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

2011/0202(COD) - 16/04/2013 - Text adopted by Parliament, 1st reading/single reading

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.