Basic information

2016/0364(COD) COD - Ordinary legislative procedure (ex-codecision procedure) 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	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
ECON Economic and Monetary Affairs	SIMON Peter (S&D)	24/11/2016
	Shadow rapporteur KARAS Othmar (PPE) FOX Ashley (ECR) NAGTEGAAL Caroline (ALDE) CARTHY Matt (GUE/NGL) LAMBERTS Philippe (Verts/ALE) VALLI Marco (EFDD) ZANNI Marco (ENF)	

Council of the European Union

Council configuration	Meetings	Date
Economic and Financial Affairs ECOFIN	3619	2018-05-25
Agriculture and Fisheries	3689	2019-05-14

European Commission

Commission DG	Commissioner
Financial Stability, Financial Services and Capital Markets Union	DOMBROVSKIS Valdis

Key events

Date	Event	Reference	Summary
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 72)		
04/07/2018	Committee decision to enter into interinstitutional negotiations confirmed by plenary (Rule 72)		
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	Decision by Parliament, 1st reading	T8-0370/2019	Summary
16/04/2019	Results of vote in Parliament		
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
Amendments and repeals	Amending Directive 2013/36/EU 2011/0203(COD)
Legal basis	Treaty on the Functioning of the European Union TFEU 053-p1
Other legal basis	Rules of Procedure EP 165
Stage reached in procedure	Procedure completed
Committee dossier	ECON/8/08560

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary

Committee draft report		PE613.410	16/11/2017	
Amendments tabled in committee		PE616.798	02/02/2018	
Amendments tabled in committee		PE616.830	02/02/2018	
Committee report tabled for plenary, 1st reading/single reading		A8-0243/2018	28/06/2018	Summary
Text agreed during interinstitutional negotiations		PE636.104	15/02/2019	
Text adopted by Parliament, 1st reading/single reading		T8-0370/2019	16/04/2019	Summary

Council of the EU

Document type	Reference	Date	Summary
Coreper letter confirming interinstitutional agreement	GEDA/A/(2019)001585	15/02/2019	
Draft final act	00016/2019/LEX	20/05/2019	

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2016)0854	23/11/2016	Summary
Document attached to the procedure	SWD(2016)0377	23/11/2016	
Document attached to the procedure	SWD(2016)0378	23/11/2016	
Commission response to text adopted in plenary	SP(2019)440	08/08/2019	
Follow-up document	COM(2023)0344	26/06/2023	

National parliaments

Document type	Parliament /Chamber	Reference	Date	Summary
Contribution	FR_SENATE	COM(2016)0854	02/03/2017	
Contribution	PT_PARLIAMENT	COM(2016)0854	08/03/2017	
Contribution	ES_PARLIAMENT	COM(2016)0854	09/03/2017	
Reasoned opinion	SE_PARLIAMENT	PE601.067	10/03/2017	
Contribution	RO_SENATE	COM(2016)0854	23/03/2017	
Contribution	IT_SENATE	COM(2016)0854	16/01/2018	

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
ECB	European Central Bank: opinion, guideline, report	CON/2017/0046 OJ C 034 31.01.2018, p. 0005	08/11/2017	Summary

Additional information		
Source	**Document**	**Date**
European Parliament	Briefing	
European Commission	EUR-Lex	

Final act
Corrigendum to final act 32019L0878R(03) OJ L 212 03.07.2020, p. 0020 Directive 2019/0878 OJ L 150 07.06.2019, p. 0253 Summary

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

2016/0364(COD) - 07/06/2019 - Final act

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.

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

2016/0364(COD) - 28/06/2018 - Committee report tabled for plenary, 1st reading/single reading

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 Parliament’s 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

2016/0364(COD) - 23/11/2016 - Legislative proposal

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 EU's 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

2016/0364(COD) - 08/11/2017

OPINION of the European Central Bank (ECB) on amendments to the Union framework for capital requirements of credit institutions and investment firms

The ECB **supports the Commission's banking reform package**, which will implement important elements of the global regulatory reform agenda in Union legislation. The Commission's proposal is expected to substantially strengthen the regulatory architecture, thereby contributing to the reduction of risks in the banking sector.

The ECB addresses issues of particular importance to the ECB, which have been divided into two sections: (1) **changes to the existing Union regulatory and supervisory framework**; and (2) **implementation of internationally agreed supervisory standards**.

The amendments which it proposes to the implementation of the Pillar 2 requirements of the Basel III framework in the Capital Requirements Directive (CRD) seek to achieve greater supervisory convergence in the Union

The ECB makes, inter alia, the following observations:

- the proposal to develop **regulatory technical standards on additional own funds requirements** is not the appropriate tool for achieving the objective of supervisory convergence. The ECB supports a risk-based approach that takes into account the diversity of risk profiles of institutions;
- **supervisory authorities** should retain the power to set a composition requirement for additional own funds and to require that additional own funds requirements must be met solely with Common Equity Tier 1 capital;
- the proposed amendments to the CRD should **reflect more clearly the need for flexibility** in the determination of Pillar 2 guidance. In addition, it should be clarified that, where a stress test identifies additional types of credit risk in a hypothetical situation and these are part of the Pillar 2 requirements, competent authorities retain the ability to apply measures addressing such risks in the Pillar 2 guidance;
- the proposed amendments limiting the power of competent authorities to require credit institutions to provide additional or more frequent information should be deleted;
- competent authorities should be **allowed to impose own funds requirements** whenever interest rate risk is a material source of concern and not only when risks exceed a certain predefined threshold;
- the proposal for formal consultation of resolution authorities prior to determining additional own fund requirements or providing guidance as specified in the CRD would prove unnecessarily burdensome and unduly formalistic in practice.

The ECB is generally supportive with regard to removing Pillar 2 as an instrument from the macroprudential toolkit, but reiterates its view that removing Pillar 2 requirements should not result in authorities having insufficient tools to carry out their mandate and achieve their policy objectives.

Pending an in-depth review of the macroprudential framework, the ECB suggests **a number of adjustments to improve the operational efficiency of the current macroprudential framework**, such as withdrawing the present hierarchy for the sequencing of the activation mechanism, and streamlining the wide variety of notification and activation procedures for macroprudential measures.

The ECB welcomes the requirement to establish intermediate **EU parent undertakings** for third-country banking groups with two or more institutions established in the Union, provided that certain criteria are met or thresholds are exceeded. However, certain aspects of the proposed amendments to the CRD require further clarification in order to avoid regulatory arbitrage.

With respect to **proportionality in reporting**, the ECB suggests that, instead of reducing the frequency of regulatory reporting, the scope of reporting for smaller institutions could be amended.

The **consolidated and solo supervision of large cross-border, bank-like investment firms** in the Union warrants further consideration, to ensure prudent and consistent supervisory standards commensurate with the risks these firms can pose. One of the possible options would be to amend the CRD /CRR in order to ensure that large cross-border investment firms are considered as credit institutions.

The ECB recommends that Union law should be amended to **include a definition of key function holders and to clarify the definition of senior management**. Moreover, in order to harmonise national approaches, a provision should be introduced on the powers of competent authorities when assessing key function holders in significant institutions.

Lastly, the ECB proposes to expand the list of infringements subject to sanctions.

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

2016/0364(COD) - 16/04/2019 - Text adopted by Parliament, 1st reading/single reading

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.