Procedure file

Basic information

COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	2018/0060(COD)	Procedure completed
Minimum loss coverage for non performing exposures Amending Regulation (EU) No 575/2013 2011/0202(COD) Subject 2.50.04 Banks and credit 2.50.10 Financial supervision Legislative priorities Joint Declaration 2018-19		

Key players

European Parliament	Committee responsible	Rapporteur	Appointed
	ECON Economic and Monetary Affairs		31/05/2018
		DE LANGE Esther	31/05/2018
		GUALTIERI Roberto	
		Shadow rapporteur	
		LUCKE Bernd	
		TREMOSA I BALCELLS Ramon	
		GIEGOLD Sven	
		VALLI Marco	
		ZANNI Marco	
	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
	General Affairs	3685	09/04/2019
European Commission	Commission DG	Commissioner	
	Financial Stability, Financial Services and Capital Markets Union	DOMBROVSKIS Valdis	
European Economic and Social Committee			

Key events

14/03/2018	Legislative proposal published	COM(2018)0134	Summary

16/04/2018	Committee referral announced in Parliament, 1st reading		
06/12/2018	Vote in committee, 1st reading		
06/12/2018	Committee decision to open interinstitutional negotiations with report adopted in committee		
07/12/2018	Committee report tabled for plenary, 1st reading	A8-0440/2018	Summary
10/12/2018	Committee decision to enter into interinstitutional negotiations announced in plenary (Rule 71)		
13/12/2018	Committee decision to enter into interinstitutional negotiations confirmed by plenary (Rule 71 - vote)		
21/01/2019	Approval in committee of the text agreed at 1st reading interinstitutional negotiations	PE632.943 GEDA/A/(2019)000181	
13/03/2019	Debate in Parliament		
14/03/2019	Results of vote in Parliament		
14/03/2019	Decision by Parliament, 1st reading	T8-0208/2019	Summary
09/04/2019	Act adopted by Council after Parliament's 1st reading		
17/04/2019	Final act signed		
17/04/2019	End of procedure in Parliament		
25/04/2019	Final act published in Official Journal		

Technical information

Procedure reference	2018/0060(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
	Amending Regulation (EU) No 575/2013 2011/0202(COD)
Legal basis	Treaty on the Functioning of the EU TFEU 114
Mandatory consultation of other institutions	European Economic and Social Committee
Stage reached in procedure	Procedure completed
Committee dossier	ECON/8/12528

Documentation gateway

Legislative proposal		COM(2018)0134	14/03/2018	EC	Summary
Document attached to the procedure		SWD(2018)0073	14/03/2018	EC	
Document attached to the procedure		SWD(2018)0074	14/03/2018	EC	
Committee draft report		PE629.418	08/11/2018	EP	

Amendments tabled in committee		PE630.575	23/11/2018	EP	
Committee report tabled for plenary, 1st reading/single reading		A8-0440/2018	07/12/2018	EP	Summary
Coreper letter confirming interinstitutional agreement		GEDA/A/(2019)000181	07/01/2019	CSL	
Text agreed during interinstitutional negotiations		PE632.943	07/01/2019	EP	
Text adopted by Parliament, 1st reading/single reading		T8-0208/2019	14/03/2019	EP	Summary
Draft final act		00002/2019/LEX	17/04/2019	CSL	
Commission response to text adopted in plenary		SP(2019)393	30/04/2019	EC	

Additional information

Research document	Briefing	20/05/2019

Final act

Regulation 2019/630
OJ L 111 25.04.2019, p. 0004 Summary

Corrigendum to final act 32019R0630R(02)
OJ L 335 13.10.2020, p. 0020

Minimum loss coverage for non performing exposures

PURPOSE: to complement existing legislation to ensure that banks can adequately cover the losses they may incur on future non-performing loans (NPLs).

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 on an equal footing with the Council.

BACKGROUND: non-performing loans (NPLs) are one of the main risks that still threaten the European banking system. Non-performing loans are loans where the borrower is unable to make the scheduled payments to cover interest or capital reimbursements. When the payments are more than 90 days past due, or the loan is assessed as unlikely to be repaid by the borrower, it is classified as a "non-performing loan".

Addressing the high stock of NPLs and their possible future accumulation is essential to complete Banking Union, as well as to ensure competition in the banking sector, preserve financial stability and encourage lending activity to create employment and growth in the Union.

High levels of NPLs must be addressed by a comprehensive approach. While the primary responsibility for tackling high levels of NPLs remains with banks and Member States, there is also a clear EU dimension to reduce current stocks of NPLs, as well as preventing any excessive build-up of NPLs in the future given the interconnectedness of the EUs banking system and in particular that of the euro area.

The need for decisive and comprehensive action was recognised in the action plan to tackle non-performing loans in Europe, endorsed by the ECOFIN Council on 11 July 2017.

The Commission proposed, in its communication of October 2017, to make NPL reduction measures an essential part of the process of completing Banking Union by sharing and reducing risk in parallel. The European Parliament and Council welcomed this.

IMPACT ASSESSMENT: among the four options considered, two options were designed as a prudential deduction from own funds in case of insufficient provisioning, using either an end-of-period approach or a gradual path (which could be linear or progressive). The preferred option is a gradual deduction approach following a progressive path. As shown in the impact assessment, the costs to be expected from the introduction of a prudential backstop for under-provisioned NPEs can be considered manageable.

CONTENT: this proposal for the amendment of Regulation (EU) No 575/2013 on capital requirements (CRR) provides for a statutory prudential backstop against any excessive future build up of NPLs without sufficient loss coverage on banks' balance sheets.

The prudential backstop consists of two main elements:

(i) a requirement for institutions to cover up to common minimum levels the incurred and expected losses on newly originated loans once such loans become non-performing ('minimum coverage requirement'), and

(ii) where the minimum coverage requirement is not met, a deduction of the difference between the level of the actual coverage and the minimum coverage from Common Equity Tier 1 (CET1) items.

The longer an exposure has been nonperforming, the lower is the probability to recover the amounts due. Accordingly, the minimum coverage requirement increases gradually depending on how long an exposure has been classified as non-performing, in accordance with a prescribed timetable.

The proposal sets out the items that would be eligible for compliance with the minimum coverage requirements. It also establishes:

- a distinction between secured and unsecured non-performing exposures (NPE): given the higher risk of unsecured loans, it is proposed to apply a stricter timetable. An exposure that is only partially covered by collateral would be considered as secured for the covered part, and as unsecured for the part which is not covered by collateral;
- a distinction between NPEs where the obligor is past due more than 90 days and other NPEs: a different schedule would apply depending on whether the exposure is non-performing because the debtor's arrears are greater than 90 days or for other reasons. In the first case, the minimum coverage requirement should be higher, since the institution has not received any payment from the debtor for a long time. In the second case, there should be no total coverage requirement, as some repayments still occur or the probability of repayment is higher.

The prudential backstop would apply only to exposures originated after 14 March 2018.

In order to help banks to better manage NPLs, the Commission also issues a separate proposal that (i) enhances the protection of secured creditors by allowing them more efficient methods of recovering their money from secured loans to business borrowers, out of court, and (ii) removes undue impediments to credit servicing by third parties and to the transfer of credits in order to further develop secondary markets for NPLs.

Minimum loss coverage for non performing exposures

The Committee on Economic and Monetary Affairs adopted the report by Esther DE LANGE (EPP, NL) and Roberto GUALTIERI (S&D, IT) on the proposal for a regulation of the European Parliament and of the Council on amending Regulation (EU) No 575/2013 as regards minimum loss coverage for non-performing exposures.

This proposal for the amendment of Regulation (EU) No 575/2013 on capital requirements (CRR) provides for a statutory prudential backstop against any excessive future build-up of non-performing exposures (NPEs) without sufficient loss coverage on banks' balance sheets.

The establishment of a comprehensive strategy to address the issue of NPEs is an important goal for the Union in its attempt to make the financial system more resilient.

The committee recommended that the European Parliament's position adopted at first reading under the ordinary legislative procedure should amend the Commission's proposal.

Non-performing exposures: the amended text stressed that exposure shall include any of the following items, provided they are not included in the trading book of the institution:

- a debt instrument, including a debt security, a loan, an advance and a demand deposit;
- a loan commitment given, a financial guarantee given or any other commitment given, irrespective whether revocable or irrevocable, except undrawn credit facilities which may be cancelled unconditionally at any time and without notice, or that effectively provide for automatic cancellation owing to deterioration in the borrowers creditworthiness.

The exposure value of a debt instrument that was purchased at a price lower than the amount owed by the debtor shall include the difference between the purchase price and the amount owed by the debtor.

It is stressed that consumers should not be deemed exclusively responsible for the cause of the severe build-up of NPEs during the years of the financial crisis. In some Member States, housing bubbles were caused by an over-reliance on the growth of house prices.

Parts of the banking sector contributed to this through imprudent lending practices.

Prudential back-stops: the prudential backstop shall not prevent competent authorities from exercising their supervisory powers. It should be possible for the competent authorities to go, on a case-by-case basis, beyond the requirements under this Regulation for the purpose of ensuring sufficient coverage for NPEs.

Forbearance measures: forbearance measures shall aim to return the borrower to a sustainable performing repayment status and shall comply with EU consumer protection requirements, but may have different justifications and consequences. It is therefore appropriate to provide that a forbearance measure granted to a non-performing exposure shall not discontinue the classification of that exposure as non-performing unless certain strict discontinuation criteria are fulfilled.

Calendar: the longer an exposure has been non-performing, the lower the probability for the recovery of its value. Therefore, the portion of the exposure that shall be covered by provisions, other adjustments or deductions shall increase with time, following a pre-defined calendar. NPEs purchased by an institution shall thus be subject to a calendar that starts to run from the date on which the NPE has originally been classified as non-performing, and not from the date of its purchase.

A uniform calendar shall be applied irrespective of whether the exposure is non-performing because the obligor is past due more than 90 days or if it is non-performing for other triggers. The prudential backstop shall be applied on an exposure-by-exposure level.

Secured and unsecured NPEs: secured NPEs are generally expected to result in less of a loss than unsecured NPEs, as the credit protection securing the NPE gives the institution a specific claim on an asset or against a third party in addition to the institution's general claim against the defaulted borrower. In the case of an unsecured NPE, only the general claim against the defaulted borrower would be available. Given the higher loss expected on unsecured NPEs, a stricter calendar shall be applied, i.e. a calendar of three years.

In order to allow institutions and Member States to improve the efficiency of restructuring or enforcement proceedings, as well as recognise that NPEs secured with immovable collateral and residential loans guaranteed by an eligible protection provider as defined in Regulation (EU) No 575/2013 will have a remaining value for a longer period of time after the loan turned non-performing it is appropriate to provide for a calendar of nine years. For other secured NPEs a calendar of seven years shall apply until full coverage has to be built up.

Minimum loss coverage for non performing exposures

The European Parliament adopted, by 426 votes to 151 with 22 abstentions, a legislative resolution on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EU) No 575/2013 as regards minimum loss coverage on non-performing exposures.

The position of the European Parliament adopted at first reading under the ordinary legislative procedure amended the Commission proposal as follows:

Prevent the accumulation of non-performing bank exposures

The financial crisis led to the build-up of NPEs in the banking sector. Consumers were significantly affected by the subsequent recession and the drop in housing prices. The establishment of a comprehensive strategy to address non-performing exposures (NPEs) is an important goal for the Union in its attempt to make the financial system more resilient.

This proposal for the amendment of Regulation (EU) No 575/2013 on capital requirements (CRR) provides for a statutory prudential backstop against any excessive future build-up of non-performing exposures (NPEs) without sufficient loss coverage on banks' balance sheets.

A uniform calendar shall be applied irrespective of whether the exposure is non-performing because the obligor is past due more than 90 days or if it is non-performing for other triggers. The prudential backstop shall be applied on an exposure-by-exposure level.

On the basis of a common definition of non-performing exposures (NPEs), the proposed new rules establish a mechanism providing for a common minimum loss coverage for the reserves that banks must establish to cover losses on future loans that may prove to be non-performing. In the event that a bank does not comply with the applicable minimum level, deductions from its own funds would apply.

Calendar

The longer an exposure has been non-performing, the lower the probability for the recovery of its value. Therefore, the portion of the exposure that shall be covered by provisions, other adjustments or deductions shall increase with time, following a pre-defined calendar.

NPEs purchased by an institution shall thus be subject to a calendar that starts to run from the date on which the NPE has originally been classified as non-performing, and not from the date of its purchase. For that purpose, the seller should inform the buyer of the date of the classification of the exposure as non-performing.

As regards non-performing loans, the proposed Regulation provides for a gradual increase in the minimum level of loss coverage over a period of 9 years. For unsecured NPEs, the maximum coverage requirement would apply fully after 3 years.

Minimum loss coverage for non performing exposures

PURPOSE: to supplement existing legislation in order to ensure sufficient coverage by banks of losses they may incur on future non-performing loans (NPLs).

LEGISLATIVE ACT: Regulation (EU) 2019/630 of the European Parliament and of the Council amending Regulation (EU) No 575/2013 as regards minimum loss coverage on non-performing exposures.

CONTENT: the financial crisis has led to the accumulation of non-performing exposures (NPE) in the banking sector. The establishment of a comprehensive strategy to deal with NPEs is an important goal for the Union, which aims to increase the resilience of the financial system.

This Regulation amends Regulation (EU) No 575/2013 on capital requirements (CRR) in order to prevent any excessive accumulation of non-performing loans (NPLs) in the future without sufficient coverage of losses on the banks' balance sheets. Its objective is to ensure that banks set aside sufficient own resources when new loans become non-performing.

A bank loan is generally considered non-performing when more than 90 days have passed without the borrower (a company or individual) paying the amounts due or interest that have been agreed upon, or when it becomes unlikely that the borrower will repay it.

On the basis of a common definition of non-performing exposures (NPEs), the new rules establish a prudential backstop providing for institutions to cover up to common minimum levels the incurred and expected losses on newly originated loans once such loans become non-performing. In the event that a bank does not comply with the applicable minimum coverage requirement, deductions from its own funds shall apply.

Different coverage requirements shall apply depending on whether NPEs are classified as secured or unsecured and whether the security interest is movable or immovable.

For unsecured NPEs a calendar of three years shall apply. In order to allow institutions and Member States to improve the efficiency of restructuring or enforcement proceedings, as well as recognise that NPEs secured with immovable collateral and residential loans guaranteed by an eligible protection provider will have a remaining value for a longer period of time after the loan turned non-performing it is appropriate to provide for a calendar of nine years. For other secured NPEs a calendar of seven years should apply until full coverage has to be built up.

ENTRY INTO FORCE: 26.4.2019.