

Basic information	
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Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
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Key events			
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Capital Requirements Directive: regulatory technical standards specifying the booking arrangements that third-country branches are to apply

2026/2889(DEA) - 09/10/2012

The Council was informed by the Presidency of the state of negotiations with the European Parliament on two proposals – the so-called "CRD 4" package – amending the EU's rules on capital requirements for banks and investment firms.

The two proposals set out to amend and replace the existing capital requirement directives¹ by two new legislative instruments: i) a [Regulation](#) establishing prudential requirements that institutions need to respect, and ii) a directive governing access to deposit-taking activities.

The Council held an exchange of views and confirmed its intention to **reach a political agreement on the package before the end of the year**. A number of issues have yet to be resolved in the negotiations with the Parliament.

Capital Requirements Directive: regulatory technical standards specifying the booking arrangements that third-country branches are to apply

2026/2889(DEA) - 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).

Capital Requirements Directive: regulatory technical standards specifying the booking arrangements that third-country branches are to apply

2026/2889(DEA) - 30/11/2011

The Council took note of a **progress report from the presidency** on proposals for a fourth amendment of the EU's rules on capital requirements for banks and investment firms ("CRD IV").

The proposals for a **regulation** and directive are intended to amend and replace existing capital requirement directives 2006/48/EC and 2006/49/EC.

They are aimed at transposing into EU law an international agreement approved by the G-20 in November 2010. The so-called Basel III agreement, concluded by the Basel Committee on Banking Supervision, strengthens bank capital requirements and introduces new regulatory requirements on bank liquidity and bank leverage.

General remarks: all Member States recognise the **importance of quick adoption of this legislative package** and are committed to working towards an agreement which would also swiftly transpose the Basel III requirements into legislative acts of the European Union. In the view of the Presidency, there is a **broad measure of agreement on a number of proposed provisions to improve current prudential requirements**, in particular the need to improve significantly the qualitative and quantitative capital requirements.

Member State concerns: in this Progress Report the Presidency aims to inform about some of those principal concerns expressed by Member States, where a solution would be needed to reach a compromise agreement at the Council. This Progress Report is without prejudice to the scope and content of other issues that would require further negotiations in the preparatory

bodies of the Council.

National discretion and the single market objective (flexibility and maximum harmonisation):

- A number of Member States have concerns about reduced national discretion and limited scope of flexibility within the framework of harmonised rules. They fear that the proposed approach might have a negative impact on Member States due to differences in their national financial systems.
- In particular, a number of delegations pointed out that they would favour additional powers for Member States to set stricter requirements within their jurisdictions (e.g. the possibility of increasing minimum level of capital ratio). They have indicated that as the ultimate (fiscal) responsibility for ensuring financial stability within its jurisdiction is borne by a Member State, Member States must have effective supervisory tools at their disposal. On the other hand, some delegations support the framework and the single rule book principle proposed by the Commission.
- Those delegations consider that the framework proposed by the Commission already provides for sufficient flexibilities, including through a strengthened "Pillar 2" measures and the countercyclical buffer.
- Lastly, the proposed Article 443 of the Regulation empowers the Commission to **impose temporary more stringent prudential requirements by way of delegated acts**, where this is necessary to address changes in the intensity of micro-prudential and macro-prudential risks. Some delegations oppose such powers being granted to the Commission, while other delegations generally support this idea, provided that the operational framework of these provisions is fine-tuned and delegation of powers is adequately framed.

Liquidity coverage requirement: there is **agreement that a liquidity coverage requirement (LCR) should be introduced**, in order to close an important gap in EU prudential requirements. In view of this general objective, a number of Member States have raised the concerns set out below:

- Article 444 of the proposed Regulation foresees that the LCR shall be implemented by a **delegated act** of the Commission. A number of Member States insist that, given the importance of this issue and its possible impact on the economy, the LCR should be implemented by subsequently amending the Regulation under the ordinary legislative procedure while still ensuring that the 2015 date is met. Moreover, provisions dealing with the principle of having adequate liquid assets at all times, are subject to further examination, given that many Member States wish to render the wording more precise.
- The Member States' main concerns are related to the possibility of establishing **single liquidity sub-groups and intra-group treatment**. The proposed Regulation foresees an obligation to establish a single liquidity sub-group once certain conditions are met. There seems to be a prospect of agreement on the principle of having a single liquidity sub-group, subject to sufficient safeguards being defined, especially in terms of procedure and conditions of application. The proposed Regulation contains a requirement to apply liquidity intra-group treatment where the

single liquidity sub-group has not been established. The proposed solution has very similar features to the single liquidity sub-group issue. Some Member States, however, are of the view that there are no safeguards foreseen within the suggested procedure. The structure of liquidity supervision is subject to further examination.

Leverage ratio requirement: the proposed Regulation foresees an obligation to disclose the leverage ratio from 2015, before decision is taken whether it becomes a binding measure upon amendment of the Regulation.

On this issue, some Member States are of the opinion that **such disclosure might have a negative impact on market participants** and should be postponed till the leverage ratio calibration requirements are completed.

Collaboration between competent authorities in cases of branch supervision: overall, the Presidency is in a position to note an agreement on the principle that supervision of branches of credit institutions should at all times remain efficient and effective.

Further work: following the discussions, the Presidency notes that some of Member States have concerns about definition of own funds, in particular the treatment of significant investments in insurers and the "substance over form" approach on Common Equity Tier I capital, and more work is required in this area. Moreover, the Presidency is of the view that further work is also needed on, inter alia, countercyclical buffers, the sanctioning regime, requirements linked to corporate governance, etc.

The Permanent Representatives' Committee is invited to recommend that the Council to invite the incoming Presidency and Member States to continue work, with a view to reaching an agreement on a compromise text to advance towards negotiations with the European Parliament, in order to reach an **agreement by June 2012**.

Capital Requirements Directive: regulatory technical standards specifying the booking arrangements that third-country branches are to apply

2026/2889(DEA) - 02/05/2012

The Council carried out a **detailed examination of proposals** to amend the EU's rules on capital requirements for banks and investment firms, the so-called "CRD 4" package, with a view to starting a negotiation with the European Parliament aimed at adoption of the texts at first reading.

The proposals set out to amend and replace the existing capital requirement directives and divide them into two new legislative instruments: a regulation establishing prudential requirements that institutions need to respect and **a directive governing access to deposit-taking activities**. They are aimed at transposing into EU law an international agreement approved by the G-20 in November 2010 – the Basel 3 agreement – which had been prepared by the Basel Committee on Banking Supervision.

Concluding the discussions, the president of the Council noted the **support of a qualified majority of delegations** for a provisional compromise text. With the agreement of the Council, the presidency decided to add the dossier to the agenda for its meeting on 15 May, so as to enable a technical verification to be completed prior to confirmation of the Council's agreement on the overall package.

Capital Requirements Directive: regulatory technical standards specifying the booking arrangements that third-country branches are to apply

2026/2889(DEA) - 15/05/2012

The Council unanimously agreed a **general approach** on two proposals - the so-called "CRD 4" package - amending the EU's rules on capital requirements for banks and investment firms, with a view to negotiations with the European Parliament.

It called on the presidency to start negotiations with the European Parliament, on the basis of the Council's general approach. The aim is to **reach agreement on the texts at first reading, if possible by June 2012** as requested by the European Council.

The proposals set out to amend and replace the existing capital requirement directives and divide them into two new legislative instruments: a [regulation establishing prudential requirements](#) that institutions need to respect and **this directive governing access to deposit-taking activities**. They are aimed at transposing into EU law an international agreement approved by the G-20 in November 2010 – the so-called Basel 3 agreement – concluded by the Basel Committee on Banking Supervision.

The draft **directive** introduces **additional requirements for a capital conservation buffer of 2.5% CET 1** identical for all banks in the EU, and an **institution-specific countercyclical capital buffer**, as well as the possibility for member states to introduce a systemic risk buffer of additional CET 1 capital for the financial sector or one or more subsets of it.

Member states would be able to apply **systemic risk buffers of up to 3% for all exposures and up to 5% for domestic and third country exposures**, without having to seek prior Commission approval, while they could impose even higher buffers with prior Commission authorisation in the form of a delegated 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.

Capital Requirements Directive: regulatory technical standards specifying the booking arrangements that third-country branches are to apply

2026/2889(DEA) - 10/07/2012

The Council was briefed by the Presidency on **progress in negotiations** with the European Parliament on two proposals amending the EU's rules on capital requirements for banks and investment firms ("CRD 4").

The proposals set out to amend and replace the existing Capital Requirement Directives and divide them into two new legislative instruments:

- a [Regulation](#) establishing prudential requirements that institutions need to respect and
- a Directive governing access to deposit-taking activities.

The Cypriot Presidency stated its objective of **finalising negotiations as soon as possible**. As the incoming presidency, it has held its first "trilogues" and scheduled further meetings with the Parliament on 11 and 12 July.

Work under the previous Danish Presidency was **almost completed on the Directive**, with only a few key open issues remaining, and **talks are now focused on the Regulation**.

The negotiations with the Parliament are aimed at adoption of the Regulation and Directive at first reading.

Outstanding issues include a proposed flexibility package, bankers' remuneration, crisis management, sanctions, the balance of power between the authorities of "home" and "host" countries, corporate governance, and powers to be given to the European Banking Authority (EBA).

General approach: the Council agreed a general approach on the two proposals on 15 May with a view to negotiations with the European Parliament.

The **draft Directive** introduces:

- additional requirements for a **capital conservation buffer** of 2.5% CET 1 identical for all banks in the EU, and an institution-specific countercyclical capital buffer, as well as
- the possibility for Member States to introduce a systemic risk buffer of additional CET 1 capital for the financial sector or one or more subsets of it.

Member States would be able to apply systemic risk buffers of up to 3% for all exposures and up to 5% for domestic and third country exposures, without having to seek prior Commission approval, while they could impose even higher buffers with prior Commission authorisation in the form of a delegated 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 proposed CRD-IV package would also strengthen requirements in terms of governance and surveillance and provide for the application of sanctions by the surveillance authorities in the event that the EU rules are transgressed and seek to reduce the dependence of credit establishments on credit ratings produced by external entities by favouring approaches based on internal ratings or internal models.