

Access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms. Capital Requirements Directive (CRDIV)

2011/0203(COD) - 05/03/2013

The Council **broadly endorsed the outcome of the most recent political trilogue** with the European Parliament on the “CRD 4 package” of legislation amending the EU's rules on capital and liquidity requirements for banks and investment firms.

The package sets out to amend and replace existing capital requirements Directives with **two new legislative instruments**: (i) a [Regulation](#) establishing prudential requirements that institutions must fulfil, and (ii) a Directive governing access to deposit-taking activities.

As far as the Directive is concerned, the Presidency of the Council and Parliament reached agreement on the following key issues:

Capital buffers: the Directive will introduce **additional requirements for a capital conservation buffer of CET 1 capital of 2.5% of total risk exposure**, identical for all banks in the EU, and an institution-specific countercyclical capital buffer¹ of up to 2.5%. Moreover, Member States will have the possibility to:

- introduce a systemic risk buffer of additional CET 1 capital for the financial sector or one or more subsets of it, or buffers for systemically important institutions;
- apply systemic risk buffers of 1% to 3% for all exposures and **up to 5% for domestic and third country exposures**, without having to seek prior approval from the Commission;
- impose even higher buffers with prior Commission authorisation in the form of an implementing act. If a Member State decides to impose a buffer of up to 3% for all exposures, the buffer has to be set equally on all exposures located within the EU.

The buffer requirements specific to systemic institutions will be **mandatory for global systemically important institutions** (G-SIIs), **but voluntary for other** (i.e. EU or domestic) **systemically important institutions** (O-SIIs).

G-SIIs will be **assigned to one of five sub-categories**, depending on their systemic importance. They will be subject to **progressive additional CET 1 capital requirements**, ranging from **1% to 2.5%** for the first four groups, while a buffer of **3.5%** will apply to the highest sub-category.

The systemic risk buffer and buffers for G-SIIs and O-SIIs will generally not be cumulative; only the highest of the three buffers will apply.

Bankers' bonuses: bonuses will be **capped** at a ratio of 1:1 fixed to variable remuneration, i.e. **bonuses are equal to fixed salary**. This ratio can be raised to a maximum of 2:1, if a quorum of shareholders representing 50% of shares participates in the vote and a 66% majority of them supports the measure. If the quorum cannot be reached, the measure can also be approved if it is supported by 75% of shareholders present. For the purposes of applying this ratio, variable remuneration **may include long-term deferred instruments** that can be appropriately discounted.

These provisions will also apply to the staff of **subsidiaries** of European companies operating outside the European Economic Area and the European Free Trade Area.

The Commission will review and report on the **impact** of this provision, in close cooperation with the EBA, taking into account its impact on competitiveness and financial stability.

Governance and transparency:

- from 1 January 2014, institutions will be required to make public the number of employees per institution in the group and net banking income;
- all European G-SIIs and O-SIIs have to report to the Commission on profits made, taxes paid and subsidies received;
- from 2015, banks would have to publicly disclose the data unless the Commission, by delegated act, either delays or amends the relevant provisions.

A "**sunset**" **clause** provides for expiry of this provision, if/when it has been dealt with in other forthcoming legislation (i.e. accounting directive).