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

2011/0202(COD) - 26/06/2013 - Corrigendum to final act

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.