

Procedure file

Basic information			
COD - Ordinary legislative procedure (ex-codecision procedure) 2016/0364(COD) Directive		Procedure completed	
Capital Requirements Directive: exempted entities, financial holding companies, mixed financial holding companies, remuneration, supervisory measures and powers and capital conservation measures Amending Directive 2013/36/EU 2011/0203(COD)			
Subject 2.50.03 Securities and financial markets, stock exchange, CIUTS, investments 2.50.04 Banks and credit 2.50.08 Financial services, financial reporting and auditing 2.50.10 Financial supervision			
Legislative priorities Joint Declaration 2017 Joint Declaration 2018-19			
Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	 Economic and Monetary Affairs	 SIMON Peter	24/11/2016
		Shadow rapporteur	
		 KARAS Othmar	
		 FOX Ashley	
		 NAGTEGAAL Caroline	
		 LAMBERTS Philippe	
	 ZANNI Marco		
Council of the European Union	Council configuration	Meeting	Date
	Agriculture and Fisheries	3689	14/05/2019
	Economic and Financial Affairs ECOFIN	3619	25/05/2018
European Commission	Commission DG Financial Stability, Financial Services and Capital Markets Union	Commissioner DOMBROVSKIS Valdis	

Key events			
23/11/2016	Legislative proposal published	COM(2016)0854	Summary
19/01/2017	Committee referral announced in Parliament, 1st reading		
19/06/2018	Vote in committee, 1st reading		
19/06/2018	Committee decision to open interinstitutional negotiations with report adopted in committee		
28/06/2018	Committee report tabled for plenary, 1st reading	A8-0243/2018	Summary
02/07/2018	Committee decision to enter into interinstitutional negotiations announced in plenary (Rule 71)		
04/07/2018	Committee decision to enter into interinstitutional negotiations confirmed by plenary (Rule 71)		
26/02/2019	Approval in committee of the text agreed at 1st reading interinstitutional negotiations	PE636.104 GEDA/A/(2019)001585	
15/04/2019	Debate in Parliament		
16/04/2019	Results of vote in Parliament		
16/04/2019	Decision by Parliament, 1st reading	T8-0370/2019	Summary
14/05/2019	Act adopted by Council after Parliament's 1st reading		
20/05/2019	Final act signed		
20/05/2019	End of procedure in Parliament		
07/06/2019	Final act published in Official Journal		

Technical information	
Procedure reference	2016/0364(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Directive
	Amending Directive 2013/36/EU 2011/0203(COD)
Legal basis	Treaty on the Functioning of the EU TFEU 053-p1
Other legal basis	Rules of Procedure EP 165
Stage reached in procedure	Procedure completed
Committee dossier	ECON/8/08560

Documentation gateway					
Legislative proposal		COM(2016)0854	23/11/2016	EC	Summary
Document attached to the procedure		SWD(2016)0377	23/11/2016	EC	

Document attached to the procedure	SWD(2016)0378	23/11/2016	EC	
European Central Bank: opinion, guideline, report	CON/2017/0046 OJ C 034 31.01.2018, p. 0005	08/11/2017	ECB	Summary
Committee draft report	PE613.410	16/11/2017	EP	
Amendments tabled in committee	PE616.798	02/02/2018	EP	
Amendments tabled in committee	PE616.830	02/02/2018	EP	
Committee report tabled for plenary, 1st reading/single reading	A8-0243/2018	28/06/2018	EP	Summary
Coreper letter confirming interinstitutional agreement	GEDA/A/(2019)001585	15/02/2019	CSL	
Text agreed during interinstitutional negotiations	PE636.104	15/02/2019	EP	
Text adopted by Parliament, 1st reading/single reading	T8-0370/2019	16/04/2019	EP	Summary
Draft final act	00016/2019/LEX	20/05/2019	CSL	
Commission response to text adopted in plenary	SP(2019)440	08/08/2019	EC	
Follow-up document	COM(2023)0344	26/06/2023	EC	

Additional information

Research document

[Briefing](#)

Final act

[Directive 2019/878](#)
[OJ L 150 07.06.2019, p. 0253](#) Summary

[Corrigendum to final act 32019L0878R\(03\)](#)
[OJ L 212 03.07.2020, p. 0020](#)

Capital Requirements Directive: exempted entities, financial holding companies, mixed financial holding companies, remuneration, supervisory measures and powers and capital conservation measures

PURPOSE: to reduce financial institutions leverage, and strengthen their stable funding and trading book capital requirements.

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

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

BACKGROUND: in response to the financial crisis that unfolded in 2007-2008, the EU implemented a substantial reform of the financial services regulatory framework to enhance the resilience of institutions (i.e. credit institutions and investment firms) operating in the EU financial sector, largely based on global standards agreed with the EUs international partners.

However, the adoption of the [Basel III framework](#) at international level did not mark the end of the post-crisis reform. Work continued on several elements that were left outstanding at the time. While the reforms have rendered the financial system more stable and resilient against many types of possible future shocks and crises, they do not yet comprehensively address all identified problems.

The Commission recognised the need for further risk reduction in its [Communication of 24 November 2015](#) entitled "Towards the completion of the Banking Union" and committed to bring forward a legislative proposal that builds on the international agreements.

IMPACT ASSESSMENT: the Regulatory Scrutiny Board issued a positive opinion in September 2016 on a resubmitted impact assessment, following a negative opinion. The modelling has shown that public resources required to support the banking system in case of a financial crisis of the size similar to 2007-2008 would decrease by 32% a decline from EUR 51 billion to EUR 34 billion.

CONTENT: the proposal amending [Directive 2013/36/EU](#) of the European Parliament and of the Council on the Capital Requirements Directive (CRD) aims to complete the reform agenda by tackling remaining weaknesses and implementing some outstanding elements of the reform that are essential to ensure the institutions' resilience but have only recently been finalised by the Basel Committee on Banking

Supervision and the Financial Stability Board (FSB).

- more risk-sensitive capital requirements, in particular in the area of market risk, counterparty credit risk, and for exposures to central counterparties (CCPs);
- implementing methodologies that are able to reflect more accurately the actual risks to which banks are exposed;
- a binding Leverage Ratio to prevent institutions from excessive leverage;
- a binding Net Stable Funding Ratio (NSFR) to address the excessive reliance on short-term wholesale funding and to reduce long-term funding risk.
- a requirement for Global Systemically Important Institutions (G-SIIs) to hold minimum levels of capital and other instruments which bear losses in resolution. This requirement, known as 'Total Loss-Absorbing Capacity' or TLAC), will be integrated into the existing MREL (Minimum Requirement for own funds and Eligible Liabilities) system, which is applicable to all banks, and will strengthen the EU's ability to resolve failing G-SIIs while protecting financial stability and minimising risks for taxpayers.

It is expected that the proposed amendments will start entering into force in 2019 at the earliest.

These proposed amendment to Directive 2013/36/EU (the Capital Requirements Directive or CRD) is part of a legislative package that includes also amendments to [Regulation \(EU\) No 575/2013](#) (the Capital Requirements Regulation), to [Directive 2014/59/EU](#) (the Bank Recovery and Resolution Directive), and to [Regulation \(EU\) No 806/2014](#) (the Single Resolution Mechanism Regulation).

Capital Requirements Directive: exempted entities, financial holding companies, mixed financial holding companies, remuneration, supervisory measures and powers and capital conservation measures

The Committee on Economic and Monetary Affairs adopted the report by Peter SIMON (S&D, DE) on the proposal for a directive of the European Parliament and of the Council amending Directive 2013/36/EU as regards exempted entities, financial holding companies, mixed financial holding companies, remuneration, supervisory measures and powers and capital conservation measures.

The committee responsible recommended that the European Parliaments position adopted at first reading under the ordinary legislative procedure should amend the Commission proposal as follows.

The proposal to amend Directive 2013/36/EU of the European Parliament and of the Council (Capital Requirements Directive) provides for a binding leverage ratio, designed to prevent institutions from excessive leverage, and a binding net stable funding ratio.

It strengthens risk-sensitive capital requirements in particular in the area of market risk, counterparty credit risk, and for exposures to central counterparties (CCPs). In addition, it requires for Global Systemically Important Institutions (G-SIIs) to hold minimum levels of capital and other instruments which bear losses in resolution. This requirement, known as 'Total Loss-Absorbing Capacity' or TLAC), will be integrated into the existing MREL (Minimum Requirement for own funds and Eligible Liabilities) system, which is applicable to all banks.

The amendments focus on:

- the importance of streamlining the coordination mechanism between authorities, simplifying the activation of macroprudential policy tools and enhancing the macroprudential toolbox to enable authorities to respond to systemic risks in an efficient and timely manner;
- the revision of the respective competences of macro-prudential authorities established at Member State and Union level, so as to better delineate responsibilities for risk assessment and policy development, including coordination and reporting procedures between authorities;
- the pivotal role that the European Systemic Risk Council (ESRC) should play in coordinating macro-prudential measures and in transmitting information on planned macro-prudential measures to the Member States, in particular by publishing on its website the macro-prudential measures adopted and by sharing information between authorities after notification of planned macro-prudential measures;
- consistent application by credit institutions and investment firms of the principle of equal pay for equal work by demonstrating that their remuneration policies are non-discriminatory between women and men;
- the use of own funds add-ons imposed by the competent authorities to cover the risks incurred by certain institutions as a result of their activities. However, these requirements should not conflict with the specific treatment provided for in Regulation (EU) No 575/2013 to avoid unintended impacts on financial stability, credit supply and the real economy;
- the introduction of a leverage ratio adjustment for global systemically important institutions (G-SIIs) to be set at 50% of a G-SIIs risk-weighted higher-loss absorbency requirements;
- the need to take into account the size, structure and internal organisation of institutions and the nature, scope and complexity of their activities in the context of supervisory review and evaluation;
- the possibility for competent authorities to tailor the method of application of the review and evaluation process to capture the common characteristics and risks of institutions with a comparable risk profile. However, such tailoring should not prevent the competent authorities from taking into account the specific risks affecting each institution, nor alter the institution-specific nature of the measures imposed;
- the importance of the completion of banking union for the smooth functioning of cross-border markets and for bank customers to benefit from the positive effects that result from a harmonised and integrated European banking market ensuring a level playing field for European banks. The Commission should therefore, after close consultation with the European Central Bank (ECB), the ESRB and the European Banking Authority (EBA), review the current framework, while maintaining a balanced and prudentially sound approach towards home and host countries and taking into account potential benefits and risks for Member States and regions.

The amended text provides that where two or more institutions in the Union, which are part of the same group of third countries, they shall be required to have a single intermediate parent undertaking established in the Union. Competent authorities may allow institutions to have two intermediate EU parent companies under certain conditions. The provisions relating to the exercise of supervision on a consolidated basis are specified.

Lastly, an amendment stresses that sovereign bonds play a crucial role in providing high-quality liquid assets for investors and stable funding sources for governments. However, in some Member States financial institutions have overly invested in bonds issued by their own

governments. Banks should continue their effort towards more diversified sovereign bond portfolios.

Capital Requirements Directive: exempted entities, financial holding companies, mixed financial holding companies, remuneration, supervisory measures and powers and capital conservation measures

The European Parliament adopted by 483 votes to 53, with 114 abstentions, a legislative resolution on the proposal for a directive of the European Parliament and of the Council amending Directive 2013/36/EU as regards exempted entities, financial holding companies, mixed financial holding companies, remuneration, supervisory measures and powers and capital conservation measures.

Parliament adopted its position at first reading in accordance with the ordinary legislative procedure.

The proposal to amend Directive 2013/36/EU of the European Parliament and of the Council (Capital Requirements Directive) provides for a binding leverage ratio, designed to prevent institutions from excessive leverage, and a binding net stable funding ratio.

It strengthens risk-sensitive capital requirements in particular in the area of market risk, counterparty credit risk, and for exposures to central counterparties (CCPs). In addition, it requires for Global Systemically Important Institutions (G-SIIs) to hold minimum levels of capital and other instruments which bear losses in resolution. This requirement, known as 'Total Loss-Absorbing Capacity' or TLAC), will be integrated into the existing MREL (Minimum Requirement for own funds and Eligible Liabilities) system, which is applicable to all banks.

The amendments to the Commission's proposal place particular emphasis on:

- the need to provide for a specific approval procedure and direct supervisory powers over certain financial holding companies and mixed financial holding companies in order to ensure that such holding companies can be held directly responsible for ensuring compliance with consolidated prudential requirements, without subjecting them to additional prudential requirements on an individual basis;
- the obligation for establishments to apply the principle of equal pay for men and women for the same work or work of equal value;
- the consideration of the size, structure and internal organisation of institutions and the nature, scope and complexity of their activities in the supervisory review and evaluation procedure; competent authorities may take into account the specific risks affecting each institution nor alter the institution-specific nature of the measures imposed;
- the capital add-on requirement to be imposed by the competent authorities should be determined according to the particular situation of an institution and be duly justified. These requirements should be above the applicable minimum capital requirements and below the overall capital cushion requirement or the leverage ratio cushion requirement, as the case may be, in the sequencing of the corresponding capital requirements;
- the additional own funds requirement to be imposed by competent authorities should be set in relation to the specific situation of an institution and should be duly justified. Those requirements should be positioned in the relevant stacking order of own funds requirements above the relevant minimum own funds requirements and below the combined buffer requirement or the leverage ratio buffer requirement, as relevant;
- the possibility for competent authorities to communicate to an institution, in the form of guidance any adjustment to the amount of capital in excess of the relevant minimum own funds requirements, the relevant additional own funds requirement and, as relevant, the combined buffer requirement or the leverage ratio buffer requirement that they expect such an institution to hold in order to deal with forward looking stress scenarios;
- the systematic integration by the competent authorities of money laundering and terrorist financing considerations into their relevant supervisory activities;
- the possibility for Member States to implement measures in national law to enhance the resilience of the financial system, such as, in particular, limits on the loan-to-value ratio, debt-to-income limits, debt service-to-income limits and other instruments addressing lending standards;
- the calculation by institutions of their specific buffers as equal to the weighted average of the countercyclical buffer rates applicable in the countries in which they have credit exposures. Each Member State should therefore designate an authority to set the countercyclical buffer rate for exposures located in that Member State;
- the possibility for Member States to require certain institutions to hold, in addition to a capital conservation buffer and a countercyclical capital buffer, a systemic risk buffer in order to prevent and mitigate macroprudential or systemic risks;
- the key role of the European Systemic Risk Board (ESRB) in coordinating macroprudential measures and in transmitting information on planned macroprudential measures in the Member States, in particular through the publication of adopted macroprudential measures on its website and through information sharing across authorities following the notifications of planned macroprudential measures;
- the possibility for the competent authorities or designated authorities to determine the level(s) of application of the other systemically important institutions (O-SIIs) buffer, on the basis of the nature and distribution of the risks embedded in the structure of the group;
- the development by the European Banking Authority (EBA) of draft regulatory technical standards to specify the additional identification methodology for global systemically important institutions (G-SIIs) to allow the recognition of the specificities of the integrated European resolution framework within the context of the SRM.

Capital Requirements Directive: exempted entities, financial holding companies, mixed financial holding companies, remuneration, supervisory measures and powers and capital conservation measures

PURPOSE: to strengthen the banking sector and resolve outstanding financial stability issues.

LEGISLATIVE ACT: Directive (EU) 2019/878 of the European Parliament and of the Council amending Directive 2013/36/EU as regards exempted entities, financial holding companies, mixed financial holding companies, remuneration, supervisory measures and powers and capital conservation measures.

CONTENT: this Directive amends Directive 2013/36/EU on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms with a view to strengthening and refining existing EU legal acts which ensure uniform prudential requirements for institutions throughout the Union.

The Directive is part of a comprehensive package of legislative measures that will reduce risks in the banking sector and further strengthen banks' ability to withstand potential shocks.

This package contains amendments to the legislation on capital requirements ([Regulation \(EU\) No 575/2013](#) and [Directive 2013/36/EU](#)) that strengthen banks' capital and liquidity positions. It also consolidates the framework for the recovery of banks in difficulty and the resolution of their failures ([Directive 2014/59/EU](#) and Regulation (EU) No 806/2014).

The measures adopted implement reforms agreed at the international level following the 2007-2008 financial crisis with the aim of strengthening the banking sector and addressing outstanding financial stability issues. They include elements approved by the Basel Committee on Banking Supervision and the Financial Stability Board (FSB).

The Directive contains the following key measures:

- the need to provide for a specific approval procedure and direct supervisory powers over certain financial holding companies and mixed financial holding companies in order to ensure that such holding companies can be held directly responsible for ensuring compliance with consolidated prudential requirements, without subjecting them to additional prudential requirements on an individual basis;
- a leverage ratio requirement for all institutions as well as a leverage ratio buffer for all global systemically important institutions;
- a net stable funding requirement;
- the requirement for Global Systemically Important Institutions (G-SIIs) to hold minimum levels of capital and other instruments which bear losses in resolution. This requirement, known as 'Total Loss-Absorbing Capacity' or TLAC, will be integrated into the existing MREL (Minimum Requirement for own funds and Eligible Liabilities) system, which is applicable to all banks;
- the consideration of the size, structure and internal organisation of institutions and the nature, scope and complexity of their activities in the prudential supervision and assessment process; the competent authorities may take into account the risks specific to each institution or modify the institution-specific nature of the measures imposed;
- the obligation for establishments to apply the principle of equal pay for men and women for the same work or work of equal value;
- the possibility for competent authorities to communicate to an institution, in the form of guidance any adjustment to the amount of capital in excess of the relevant minimum own funds requirements, the relevant additional own funds requirement and, as relevant, the combined buffer requirement or the leverage ratio buffer requirement that they expect such an institution to hold in order to deal with forward looking stress scenarios;
- the systematic integration by the competent authorities of money laundering and terrorist financing considerations into their relevant supervisory activities.

The European Systemic Risk Board (ESRB) shall play a key role of the European Systemic Risk Board (ESRB) in coordinating macroprudential measures and in transmitting information on planned macroprudential measures in the Member States, in particular through the publication of adopted macroprudential measures on its website and through information sharing across authorities following the notifications of planned macroprudential measures.

ENTRY INTO FORCE: 27.6.2019.

TRANSPOSITION: from 28.12.2020.

APPLICATION: from 29.12.2020.