that may include provisions on covered bond structures backed by securitisation instruments.

The same applies to the matter of applying Article 496 derogation to other forms of covered bonds, specifically the pooled covered bond structures. The Commission intends to consult further with stakeholders on the appropriate legal and regulatory treatment of covered bond structures pooling cover assets originated or issued by other issuers. Structures involving covered bonds issued for intra-group funding purposes as currently used should be considered as part of this debate.

Prudential requirements for credit institutions and investment firms. Capital Requirements Regulation (CRR)

According to Article 519 of Regulation (EU) No 575/2013 (CRR) on prudential requirements for credit institutions and investment firms, the Commission presented a report on the effect of the revised International Accounting Standard (IAS) 19 on the volatility of own funds of credit institutions and investment firms.

To recall, according to this Regulation, credit institutions and investment firms shall deduct defined benefit pension fund ('DBPF') assets on their balance sheet from Common Equity Tier 1 ('CET1') items. The rationale for this treatment is that the loss absorption capacity of these assets is doubtful from a prudential point of view. In the event that a bank would enter into bankruptcy or resolution, these assets would not be available to bear the losses.

It should be noted that Article 41 CRR contains an exemption from this general deduction rule in relation to assets in the DBPF which the institution has an unrestricted ability to use, subject to supervisory permission.

The revision in IAS 19 has led to changes in the valuation of DBPFs. Furthermore, any impact due to the initial application shall be mitigated by appropriate transitional provisions.

This Commission report responds to a legal obligation to assess the effects of very specific changes in the calculation of Common Equity Tier 1 capital in credit institutions and investment firms due the adoption CRR and a new IAS 19. If appropriate, the Commission's report shall be accompanied by a legislative proposal to introduce a treatment which adjusts net DBPF assets or liabilities for the calculation of own funds.

On 24 June 2014, the European Banking Authority submitted its report on this issue. It evaluated in particular: (i) the impact depending on offsetting gains or losses; (ii) the impact at initial application of revised IAS 19.

Taking into account the EBA's report, it is the Commission's assessment that the potential additional volatility of own funds introduced by the revision of IAS 19 will be limited. In addition, the CRR sets out transitional measures to soften the impact of the changes in IAS 19 and the deduction of defined benefit pension fund assets in general.

The impact of the deduction of the net DBPF assets from own funds upon initial application will be limited for most institutions due to the low levels of net DBPF assets under both the previous and the revised IAS 19. In addition, for most institutions, the negative effect on CET1 will be further limited because the level of unrecognised actuarial losses compared to their capital position is small.

Therefore, the Commission concludes that IAS 19, in conjunction with the deduction of DBPF assets set out in Article 36(1)(e) CRR and the changes in the net pension liabilities will not lead to undue volatility of institutions' own funds. Consequently, the Commission views the CRR treatment as it stands as appropriate and will not table a legislative proposal in conjunction with this report.

Prudential requirements for credit institutions and investment firms. Capital Requirements Regulation (CRR)

The Commission presents a report on the review of the appropriateness of the definition of "eligible capital" pursuant to Article 517 of Regulation (EU) No 575/2013 (Capital Requirement Regulation or CRR).

To recall, until 31 December of 2013, the capital requirements applicable to investment firms with limited investment services, the prudential treatment of an institution's qualifying holdings outside the financial sector and the definition of institutions' large exposures and its limits have been based, on the notion of own funds'.

From 1 January 2014, the own funds definition was replaced with the definition of eligible capital for the purposes to be used in the above-mentioned fields regulated by the CRR.

The definition of 'eligible capital' was introduced without conducting an impact assessment. For this reason, the implementation of the new regime is subject to a three-year transitional period (ending on 31 December 2016) and it is subject to review before its full implementation. This report reviews the appropriateness of the definition of eligible capital being applied for the purposes of Title III of Part Two and Part Four of the CRR. It is based on the opinion issued by the European Banking Authority (EBA) in consultation with national competent authorities.

The difference between eligible capital and own funds: the CRR defines eligible capital as the sum of Tier 1 capital and Tier 2 capital. However, the amount of Tier 2 capital recognized as eligible capital, at the end of the transitional period, cannot exceed one third of Tier 1 capital. The concept of eligible capital is thus more constraining than the concept of own funds due to the fact that the amount of Tier 2 capital instruments in excess of the one-third threshold cannot be recognized as eligible capital. On the other hand, there was no limit for the inclusion of Tier 2 capital in own funds, which simply consisted in the sum of Tier 1 capital and Tier 2 capital.

The notion of eligible capital was introduced in the CRR to limit credit institutions and investment firms incentives to reduce the regulatory constraints by issuing only Tier 2 capital (e.g. supplementary Tier 2 capital would allow these institutions to increase the size of exposures to their counterparties or the volume of their qualifying holdings in an easier manner than by issuing Tier 1 capital). The quality of Tier 2 capital is, in fact, lower than the Tier 1 one. Whilst Tier 1 capital is used to absorb losses in going concern situation, Tier 2 capital can only be used to absorb losses in gone concern situations.

From the 1 January 2014, eligible capital has been used as capital base for the purposes of:

- determining the prudential treatment for qualifying holdings outside the financial sector;
- determining the capital requirements for investment firms with limited investment services;
- defining a large exposure i.e an institutions exposure to a single counterparty the value of which is equal to or exceeds 10% of the institutions eligible capital as laid down in Article 392 of CRR;
- setting the maximum amount above which institutions are not allowed to be exposed to a single counterparty (25% of its eligible capital).

The implementation of the eligible capital definition is subject to a transitional regime of three years which started in 2014. Whilst in 2014, credit institutions and investment firms were still allowed to recognize Tier 2 capital as eligible capital up to 100% of Tier 1 capital, from 2015 they are allowed to recognize Tier 2 capital as eligible capital up to 75% and in 2016 up to 50% of Tier 1 capital. Once the transitional period is over, the EU system will limit Tier 2 capital recognized as eligible capital to one third of Tier 1 capital, approximating Union requirements to the recently issued Basel standards on large exposure, which exclude Tier 2 capital from being considered for the purpose of the application of the large exposure regime.

With regard to the appropriateness of the notion of eligible capital, the report notes that consultation with the European Banking Authority (EBA) and national authorities has not revealed any particular concern. The results of the assessment are related, however, to the limited experience gained so far. The new system has applied since 2014 and it will be fully implemented only in 2016. A proper collection of data could be performed only at the end of the transitional period.

Accordingly, the Commission concludes that it does not appear appropriate at this stage to put forward a legislative proposal amending the current system. In cooperation with the EBA, it will continue monitoring the application of the new regime and further reflect on whether the definition of 'eligible capital' should be maintained. The experience gained by competent authorities in the implementation of the 'eligible capital' definition during the transitional period will contribute to this reflection.

Prudential requirements for credit institutions and investment firms. Capital Requirements Regulation (CRR)

The Commission presented a report on the assessment of the remuneration rules under Directive 2013/36/EU on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms (CRD) and Regulation (EU) No 575/2013 on prudential requirements for credit institutions and investment firms (CRR).

The Capital Requirements Directive (CRD) and the Capital Requirements Regulation (CRR) contain a number of requirements regarding the remuneration policies and practices of credit institutions and investment firms. These requirements were introduced in the aftermath of the 2008 financial crisis to ensure that remuneration policies do not encourage excessive risk-taking behaviour.

This report was prepared to meet the obligation under Article 161(2) of the CRD that requires the Commission to report on the efficiency, implementation and enforcement of the remuneration rules, and in particular on the impact of the maximum ratio between variable and fixed remuneration.

Financial incentives: the report noted that measures to restore financial stability involved unprecedented levels of public support. It is broadly recognised that financial incentives which sent the wrong signals to staff were one of the contributing factors to the crisis.

Remuneration practices in the financial services industry meant that those incentives were not in line with the long-term objectives of firms and the need for responsible risk-taking.

Internationally agreed principles and standards on sound compensation practices were adopted. One of the main differences between the EU rules and these principles and standards is the maximum ratio between variable and fixed remuneration, which is defined only in the EU.

Interpretation of the rules: the report noted concerns as regards the interpretation by Member States of the principle of proportionality that underlies the CRD remuneration rules. It has been revealed that most Member States have put in place thresholds or criteria under which certain remuneration rules do not need to be applied, which are not in line with the text.

The second issue concerns the interpretation of what is fixed and what is variable remuneration.

The report noted that another difficulty resulted from the very nature of the rules. The rules are meant to curb incentives which may send the wrong signals to individuals and thus to impact individuals behaviour. However, measuring concrete impact on individuals behaviour is very complex.

Scope of the application of the remuneration rules: an important step in ensuring the effectiveness of the remuneration rules is to correctly identify the staff, the investment firms and the groups to whom these rules should apply.

Proportionate application: specific concerns about the need for a proportionate application of the rules were stressed. While the requirements on the structure and pay-out of variable pay of staff are generally considered as effective mechanisms for linking remuneration with the long-term performance of an institution, many industry representatives and nearly all Member States and supervisors expressed serious concerns about the need for proportionate application of the remuneration rules and warned against a one size fits all approach.

Conclusions: the report concluded that this review allows for a largely positive assessment of the rules on the governance of remuneration processes, performance assessment, disclosure and pay-out of the variable remuneration of identified staff.

These rules were found to contribute to the overall objectives of curbing excessive risk-taking and better aligning remuneration with performance, thereby contributing to enhanced financial stability.

The review also revealed that the deferral and pay-out in instruments requirements are not efficient in the case of small and non-complex credit institutions and investment firms, and of staff with low levels of variable remuneration. The Commission will therefore conduct an impact assessment which will examine options for addressing this issue in particular by exempting these institutions and staff from these specific requirements. This impact assessment will also look at allowing listed institutions to use share-linked instruments under the CRD pay-out in instruments requirement. This will be part of the wider work to prepare the revision of the CRD and CRR now under consideration.

With regard to the maximum ratio between variable and fixed remuneration, the review found that for the time being there is insufficient evidence to draw final conclusions on the impact of the rule on competitiveness, financial stability and staff working for non-EEA subsidiaries. It seems that conclusive findings can only be reached once more implementation experience is gained.

Prudential requirements for credit institutions and investment firms. Capital Requirements Regulation (CRR)

This report from the Commission aims to inform the European Parliament and the Council on market developments potentially requiring the use of Article 459 of the Capital Requirements Regulation (CRR) in the past year. It is based on an assessment provided by the European Systemic Risk Board (ESRB).

Background: pursuant to Article 459 CRR, the Commission may impose, for a period of one year, stricter requirements concerning the level of banks' own funds, large exposures, or public disclosure, under specific conditions, in particular upon the recommendation or the opinion of the European Systemic Risk Board (ESRB) or the European Banking authority (EBA).

However, these measures must be necessary to address changes in the intensity of micro-prudential and macro-prudential risks which arise from market developments in the Union or outside the Union affecting all Member States, and be imposed only if the instruments of the CRR and CRD IV are not sufficient to address these risks.

Conclusions and way forward: the Commission considers that it has not yet seen any circumstances that would warrant the use of Article 459 CRR. In accordance with this assessment, neither the ESRB nor the EBA have recommended that the Commission take action under Article 459 CRR at this stage.

The Commissions conclusions are based on the following observations:

- the situation of the EU financial system in the past year is considerably different from circumstances warranting measures under Article 459 CRR in the sense that there is no credit-driven overheating of the economy;
- in the current subdued growth environment, demand for credit should not boost excess leverage in the financial sector. Despite low interest rates, debt of nonfinancial corporations and households, relative to GDP, is not increasing in most EU Member States, and a downward trend is expected to set in once economic growth picks up;
- external developments are unlikely to lead to overheating pressure in the EU economy in the near term as both world GDP and world trade are forecast to grow substantial below long-term trends ;
- the banking sector is not increasing leverage. Banks' regulatory capital ratios picked up during 2015 and remained at about the same level during 2016 according to preliminary EBA data;
- banks' lending has also been subdued in the EU. For example bank lending to the private sector in the euro area has grown by less than nominal GDP in 2015 and 2016;
- lastly, according to the results of the 2016 EBA stress test, the aggregate EU banking sector is satisfactorily resilient to shocks. Changes of risks in this area could be more appropriately addressed by national measures under CRR/CRDIV than by broad-brush measures under Article 459 CRR.

EU financial stability risks identified by the ESRB: over the past year, the ESRB has identified four overarching risks for the European economy:

1. the risk of re-pricing of risk premia in global financial markets, amplified by low market liquidity ;
2. the risk of further weakening of banks and insurers balance sheets ;
3. the risk of deterioration of debt sustainability in sovereign, corporate and household sectors, and
4. the risk of shocks and contagion from the shadow banking sectors.

The report carries out a detailed examination of the relevance of these risks with respect to the adoption of measures under Article 459 of the CRR.

Prudential requirements for credit institutions and investment firms. Capital Requirements Regulation (CRR)

The Commission presented a report on the effects of Regulation (EU) No 575/2013 and Directive 2013/36/EU on the economic cycle.

Background to the report: to combat financial instability, financial sector regulation and macroprudential policy aim to limit systemic risk.

Drawing lessons from the crisis, ensuring sufficiently high capital levels, especially for banks, generally appears to reduce the likelihood of systemic financial crises and their cost, if they occur.

However, capital ratio requirements designed to guarantee sufficient capital could themselves become a source of instability. Indeed, the risk-based approach included in Regulation (EU) No 575/2013 and Directive 2013/36/EU implies that capital ratio requirements become more flexible in times of economic recovery and more stringent in times of slowdown. Such procyclicality of capital ratio requirements is an important potential externality of the financial system that can threaten financial stability.

This report examines whether capital ratio requirements are procyclical and, if so, whether they affect the level of capital that banks actually hold or wish to hold. If such pro-cyclical effects are detected, the Commission is required to submit a proposal on possible appropriate corrective measures.

The Commission has prepared previous and similar reports on the procyclicality of capital ratio requirements in 2010 and 2012. This third report is the first product under Regulation (EU) No 575/2013.

Main conclusions: the report concludes that while a procyclical impetus from capital ratio requirements is acknowledged in the literature as a potential source of risk, the empirical evidence is not conclusive as regards its actual strength for banks in the Union. There is no evidence of a strong procyclical bias of the current framework which would affect the non-financial sector in the economy.

Given the weak evidence of pro-cyclical effects due to the provisions of Directive 2013/36/EU and Regulation (EU) No 575/2013, the Commission considers that there is no reason at this juncture to propose significant alterations to the prevailing regulatory framework for bank capital. The higher capital ratios achieved in recent years imply that the procyclical impact of a given loss will be weaker. The Union financial regulatory framework already includes various tools to deal with any procyclical effects. These include:

- higher capital ratio requirements;
- capital conservation buffer and countercyclical capital buffer: these extra buffers, built up over good economic times, can be released in an economic downturn to enable banks to absorb their losses in an orderly way that does not lead to costly increases in the price of credit, which can aggravate recession. These buffers have been built up, but to date there is no experience with releasing such buffers. Reflections are ongoing in Basel and in the Union on the merits of introducing sector-specific buffers to address the cyclical nature of some specific risks;
- risk weights for specific exposures and other supervisory measures: Regulation (EU) 575/2013 allows authorities to adjust risk weights for targeting asset bubbles in the residential or commercial property sector or to take measures such as adjusting the level of the own funds or the level of the Capital Conservation Buffer, with a bearing on the capital base of banks. The EU regulatory framework further comprises measures to mitigate the impact of cyclical risks on banks;
- introduction of a leverage ratio: the leverage ratio is an additional non risk-based capital requirement conceived to supplement the risk-based capital ratio requirements. It would help to limit excessive bank lending during the upswing of an economic cycle when banks have momentum to expand balance sheets without an appropriate increase in capital. Empirically, banking sector leverage has been procyclical at an aggregate level in almost all Member States, tending to fall in credit booms and rising in downturns;
- reduced reliance on rating agencies for prudential requirements: Regulation (EU) 575/2013 encourages the use of internal ratings and strengthens provisions on how external ratings can be used. For banks using an internal ratings based approach, it requires independent risk assessment capability and creates incentives to better manage credit risk. A through-the-cycle approach could help smooth the impact on capital ratio requirements;
- stress tests: in the aftermath of the financial crisis, micro-prudential stress tests were used promptly to assess the capital needs of individual banks. Such stress tests are helpful in informing how buffers can be set, also above minimum requirements.

Prospects: the Commission stresses the need to:

- regularly monitor the impact on the economic cycle of EU regulatory capital ratio requirements and further analyse the impact, effectiveness and efficiency that counter-cyclical instruments can have;
- collect, as and when necessary, any concrete evidence that might indicate the existence of a possible pro-cyclical bias linked to the tightening of capital ratio requirements.

Concrete proposals to change the current set-up should be based on such evidence becoming available.