European Parliament

CONTENTS

Background
- Introduction
- Context
- Existing situation
- Parliament's starting position

Proposal
- Preparation of the proposal
- The changes the proposal would bring

Views
- Advisory committees
- National parliaments
- Stakeholders' views

Legislative process
- European Parliament
- Council

References
- EP supporting analysis
- Other sources

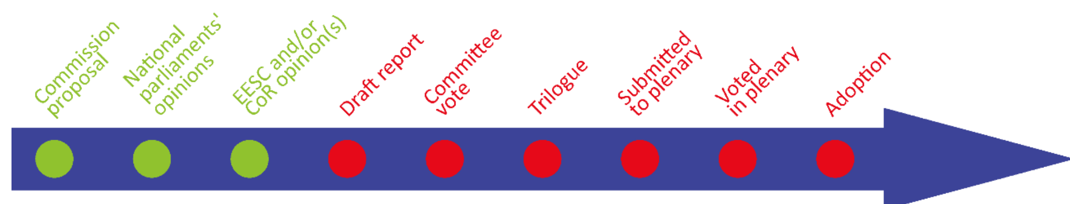
6 April 2017
First edition
The 'EU Legislation in Progress' briefings are updated at key stages throughout the legislative procedure.
Please note this document has been designed for on-line viewing.

Amending capital requirements

The 'CRD-V package'

Despite significant progress since the financial crisis of 2007-2008, the overhaul of the financial regulatory framework remains a European Commission priority. The existing Capital Requirements Directive and Regulation (the 'CRD-IV package') set the prudential framework for financial institutions operating in the EU. The proposed amendments to the package implement the most recent international regulatory provisions for banks (that is, higher risk-sensitivity), set by the Basel Committee on Banking Supervision (Basel III framework). They also address regulatory shortcomings and aim to contribute to sustainable bank financing of the economy. The Parliament's ECON Committee has named Peter Simon (S&D, Germany) rapporteur for both dossiers.

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 **Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 575/2013 as regards the leverage ratio, the net stable funding ratio, requirements for own funds and eligible liabilities, counterparty credit risk, market risk, exposures to central counterparties, exposures to collective investment undertakings, large exposures, reporting and disclosure requirements and amending Regulation (EU) No 648/2012**	
COM(2016)850 & 854, 23.11.2016, 2016/0360,0364(COD), Ordinary legislative procedure (COD) (Parliament and Council on equal footing (formerly 'co-decision')	
Committee responsible:	Economic and Monetary Affairs (ECON)
Rapporteur:	Peter Simon (S&D, Germany)
Shadow rapporteurs:	Othmar Karas (EPP, Austria); Ashley Fox (ECR, UK); Cora van Nieuwenhuizen (ALDE, The Netherlands); Matt Carthy (GUE/NGL, Ireland); Philipp Lamberts (Greens/EFA, Belgium)/Sven Giegold (Greens/EFA, Germany); Marco Valli (EFDD, Italy); Marco Zanni (ENF, Italy)
Next steps expected:	Publication of draft report



EPRS | European Parliamentary Research Service
Author: Andrej Stuchlik
Members' Research Service
PE 599.385

EN

Introduction

Completing and implementing the significant overhaul of the financial regulatory framework in response to the financial crisis, including revising the prudential requirements for financial institutions and investment firms, remains a major area of the European Commission's work. It proposes to amend the two legislative cornerstones of the EU's prudential framework for banks and financial institutions, the Capital Requirements Directive and Regulation; the amended texts are referred to as the 'CRD-V package'. The aim is to implement the most recent international regulatory provisions for banks, set by the Basel Committee on Banking Supervision (BCBS), to address regulatory shortcomings and to contribute to more sustainable bank financing of the economy, especially regarding SMEs. The legal bases are Articles 114 and 53(1) of the Treaty on the Functioning of the European Union (TFEU).

Context

The Basel III framework – the international regulatory provisions for banks, set by the Basel Committee on Banking Supervision – was adopted in 2010. Its implementation in the EU started in 2013 and is to be phased in gradually up to 2019. Among the elements that are yet to become fully implemented are provisions on liquidity, such as the net stable funding ratio (NSFR), starting in 2018. However, the adoption of Basel III did not mark the end of the post-crisis reform initiatives.[1] In 2012, the BCBS initiated a comprehensive review of the framework, to ensure consistent implementation and to help strengthen the resilience of the global banking system. Since then, it has proposed, among other things: new standards for **capital requirements** (CR) for market risk and interest rate risk; the use of the standardised approach for credit risk; and withdrawing use of internal modelling when calculating operational risks. In March 2016, the BCBS published a consultative document to constrain banks' flexibility in calculating risk-weighted assets (RWAs) through internal models,[2] in order to reduce the high RWA-variation across banks. A synthesis of these proposals (coined by some as 'Basel IV' because of their anticipated magnitude) had originally been expected for end-2016.

A second strand of international developments concerns standards on loss-absorption and recapitalisation within the resolution framework for systemically important banks. The Financial Stability Board (FSB) published on 9 November 2015 the total loss-absorbing capacity (TLAC) standard, which was later endorsed by the G20. Aimed at reducing the impact of banking failures on public funds, this standard[3]

1 'While Basel III introduced a requirement to calculate and disclose a leverage ratio, it did not introduce a capital requirement based on that leverage ratio; that was to be introduced in 2018. Similarly, although the BCBS had agreed on the necessity of introducing liquidity requirements, the Basel III framework actually did not provide detailed rules for those requirements; those were published later. Moreover, the BCBS has carried out a fundamental review of the trading book framework to address the flaws of the existing rules unveiled by the financial crisis.' European Commission, Impact Assessment, SWD(2016) 377 final/2, 24 November 2016, p. 5.

2 Such an internal-ratings-based (IRB) approach, developed as part of the Basel II framework in 2004, allows banks to use 'their own internal measures for key drivers of credit risk as primary inputs to the capital calculation, subject to meeting certain conditions and to explicit supervisory approval'.

3 One of the most costly lessons from the financial crisis were the numerous rescue missions for ailing banks in the EU. Between 2008 and 2011, the Commission approved €4.5 trillion (equivalent to 37 % of EU GDP) of state aid measures to financial institutions. The necessity of these measures stemmed from the fact that many banks proved to be 'too-big-to-fail' (TBTF). 'Too-big-to-fail' also covers too-interconnected-to-fail (TITF), too-complex-to-fail (TCTF), and too-systemically-important-to-

will start applying to all global systemically important banks (G-SIBs) worldwide as of January 2019. It applies to all G-SIBs (30 worldwide), hence to 13 banks within the EU. Since TLAC is not binding, it has to be transposed into national or European legislation. All of these banks will have to comply with a minimum TLAC requirement of 16 % of RWA and 6 % of the Basel III leverage ratio denominator (TLAC leverage ratio exposure (LRE)).

Non-binding Basel and FSB provisions are transposed into EU norms through the Capital Requirements Directive and Regulation (CRD-IV/CRR), one example being the above-mentioned criterion for systemically important banks, transposed in Article 131 CRD IV and Article 441 CRR. While the ongoing debate on Basel IV refers to new and/or refined Basel III requirements, the Commission's proposals of 23 November 2016 – to overhaul the existing framework (as part of a 'banking reform package'[4]) – address provisions already consolidated at international level.

Existing situation

The regulatory challenge lies in increasing bank liquidity and decreasing bank leverage sufficiently, while not inadvertently discouraging banking activity. Regulation (EU) No 575/2013 (the CRR), lays down uniform rules for credit institutions and investment firms concerning general prudential requirements regarding own funds relating to – among others – elements of credit, market, operational and settlement risk. Directive 2013/36/EU (CRD-IV) regulates access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, and also defines global systemically important institutions (G-SIIs) in the EU context (Article 131). In short, while CRD-IV governs, among other things, access to deposit-taking activities and corporate governance of banks, the CRR sets the capital requirements that institutions need to respect and thus translates the bulk of the Basel provisions into EU law. Both became effective on 1 January 2014. Together, the CRR and CRD-IV replace the Capital Requirements Directives (2006/48/EC and 2006/49/EC). They are supplemented by two delegated and four implementing acts of the Commission.[5] Insofar as they 'should form the legal framework governing the access to the activity, the supervisory framework and the prudential rules for credit institutions and investment firms ... this Regulation [575/2013] should therefore be read together with that Directive [the CRD]'.[6]

fail (TSITF), see European Commission, SWD(2014) 30 and SWD(2013) 156 final, the State Aid Scoreboard, and for the USA, CRS.

4 'Banking reform package': The proposed amendments to Regulation (EU) No 575/2013 (CRR) and to Directive 013/36/EU (CRD-IV) are part of the Commission's legislative package that also amends the main bank resolution legislation, the Directive 2014/59/EU (the Bank Recovery and Resolution Directive or BRRD) and Regulation (EU) 806/2014 (the Single Resolution Mechanism Regulation or SRMR). In a separate proposal to amend the BRRD, – the Commission addresses the issue of the ranking of unsecured debt instruments in the insolvency hierarchy COM(2016) 853 final.

5 CRD-IV/CRR are supplemented (as of January 2017) by 29 adopted Regulatory Technical Standards (RTS) (developed by the European Banking Authority – EBA); 25 adopted Implementing Technical Standards (ITS) and two delegated regulations: (i) 2015/61 on the liquidity coverage ratio of credit institutions ('LCR Regulation'), aiming for a sufficient proportion of banking assets to be made available in the short term, and (ii) 2014/62 covering the leverage ratio, to ensure that banks use the same methods to calculate, report and disclose their leverage ratios. See also D. Kolassa, A. Krischel, and R. Maier, Delegated and Implementing Measures in the Banking Field. Forthcoming Level 2 Acts under CRD IV and CRR, European Parliament, DG IPOL, 28 February 2017.

6 Point 5, Regulation (EU) No 575/2013 of 26 June 2013, OJ L 176, 27 June 2015, p. 2.

Together with the two directives, on ensuring better protection for depositors (Deposit Guarantee Schemes (DGSD) – 2014/49/EU) and on the prevention and management of bank failures, (Bank Recovery and Resolution (BRRD) – 2014/59/EU), they form the 'single rulebook' – a set of legislative acts applying to all EU countries and to over 6 500 banks.

Parliament's starting position

The European Parliament addressed the topic of capital requirements in its annual report on the banking union (BU) in March 2016. The report 'notes that an increase in capital requirements beyond a certain threshold may in the short term create unintended consequences, limiting banks' lending capacity'. For financing of small and medium-sized enterprises (SMEs), the European supervisory authorities should 'conduct a comprehensive assessment of capital requirements embedded in current and future legislation', as well as take into account 'the balance between short-term and long-term impact of capital requirements'. Since the EU's prudential requirements framework already exists, the report 'encourages' the Commission to align this with the BU framework. The Parliament calls for flexibility on the maximum distributable amount (MDA), 'to avoid solutions which are 'too rigid and might 'negatively affect the AT1 bond market and the level playing field'. The report pushes for regulations rather than directives. In April 2016, Parliament adopted its position on the EU's role in the framework of international financial, monetary and regulatory institutions and bodies (2015/2060(INI)), and called for better coordination of Member States' positions.

In view of an ongoing and comprehensive review of the Basel III framework, initiated by the BCBS in 2012, Parliament adopted a resolution on the finalisation of Basel III (rapporteur Roberto Gualtieri (S&D, Italy)) on 23 November 2016, and stressed that upcoming changes should 'not lead to an overall significant increase in the capital requirements for banks'.

Proposal

Preparation of the proposal

In its November 2015 communication, Towards the completion of the Banking Union (COM(2015) 587), the Commission indicated it was planning new 'targeted prudential measures addressing identified weaknesses'. These measures would aim to limit bank leverage, ensure stable bank funding and improve the comparability of risk-weighted assets.[7] On 26 May 2016, the Commission's DG FISMA launched two 'targeted consultations', on (i) market risk capital requirements and the original exposure method and on (ii) the implementation of the net stable funding ratio.[8]

On 23 November 2016, the Commission published an impact assessment covering the CRD-V package as well as the revision of the BRRD (2014/59/EU) and the Single Resolution Mechanism Regulation (EU) No 806/2014. Commission simulations, for instance, as to the impact of introducing a leverage ratio, indicate a 9.19 % reduction of bank losses, had it already existed prior to 2008 (p. 74). In addition, the Commission published a communication on the cumulative impact of the current regulatory framework for financial services. The publication is a follow-up to a call for evidence on this topic, concluded in January 2016.

The changes the proposal would bring

On 23 November 2016, the Commission presented its review of prudential requirements (Capital Requirements Directive and Regulation (CRD-IV/CRR)), the '**CRD-V package**'. Part of a comprehensive 'banking reform package', it is aimed at achieving the following goals: (1) better addressing long-term funding risk; (2) reducing excessive leverage; (3) better addressing market risks by increasing the risk sensitivity of the existing rules and enhancing the proportionality of the prudential framework for institutions; (4) increasing the loss absorption and recapitalisation capacity of G-SIIs; (5) increasing legal certainty and enhancing convergence among Member States in the area of insolvency law and restructuring proceedings, particularly in the area of creditor hierarchy. Aims 4 and 5 are additionally tackled in separate proposals.[9] The CRD-V package amendments contain three groups of provisions, covering **capital and liquidity requirements**, aspects of **proportionality**, and the EU's **resolution framework**.

7 See also A. Duvillet-Margerit, Completing the Banking Union. Risk sharing initiatives and parallel risk reduction measures, European Parliament, DG IPOL/EGOV, Brussels, 8 June 2016.
8 Following the Commission's revised website as of early 2017, more detailed information on DG FISMAs' targeted consultations is unfortunately no longer publically available.
9 See endnote 4 and A. Delivorias, Ranking of unsecured debt instruments in insolvency hierarchy, European Parliamentary Research Service, Briefing, 14 March 2017.

Capital and liquidity requirements

New Pillar 1 requirements

CRR: Introducing a binding **3 % leverage ratio** (LR): The leverage ratio[10] is a (non-risk-sensitive) measure of a bank's ability to meet its long-term financial obligations: Tier 1 capital divided by its average total consolidated assets. Disclosure started in 2015, application begins in January 2018 (see Articles 429 and 456(1)(j) CRR: 'A leverage ratio requirement of 3% of Tier 1 capital – as agreed at international level – is added to the own funds requirements in Article 92 of the CRR which institutions must meet in addition to their risk-based requirements. ... Institutions may reduce the leverage ratio exposure measure for public lending by public development banks (Article 429a(1)(d)), pass-through loans (Article 429(1)(e)) and officially guaranteed export credits (Article 429a(1)(f)').[11]

CRR: Introducing a binding **net stable funding ratio** (NSFR): The NSFR is a long-term structural ratio designed to address liquidity mismatches. It requires banks to maintain a stable funding profile in relation to their on- and off-balance sheet activities, as of January 2018. Next to the liquidity coverage ratio (LCR), it is the second major liquidity-monitoring instrument. Expressed as a percentage and set at a minimum level of 100 %, it indicates that an institution holds sufficient stable funding to meet its funding needs during a one-year period under both normal and stressed conditions. Preferential treatment will be possible in five exceptional cases: '(1) pass-through models in general and covered bonds issuance; (2) trade finance activities; (3) centralised regulated savings, with high interdependence of client deposits (liabilities) and claims on the state-controlled fund (assets); (4) residential guaranteed loans, whose specific characteristics make them similar to mortgage loans; and (5) credit unions, whose funding risk is similar to that of non-financial corporates for the institution receiving the deposits'.[12]

Revised risk-weighting and large exposure standards

CRR: Higher capital requirements for institutions that trade in securities and derivatives (market risk), following Basel work on the 'fundamental review of the trading book' (FRTB).[13] The Commission amendments transpose the FRTB-related conclusions as follows: (1) clearer rules on the scope of application to prevent regulatory arbitrage (that is, trying to pick the most favourable capital treatment between the trading book and the banking book); (2) making requirements proportionate to reflect more accurately the actual risks to which banks are exposed; (3) strengthening the conditions to use internal models to enhance consistency and risk-weight comparability across banks.[14]

10 The LR is supplemented by a Delegated Regulation (2014/62), to ensure that EU credit institutions and investment firms use the same methods to calculate, report and disclose their leverage ratios.
11 Commission proposal (2016(850) final), p. 18.
12 European Commission, Frequently Asked Questions: Capital requirements (CRR/CRD IV) and resolution framework (BRRD/SRM) amendments, MEMO 16/3840, Brussels, 23 November 2016.
13 Basel Committee on Banking Supervision, Minimum capital requirements for market risk, Basel, January 2016. See also Ernst & Young, Fundamental review of the trading book (FRTB). The revised market risk capital framework and its implications, February 2016, see also M. Magnus et al. 2017, op. cit., p. 5.
14 European Commission, FAQs, op. cit.

Proportionate treatment of **small and medium-sized banks**: Banks with small trading books (under €50 million and less than 5 % of the institution's total assets) can still benefit from a derogation, which allows them to apply the treatment of banking-book positions to their trading book. Banks with medium-sized activities subject to the market-risk capital requirements (under €300 million and less than 10 % of the institution's total assets), may use the simplified standardised approach equivalent to the existing standardised approach.

CRD and CRR: Amending Articles 84 and 98 CRD and Article 448 CRR in order to introduce the **revised Basel framework for capturing interest rate risks** for banking-book positions (IRRBB).

Exceptions will be possible with regard to simple, transparent and standardised (STS) securitisations, covered bonds and the treatment of sovereign exposures, to ensure the consistency of the EU's regulatory framework and support the objectives of the Capital Markets Union (CMU). In addition, the proposal provides for a phasing-in of the overall level of the requirement (two years after the entry into force of the proposal), to prevent a 'disproportionate immediate impact on banks' capital requirements'.[15]

CRR: **Large exposures** are exposures of an institution to a single client or a group of connected clients, representing more than 10 % of its eligible capital (therefore 'large' compared to an institution's overall capital resources). The proposal intends to improve the quality of capital that can be taken into account to calculate the large exposures limit (only Tier 1 capital), to introduce the lower limit of 15 % for G-SIBs exposures to other G-SIBs (amending Article 395(1)) and to impose the use of the SA-CCR methods (amending Article 390) for determining exposures to OTC derivative transactions, even for banks that have been authorised to use internal models.[16]

Other changes

CRD: **Pillar 2 capital add-ons** are options, allowing supervisory authorities to oblige institutions to set aside further capital in addition to the 'Pillar 1 capital requirements' (that is, minimum requirements applicable to all banks, laid down in law) and the combined buffers requirement.[17] The proposal clarifies the conditions for the application of Pillar 2 capital add-ons stemming from the CRD. To what extent the Commission intends to limit supervisors' discretion in setting these Pillar 2 requirements has raised some concerns among Member States during the preparation phase.[18] The proposal also introduces a distinction between Pillar 2 requirements imposed by supervisors and (non-binding) Pillar 2 guidance. Capital guidance refers to the possibility for competent authorities, such as the ECB, to perform their supervisory review (SREP) so as to indicate to banks the adequate level of capital they need to maintain to have sufficient capital as a buffer for withstanding stressful situations. Insofar as these add-ons are institution-specific and address risks to which an institution is exposed, they do not, according to the Commission, qualify as macro-prudential tools.

15 Ibid.
16 Ibid. Over the counter stocks (OTCs) are not listed on an exchange. 'SA-CCR' stands for standardised approach for measuring counterparty credit risk. SA-CCR is considered to be more accurate, COM(2016) 850 final, 23 November 2016, p. 17.
17 See source: Basel Committee on Banking Supervision reforms – Basel III, summary table and Stuchlik (2016).
18 See the minutes of the Commission Expert Group on Banking, Payments, and Insurance meeting of 22 September 2016.

CRR: More flexibility regarding **waivers from capital and liquidity** (amending Articles 7 and 8). So far, waivers can only be applied at individual level for subsidiaries within the same Member State that are overseen on a consolidated basis by the same supervisor. Given the set-up of the Single Supervisory Mechanism (SSM), the Commission argues that group supervision is much stronger today, observing that 'where the same competent authority supervises parents and subsidiaries established in different Member States participating in the Banking Union, it should be able to waive the application of own funds and liquidity requirements'.

CRD: The directive contains a list of exclusions for entities that have historically been **exempted**. The proposed amendments aim to change the current implementing power of the Commission with 'a better framed delegated power'.

Proportionality

CRR: Current **disclosure requirements** apply at 'consolidated (group) level with some individual disclosure requirements for parents or subsidiaries that are significant in terms of relevance for their local market. Amendments aim to: '(1) Make the requirements more proportionate to the size and complexity of institutions, with smaller institutions becoming subject to both less extensive and frequent disclosures; (2) Align the disclosure requirements more closely with international standards on disclosure and, where necessary, add new requirements or amend existing ones to reflect new or amended Pillar 1 requirements on TLAC, counterparty credit risk, market risk and liquidity; (3) Empower the EBA to develop uniform disclosure formats and the Commission to amend disclosure requirements in the CRR as it may be needed to reflect developments or amendments of international standards on disclosure.'[19]

CRR: Making it easier for banks to lend to **SMEs and fund infrastructure projects**, and thereby to support investment. The proposal maintains the so-called 'SME supporting factor' (Article 501) and extends its scope with no upper limit. Currently, banks receive a capital reduction of 23.81 % for SME lending (if it does not exceed €1.5 million). Above this limit, a 15 % reduction for the remaining part of the exposure should apply.[20]

Resolution framework

CRD and CRR: To implement the TLAC standard (see above), a **minimum requirement for own funds and eligible liabilities** (MREL) is introduced.[21] It contains a risk-based ratio and a non-risk-based ratio (new Article 92a CRR) and applies only in the case of G-SIIs (Article 131(1) CRD-IV). 'Article 6 of the CRR is amended to require stand-alone G-SIIs that are resolution entities to comply with the requirement for own funds and eligible liabilities on a solo basis, whilst Article 11 is amended to require resolution entities part

19 European Commission, FAQs, op. cit.

20 'The proposed recalibration of the capital requirements for bank exposures to SMEs is expected to have a positive effect on bank financing of SMEs. This would primarily assist those SMEs, which currently have exposures beyond €1.5 million as these exposures do not currently benefit from the SME supporting factor'. Impact assessment, p. 77.

21 MREL is a Pillar 2 type requirement that is determined on the basis of a case-by-case analysis. Resolution authorities' decisions on its level or the extent to which it is to be met with subordinated liabilities must be well justified.

of groups designated as G-SIIs to comply with the requirement for own funds and eligible liabilities on a consolidated basis.'[22]

CRR: **Eligible liabilities** – A new Chapter 5a (new Articles 72a to 72l) on eligible liabilities is introduced in the CRR after the chapters governing own funds.

22 European Commission, COM(2016) 850 final, op. cit., p. 12.

Views

Advisory committees

The European Economic and Social Committee (EESC) adopted its opinion on the banking reform package on 30 March 2017, rapporteur Daniel Mareels (Group I, Belgium), while the Committee of Regions has not yet adopted a position on the Commission proposals. The EESC welcomes the package, its holistic approach and the 'risk-reducing nature of these proposals'. The advisory body notes however that 'more efforts should be made' in favour of SMEs and small and non-complex banks.

National parliaments

The two legislative proposals have been transmitted to the national parliaments. The deadline to submit a reasoned opinion on the grounds of subsidiarity was 15 March 2017 for the CRD file and 24 March 2017 for the CRR revision (see IPEX database for CRD and CRR). The Swedish Riksdag issued a reasoned opinion regarding both dossiers. It objects to the proposed amendments, since the Pillar 2 requirement 'can no longer be imposed to cover systemic or macro-prudential risks, which is currently allowed'. Insofar as this limits Member States' flexibility, the chamber consider the Commission text to be in conflict with the principle of proportionality. The Romanian Senate and the Portuguese Parliament entered into a political dialogue with the Commission.

Stakeholders' views[23]

The comment of the European Banking Federation (EBF) on the Commission proposals stresses that 'banks should be able to continue to play their role as lenders while remaining resilient'. In this regard, it 'calls on the EU co-legislators to carefully review this package' and also urges them 'to be more ambitious when it comes to creating jobs and growth in Europe through an efficiently regulated single market for finance'. The EBF views the Commission's proposals merely as 're-calibrating provisions where evidence has established that the earlier regulatory response was heavy-handed'. Expressing itself slightly more neutrally, the Association for Financial Markets in Europe (AFME) also 'supports the implementation of these requirements in the EU in a manner that will enable the sector to support economic growth'. Deloitte, the consultancy firm, advises banks to asses in-depth the rules' likely impact on their product-by-product capital and liquidity requirements, risk management and risk measurement capabilities, especially as the review under scrutiny will be followed by another round of amendments soon, to incorporate remaining elements of the Basel IV framework (see above). The firm also warns against the potential for greater international regulatory fragmentation.

Proportionality, however, is a concern that a number of regional credit institutions have in connection with their initiatives. They advocate that traditional retail banks of a moderate size should have 'a more efficient

23 This section aims to provide a flavour of the debate and is not intended to be an exhaustive account of all different views on the proposal. Additional information can be found in related publications listed under 'EP supporting analysis'.

form of regulation, geared towards a bank's business model, size and risk profile'. In a similar vein, a German Bundesbank executive board member refers to proportionate regulation and supports 'relief measures for smaller institutions'.

Finance Watch, a not-for-profit association of 48 civil society organisations, voices reservations regarding the Commission's banking reform package, its 'accompanying sotto voce' and its 'lack of ambition'. According to Finance Watch, the regulator's proposals display an 'overriding concern about maintaining or improving the competitiveness of EU banks vis-à-vis overseas rivals'. In addition, the association notes that 'existing peculiarities of the EU implementation, e.g. regarding sovereign risk and mortgage lending', have been maintained.

Legislative process

European Parliament

The Parliament's Committee on Economic and Monetary Affairs (ECON) appointed Peter Simon (S&D, Germany) rapporteur for both dossiers, to be jointly negotiated. On 25 January 2017, ECON adopted its annual report on the banking union (2016/2247(INI)) (rapporteur Danuta Hübner (EPP, Poland)). This assessment of the state of play of the banking union reiterates Parliament's stance adopted in its resolution on finalising the Basel provisions, that increasing capital requirements should not harm 'the ability of banks to finance the real economy, in particular SMEs'. It 'stresses that the international work should respect the proportionality principle; recalls the importance of not unduly penalising the EU banking model and of avoiding discrimination between EU and international banks' (point 5). The Committee report warns against regulatory fragmentation (points 8, 42) and, as to the objectives of Pillar 2, 'believes that the use of capital guidance should not result in a demonstrable reduction of Pillar 2 requirements' (point 13). Next to the plea for no overall increases that could be potentially harmful for banks, the report stresses the proportionality principle and the importance of maintaining a level playing field (points 8, 11, 32).

A first exchange of views on the CRD-V package took place on 28 February 2017, including the proposed revisions of the Bank Recovery and Resolution Directive (BRRD) and the Single Resolution Mechanism Regulation (SRMR). According to the rapporteur, both 'packages' need to be 'discussed in close cooperation'. He called for careful scrutiny of proportionality adjustments and the regulatory burden for smaller banks, as well as the discount factor for SMEs, which might prove not to be supportive enough. Among the shadow rapporteurs, Othmar Karas (EPP, Austria) found that the Commission did not push enough for a proportional implementation of the Basel standards. Cora van Nieuwenhuizen (ALDE, The Netherlands) called for a proper impact assessment of the cumulative effects. Questioning whether a leverage ratio of 3 % was sufficient, Matt Carthy (GUE/NGL, Ireland) suggested raising this binding Pillar 1 requirement to 5 %.

Given that the CRD-V package is expected to enter into force in 2019, ECON Chair Roberto Gualtieri (S&D, Italy) suggested the possibility to use a fast-track procedure for specific parts of the CRD package relating to International Financial Reporting Standard (IFRS) 9, the key standard for financial services companies that governs the accounting for most assets and liabilities on banks' balance sheets. It will become mandatory in the EU from 1 January 2018 onwards. The rapporteur intends to publish his draft report in June 2017, with adoption possible by the end of the year and thus ahead of the 2018 implementing deadline for IFRS 9.

Council

As for the banking reform package (and CRD-V/CRR2), the Maltese Presidency notes it will 'follow international developments in the sector to ensure that the EU is well prepared and coordinated to respond to global challenges in a balanced way'. Within the Council, the whole package is being examined by the working party on financial services.

References

EP supporting analysis

A. Delivorias, Ranking of unsecured debt instruments in insolvency hierarchy, European Parliamentary Research Service, Legislative Briefing, 14 March 2017.

M. Magnus, A. Duvillet-Margerit, and B. Mesnard, Upgrading the Basel standards: from Basel III to Basel IV?, European Parliament, EGOV, 12 October 2016, update 18 January 2017.

C. Stamegna, Recovery and Resolution of central counterparties (CCPs), European Parliamentary Research Service, Legislative Briefing, 16 March 2017.

A. Stuchlik, The cost of banking – Recent trends in capital requirements, European Parliamentary Research Service, Briefing, 26 July 2016.

Other sources

Capital Requirements Directive: exempted entities, financial holding companies, mixed financial holding companies, remuneration, supervisory measures and powers and capital conservation measures, European Parliament Legislative Observatory, 2016/0364(COD).

Capital Requirements Regulation: leverage ratio, net stable funding ratio, requirements for own funds and eligible liabilities, counterparty credit risk, market risk, exposures to central counterparties, exposures to collective investment undertakings, large exposures, reporting and disclosure requirements, European Parliament Legislative Observatory, 2016/0360(COD).

Disclaimer and Copyright

The content of this document is the sole responsibility of the author and any opinions expressed therein do not necessarily represent the official position of the European Parliament. It is addressed to the Members and staff of the EP for their parliamentary work. Reproduction and translation for non-commercial purposes are authorised, provided the source is acknowledged and the European Parliament is given prior notice and sent a copy.
© European Union, 2017.

eprs@ep.europa.eu | EPRS (intranet) | Thinktank (internet) | Blog