Basic information

2021/0343(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	Procedure completed
Amendments to the Capital Requirements Regulation in the area of resolution (“daisy chain” proposal) Amending Regulation Regulation 2013/575 2011/0202(COD) Amending Directive Directive 2014/59/EU 2012/0150(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 **Legislative priorities** Joint Declaration 2021 Joint Declaration 2022	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
ECON Economic and Monetary Affairs	FERNÁNDEZ Jonás (S&D)	25/10/2021
	Shadow rapporteur KARAS Othmar (EPP) SØGAARD-LIDELL Linea (Renew) URTASUN Ernest (Greens/EFA) FITTO Raffaele (ECR) ZANNI Marco (ID) SCHIRDEWAN Martin (The Left)	

Council of the European Union

European Commission

Commission DG	Commissioner
Financial Stability, Financial Services and Capital Markets Union	MCGUINNESS Mairead

European Economic and Social Committee

Key events

Date	Event	Reference	Summary
27/10/2021	Legislative proposal published	COM(2021)0665	Summary
22/11/2021	Committee referral announced in Parliament, 1st reading		
02/02/2022	Vote in committee, 1st reading		
02/02/2022	Committee decision to open interinstitutional negotiations with report adopted in committee		
04/02/2022	Committee report tabled for plenary, 1st reading	A9-0020/2022	Summary
14/02/2022	Committee decision to enter into interinstitutional negotiations announced in plenary (Rule 72)		
16/02/2022	Committee decision to enter into interinstitutional negotiations confirmed by plenary (Rule 72)		
20/06/2022	Approval in committee of the text agreed at 1st reading interinstitutional negotiations	PE734.156 GEDA/A/(2022)004616	
13/09/2022	Decision by Parliament, 1st reading	T9-0307/2022	Summary
13/09/2022	Results of vote in Parliament		
04/10/2022	Act adopted by Council after Parliament's 1st reading		
19/10/2022	Final act signed		
25/10/2022	Final act published in Official Journal		

Technical information

Procedure reference	2021/0343(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
Amendments and repeals	Amending Regulation Regulation 2013/575 2011/0202(COD) Amending Directive Directive 2014/59/EU 2012/0150(COD)
Legal basis	Treaty on the Functioning of the European Union TFEU 114
Other legal basis	Rules of Procedure EP 165
Mandatory consultation of other institutions	European Economic and Social Committee
Stage reached in procedure	Procedure completed
Committee dossier	ECON/9/07547

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE703.039	16/12/2021	

Amendments tabled in committee		PE703.185	12/01/2022	
Committee report tabled for plenary, 1st reading/single reading		A9-0020/2022	04/02/2022	Summary
Text agreed during interinstitutional negotiations		PE734.156	20/06/2022	
Text adopted by Parliament, 1st reading/single reading		T9-0307/2022	13/09/2022	Summary

Council of the EU

Document type	Reference	Date	Summary
Coreper letter confirming interinstitutional agreement	GEDA/A/(2022)004616	15/06/2022	
Draft final act	00023/2022/LEX	19/10/2022	

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2021)0665	27/10/2021	Summary
Commission response to text adopted in plenary	SP(2022)564	20/10/2022	

National parliaments

Document type	Parliament /Chamber	Reference	Date	Summary
Contribution	ES_PARLIAMENT	COM(2021)0665	04/01/2022	

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
EESC	Economic and Social Committee: opinion, report	CES5706/2021	08/12/2021	
ECB	European Central Bank: opinion, guideline, report	CON/2022/0003 OJ C 122 13.01.2022, p. 0033	13/01/2022	

Additional information

Source	Document	Date
European Commission	EUR-Lex	

Final act

Regulation 2022/2036
OJ L 275 25.10.2022, p. 0001

Amendments to the Capital Requirements Regulation in the area of resolution (“daisy chain” proposal)

2021/0343(COD) - 04/02/2022 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Economic and Monetary Affairs adopted the report by Jonás FERNÁNDEZ (S&D, ES) on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EU) No 575/2013 and Directive 2014/59/EU as regards the prudential treatment of global systemically important institution groups with a multiple point of entry resolution strategy and a methodology for the indirect subscription of instruments eligible for meeting the minimum requirement for own funds and eligible liabilities.

As a reminder, the so-called ‘Daisy Chain’ proposal introduces targeted adjustments that will play an essential role in improving an institution’s resolvability. It amends the Union bank resolution framework by:

- incorporating a dedicated treatment for the indirect subscription of instruments eligible for internal minimum requirement for own funds and eligible liabilities (MREL);

- further aligning the treatment of global systemically important institution (G-SII) groups with a Multiple Point of Entry (MPE) resolution strategy with the treatment outlined in the FSB’s international Total Loss-absorbing Capacity Term Sheet (the ‘TLAC standard’);

- clarifying the eligibility of instruments in the context of the internal TLAC.

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

Consolidated calculation for G-SIIs with multiple resolution entities

To ensure consistency, the calculation should also take into account **all third-country entities** belonging to a G-SII that would be resolution entities if they were established in the Union.

Templates

The templates for the public disclosure of harmonised information on the minimum requirement for own funds and eligible liabilities and on the requirement for own funds and eligible liabilities for material subsidiaries of non-EU G-SIIs should be amended to reflect the new deduction regime for internal MREL eligible instruments. The disclosure templates should also be amended to include the total risk exposure amount and the total exposure measure that intermediate entities would have if they did not exclude the exposures deducted under that new deduction regime.

Entry into force

By 31 December 2022, the Commission should review the implementation of the indirect subscription of instruments eligible for meeting the minimum requirement for own funds and eligible liabilities by the different types of banking group structures, among others the case where institutions have an operating company between the holding company and its subsidiaries, and review the treatment of entities, the resolution plan of which provides that they are to be wound up under normal insolvency proceedings under the rules governing the minimum requirement for own funds and eligible liabilities. The Commission should submit a report thereon to the European Parliament and to the Council accompanied, where appropriate, by a legislative proposal.

Implementation

To ensure that institutions have sufficient time to implement the **dedicated treatment** for the indirect subscription of internal MREL eligible resources, including the new deduction regime and that markets can digest additional issuances of internal MREL eligible resources, where needed, the amended text sets out provisions stipulating that treatment should become applicable on **1 January 2024**, in line with the deadline for compliance with the final MREL requirements.

Amendments to the Capital Requirements Regulation in the area of resolution (“daisy chain” proposal)

2021/0343(COD) - 27/10/2021 - Legislative proposal

PURPOSE: to amend Regulation (EU) No 575/2013 on prudential requirements for credit institutions and investment firms (CRR) and Directive 2014/59 /EU establishing a framework for the recovery and resolution of credit institutions and investment firms (Bank Recovery and Resolution Directive or BRRD) as regards the prudential treatment of global systemically important institution groups with a multiple point of entry resolution strategy and a methodology for the indirect subscription of instruments eligible for meeting the minimum requirement for own funds and eligible liabilities (the so-called ‘daisy chain’ proposal).

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 the Council.

BACKGROUND: the proposal is part of a **reform of EU banking regulation** aimed at ensuring that EU banks become more resilient to possible future economic shocks, while contributing to Europe's recovery from the COVID-19 pandemic and the transition to climate neutrality.

In addition to this proposal, the package presented by the European Commission consists of a legislative proposal to amend the Capital Requirements Directive (Directive 2013/36/EU) and a legislative proposal to amend the Capital Requirements Regulation (Regulation (EU) No 575/2013 or CRR).

Largely based on international standards agreed with the EU's international partners, in particular the Basel Committee on Banking Supervision (BCBS), the CRR and CRD were adopted in the wake of the financial crisis of 2008 and 2009 with the aim of increasing the resilience of institutions operating in the EU.

The CRR was subsequently amended to address remaining weaknesses in the regulatory framework. A major revision was brought by the 'Risk Reduction Measures Package', which was adopted by the European Parliament and the Council on 20 May 2019. This reform implemented in the Union the international Total Loss-Absorbing Capacity (**TLAC**) standard for global systemically important institutions (G-SIIs) adopted by the Financial Stability Board (FSB) in November 2015 and enhanced the application of the minimum requirement for own funds and eligible liabilities (**MREL**) for all institutions established in the Union.

The TLAC standard requires G-SIIs to hold a sufficient amount of highly loss-absorbing (bail-inable) liabilities to ensure smooth and fast absorption of losses and recapitalisation in the event of resolution. TLAC and MREL are thus essential to effectively manage bank crises and reduce their negative impact on financial stability and public finances. TLAC and the revised rules on MREL became applicable in the Union on 27 June 2019 and 28 December 2020, respectively.

In line with international standards, EU law recognises both the Single Point of Entry (SPE) resolution strategy and the Multiple Point of Entry (MPE) resolution strategy. Under the **MPE resolution strategy**, more than one entity of the banking group may be resolved. The underlying principle of the MPE resolution approach is to enable the resolution of a given resolution group in a feasible and credible way without undermining the resolvability of other resolution entities and resolution groups in the same consolidated banking group.

The revised bank resolution framework provides that MREL for resolution entities should be set at the consolidated level of a resolution group ('external MREL'). In addition, that framework envisages how the loss absorption and recapitalisation capacity should be allocated within resolution groups ('internal MREL').

CONTENT: the proposed regulation **supplements and amends existing EU legislation (CRR and BRRD) on the application of capital requirements and eligible liabilities**. It aims to: (i) fully harmonise the prudential treatment of the holdings by intermediate parents of internal MREL eligible resources of their subsidiaries and; (ii) revise in a targeted manner the requirements for own funds and eligible liabilities for G-SIIs and for material subsidiaries of non-EU G-SIIs.

The proposed changes include:

- incorporate directly into the CRR a dedicated prudential treatment related to the indirect subscription of instruments eligible for internal MREL (daisy chain approach);

- clarify the provisions of the CRR relating to the comparison between the sum of the effective TLAC requirements of all resolution groups within a G-SII group with an MPE resolution strategy with the theoretical SPE requirement of that G-SII group;

- amend the formula for the calculation of the TLAC/MREL surplus of a subsidiary in the context of the general deduction regime applicable to G-SIIs with an MPE resolution strategy to ensure that that formula takes into account both the risk-based and the non-risk-based TLAC/MREL requirements of the subsidiary, in line with the TLAC standard;

- clarify some CRR provisions applicable G-SIIs with an MPE resolution strategy to allow for the consideration of subsidiaries established outside of the Union;

- provide targeted clarifications in the context of the requirement for own funds and eligible liabilities for institutions that are material subsidiaries of non-EU G-SIIs ('internal TLAC') are needed to ensure that debt instruments issued by those institutions could meet all eligibility criteria for eligible liabilities instruments.

By facilitating the indirect subscription of internal MREL within resolution groups, by better aligning the regulatory treatment of banking groups with an MPE resolution strategy with the TLAC standard, and by specifying further some of the criteria for eligibility for compliance with the internal TLAC requirement, the proposal will **improve the application of the existing Union rules as regards ensuring the resolvability of banking groups**.

The proposed amendments would further promote a **uniform application of prudential requirements**, the convergence of supervisory practices and ensure a level playing field throughout the single market for banking services.

In the Commission's view, there is a need for an expedited adoption given that banking groups need clarity on the daisy chain mechanism to decide how best to preposition their internal MREL capacity in view of the general MREL compliance deadline that is set to 1 January 2024, with binding intermediate targets needing to be complied with by 1 January 2022.

Amendments to the Capital Requirements Regulation in the area of resolution ("daisy chain" proposal)

2021/0343(COD) - 13/09/2022 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 465 votes to 42, with 116 abstentions, a legislative resolution on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EU) No 575/2013 and Directive 2014/59/EU as regards the prudential treatment of global systemically important institution groups with a multiple point of entry resolution strategy and a methodology for the indirect subscription of instruments eligible for meeting the minimum requirement for own funds and eligible liabilities.

As a reminder, the 'Daisy Chain' proposal is part of the single rulebook of the Banking Union and amends the rules in the Capital Requirements Regulation and the Bank Recovery and Resolution Directive. Regulation (EU) No 575/2013 of the European Parliament and of the Council (the Capital Requirements Regulation or CRR) establishes together with Directive 2013/36/EU of the European Parliament and of the Council (the Capital Requirements Directive or CRD) the prudential regulatory framework for credit institutions operating in the Union.

The European Parliament's position adopted at first reading under the ordinary legislative procedure amends the Commission's proposal as follows:

Aims

The 'Daisy Chain' proposal introduces targeted adjustments that will help improve the resolvability of bank institutions. It amends the EU framework for bank resolution by:

- incorporating a dedicated treatment for the indirect subscription of instruments eligible for internal minimum requirement for own funds and eligible liabilities (MREL);

- further aligning the treatment of global systemically important institution (G-SII) groups with a Multiple Point of Entry (MPE) resolution strategy with the treatment outlined in the Financial Stability Board's (FSB) international Total Loss-absorbing Capacity Term Sheet (the 'TLAC standard');

- clarifying the eligibility of instruments in the context of the internal TLAC.

The objective of the proposed amending regulation is to fully harmonise the prudential treatment of the holdings by intermediate entities of internal MREL eligible resources of entities in the same resolution group and to revise in a targeted manner the requirements for own funds and eligible liabilities for G-SIIs and for material subsidiaries of non-EU G-SIIs.

Consolidated calculation for G-SIIs with multiple resolution entities

The amended text provides that where at least two G-SII entities that are part of the same G-SII are resolution entities or third-country entities that would be resolution entities if they were established in the Union, the EU parent institution of that G-SII should calculate the amount of own funds and eligible liabilities: (a) for each resolution entity or third-country entity that would be a resolution entity if it were established in the Union; (b) for the EU parent institution as if it were the only resolution entity of the G-SII.

Revised deduction regime

The Regulation addresses the deduction regime for own funds and eligible liabilities meeting the requirements for loss-absorption in resolution (MREL) that are channelled through an intermediate entity in the context of their upstreaming within complex resolution groups, so-called 'Daisy Chains'. The amended Regulation provides for a revised deduction regime to avoid in particular double counting of MREL elements at the level of intermediate entities, thus ensuring that EU banking groups always keep a robust loss-absorption capacity in line with their disclosed MREL.

Another issue in the Regulation concerns the treatment of groups with a multiple-point-of-entry resolution strategy (MPE groups), as opposed to a single-point-of-entry (SPE) resolution strategy, especially as regards aligning such treatment on the regime foreseen under TLAC international standards and taking into account third-country entities within such groups. The issue arises especially in cases where the resolution regime of a third country is not equivalent to the regime in force in the Union. The amended text provides for a **transitional regime until end 2024** is introduced for MPE groups, subject to an assessment by EU resolution authorities.

Review clause

By **31 December 2022**, the Commission should review the impact of the indirect subscription of instruments eligible for meeting the minimum requirement for own funds and eligible liabilities on the level playing field between different types of banking group structures, including where groups have an operating company between the holding company identified as a resolution entity and its subsidiaries. It should assess in particular the following:

- the possibility to allow entities that are not themselves resolution entities to comply with the minimum requirement for own funds and eligible liabilities on a consolidated basis;

- the treatment, under the rules governing the minimum requirement for own funds and eligible liabilities, of entities whose resolution plan provides that they are to be wound up under normal insolvency proceedings;

- the appropriateness of limiting the amount of deductions required under the CCR Regulation.

The Commission should submit a report thereon to the European Parliament and to the Council. Where appropriate, that report should be accompanied by a **legislative proposal**.

Implementation

In order to ensure that institutions have sufficient time to implement the dedicated treatment for the indirect subscription of internal MREL eligible resources, including the new deduction regime, and that markets can absorb additional issuances of internal MREL eligible resources, where needed, the provisions laying down that treatment should become applicable on **1 January 2024**, in line with the deadline for compliance with MREL.