Committee on Economic and Monetary Affairs

2016/0364(COD)

16.11.2017

***I
DRAFT REPORT

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
(COM(2016)0854 – C8-0474/2016 – 2016/0364(COD))

Committee on Economic and Monetary Affairs

Rapporteur: Peter Simon

Symbols for procedures

*	Consultation procedure
***	Consent procedure
***I	Ordinary legislative procedure (first reading)
***II	Ordinary legislative procedure (second reading)
***III	Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

Amendments by Parliament set out in two columns

Deletions are indicated in bold italics in the left-hand column. Replacements are indicated in bold italics in both columns. New text is indicated in bold italics in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

Amendments by Parliament in the form of a consolidated text

New text is highlighted in bold italics. Deletions are indicated using either the ▌ symbol or strikeout. Replacements are indicated by highlighting the new text in bold italics and by deleting or striking out the text that has been replaced.
By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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DRAFT EUROPEAN PARLIAMENT 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
(COM(2016)0854 – C8-0474/2016 – 2016/0364(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

– having regard to the Commission proposal to Parliament and the Council (COM(2016)0854),

– having regard to Article 294(2) and Article 53(1) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0474/2016),

– having regard to Article 294(3) of the Treaty on the Functioning of the European Union,

– having regard to Rule 59 of its Rules of Procedure,

– having regard to the report of the Committee on Economic and Monetary Affairs (A8-0000/2017),

1. Adopts its position at first reading hereinafter set out;

2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;

3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

Proposal for a directive
Recital 4 a (new)

Text proposed by the Commission	*Amendment*
	(4a) In the context of climate change and the requirements of the energy transition, institutions should also incorporate climate-related risks into their risk management.

Or. de

Amendment 2

Proposal for a directive
Recital 9

Text proposed by the Commission	*Amendment*
(9) Own funds add-ons imposed by competent authorities should be set in relation to the specific situation of an institution and should be duly justified. These requirements should ***not*** be used to address ***macroprudential*** risks and should be positioned, in the stacking order of own funds requirements, above the minimum own funds requirements and below the combined buffer requirement.	(9) Own funds add-ons imposed by competent authorities should be set in relation to the specific situation of an institution and should be duly justified. These requirements should ***primarily*** be used to address ***microprudential*** risks and should be positioned, in the stacking order of own funds requirements, above the minimum own funds requirements and below the combined buffer requirement.

Or. de

Amendment 3

Proposal for a directive
Recital 9 a (new)

Text proposed by the Commission	*Amendment*
	(9a) At present, however, some Member States also use own funds add-ons to cover macroprudential risks. In practice it is often difficult to draw a clear distinction between macro- and microeconomic risks without running the risk of restricting too much the leeway available to the competent authorities in assessing and monitoring an institution's risk levels. As a rule, however, macroeconomic instruments should be used to cover macroeconomic risks. With a view to guaranteeing this, the macroeconomic instruments available to the competent authorities should be adjusted and improved.

Or. de

Amendment 4

Proposal for a directive
Recital 9 b (new)

Text proposed by the Commission	*Amendment*
	(9b) Because of flaws in its design, the current framework to address macroeconomic risks cannot properly cover structural and systemic risks in a given Member State, with the result that capital add-ons under the second pillar are increasingly being used to cover macroeconomic risks. Individual, targeted adjustments are needed to do away with these flaws.

Or. de

Amendment 5

Proposal for a directive
Recital 9 c (new)

Text proposed by the Commission	*Amendment*
	(9c) In aggregate terms, the level of institutions' debt in the Union is pro-cyclical. As a result, institutions' average risk weightings fall during a credit expansion phase and rise during a credit contraction phase. In this way, despite increased lending, regulatory requirements in connection with the countercyclical capital buffer become less stringent. In order to forestall these systemic risks linked to excessive lending, debt and modelling risks intrinsic to the countercyclical capital buffer, a countercyclical leverage ratio adjustment should be introduced in parallel with a countercyclical capital buffer.

Or. de

Amendment 6

Proposal for a directive
Recital 9 d (new)

Text proposed by the Commission	*Amendment*
	(9d) In addition to the capital buffers, risks linked to the systemic importance of an institution should also be taken into account when calculating the leverage ratio. For that reason, a leverage ratio adjustment for other systemically important institutions (O-SIIs) is to be introduced which is proportional to the O-SII capital buffer. In addition, through the introduction of a leverage ratio adjustment for O-SIIs the regulatory requirements for O-SIIs and global systemically important institutions (G-SIIs) are to be brought into line with the institutions' risk profiles.

Or. de

Amendment 7

Proposal for a directive
Recital 15

Text proposed by the Commission	*Amendment*
(15) In order to improve the competent authorities' identification of those institutions which may be subject to excessive losses in their non-trading book activities as a result of potential changes in interest rates, the Commission should be empowered to adopt regulatory technical standards in respect of specifying the six supervisory shock scenarios that all institutions have to apply in order to calculate changes in the economic value of equity as referred to in Article 98(5), the common assumptions that institutions have	(15) In order to improve the competent authorities' identification of those institutions which may be subject to excessive losses in their non-trading book activities as a result of potential changes in interest rates, the Commission should be empowered to adopt regulatory technical standards in respect of specifying the six supervisory shock scenarios that all institutions have to apply in order to calculate changes in the economic value of equity as referred to in Article 98(5), the common assumptions***, based on***

to implement in their internal systems for the purpose of the same calculation and in respect of determining the potential need for specific criteria to identify the institutions for which supervisory measures may be warranted following a decrease in the net interest income attributed to changes in interest rates by means of delegated acts pursuant to Article 290 TFEU and in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.	***international standards,*** that institutions have to implement in their internal systems for the purpose of the same calculation and in respect of determining the potential need for specific criteria to identify the institutions for which supervisory measures may be warranted following a decrease in the net interest income attributed to changes in interest rates by means of delegated acts pursuant to Article 290 TFEU and in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.

Or. de

Amendment 8

Proposal for a directive
Recital 16

Text proposed by the Commission	*Amendment*
(16) In order to guide competent authorities in identifying situations where institution-specific capital add-ons should be imposed, the Commission should be empowered to adopt regulatory technical standards in respect of how risks or elements of risks not covered or not sufficiently covered by the own funds requirements set out in Regulation (EU) No 575/2013 should be measured by means of delegated acts pursuant to Article 290 TFEU and in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.	***deleted***

Or. de

Justification

The leeway available to the competent authorities would be restricted too much if regulatory technical standards were to define even more narrowly how risks in connection with additional capital add-ons are measured. What is more, this could prevent the supervisory authorities from measuring risks under the second pillar which did not exist prior to the entry into force of the regulatory technical standards.

Amendment 9

Proposal for a directive
Article 1 – paragraph 1 – point 1 – point b
Directive 2013/36/EU
Article 2 – paragraph 5a – point a

Text proposed by the Commission	*Amendment*
a) it has been established ***under public law*** by a Member State's central government, regional government or local authority;	a) it has been established by a Member State's central government, regional government or local authority;

Or. de

Justification

Promotional banks in the European Union are not necessarily established by the public authorities under public law. As there are various ways of issuing a promotional bank with a public remit, steps should be taken to ensure that promotional banks which act on behalf of the public authorities, but were not established under public law, are treated the same way.

Amendment 10

Proposal for a directive
Article 1 – paragraph 1 – point 1 – point b
Directive 2013/36/EU
Article 2 – paragraph 5a – letter c

Text proposed by the Commission	*Amendment*
c) it is subject to adequate and effective prudential requirements, including minimum own funds requirements, and to an adequate supervisory framework which has similar effect as the framework established under Union law;	c) it is subject to adequate and effective prudential requirements, including minimum own funds ***and capital*** requirements ***consistent with Parts Two and Three of Regulation (EU) No 575/2013***, and to an adequate supervisory framework which has similar effect as the framework established under Union law;

Or. de

Justification

The aim of this amendment is to ensure that even after exemption from this directive and from Regulation (EU) No 575/2013 institutions are still subject to appropriate own funds and capital requirements.

Amendment 11

Proposal for a directive
Article 1 – paragraph 1 – point 1 – point b
Directive 2013/36/EU
Article 2 – paragraph 5a – letter c

Text proposed by the Commission	*Amendment*
e) it is ***precluded from accepting covered deposits as defined in point (5) of Article 2(1) of Directive 2014/49/EU of the European Parliament and of the Council***[12];	e) it is ***not a direct recipient of private individuals' savings deposits***;
___________________ [12] ***Directive 2014/49/EU of the European Parliament and of the Council of 16 April 2014 on deposit guarantee schemes (recast) (OJ L 173, 12.6.2014, p. 149).***	___________________

Or. de

Justification

Directive 2014/49/EU gives a very broad definition of covered deposits. The clarification is intended to ensure that promotional banks do not accept conventional deposits into savings and current accounts in order to meet the requirements laid down in subparagraph 1.

Amendment 12

Proposal for a directive
Article 1 – paragraph 1 – point 1 – point b
Directive 2013/36/EU
Article 2 – paragraph 5a – letter g

Text proposed by the Commission	*Amendment*
g) the total value of the institution's assets is below EUR 30 billion;	g) ***In the case of institutions whose own fund requirements, financing needs or exposures are guaranteed at less than***

	100% either directly or indirectly by a Member State's central government or a regional or local authority in accordance with letter d, the total value of the institution's assets is below EUR 30 billion;

Or. de

Justification

As the total value of an institution's assets, in particular when they are guaranteed in full, is not the sole reliable indicator of that institution's exposure, taking account of the size of institutions whose direct or indirect public guarantee is less than 100% makes sense in order to address what is a greater risk in regulatory terms.

Amendment 13

Proposal for a directive
Article 1 – paragraph 1 – point 1 – point d
Directive 2013/36/EU
Article 2 – paragraph 7

Text proposed by the Commission	*Amendment*
By [5 years after entry into force], the Commission shall review ***the list set out in Article 2(5) by considering whether the reasons that led to the inclusion of entities in the list are still valid,*** the national legal framework and supervision applicable to the entities in the list, the type and quality of deposit coverage of the entities in the list and, for entities of the type specified in paragraphs 2(5a) and 2(5b) taking into account also the criteria described therein.	By [5 years after entry into force], the Commission shall review the national legal framework and supervision applicable to the entities in the list, the type and quality of deposit coverage of the entities in the list and, for entities of the type specified in paragraphs 2(5a) and 2(5b) taking into account also the criteria described therein.

Or. de

Justification

The review of the entities listed in Article 2(5) is unnecessary if the quality of the applicable national legal framework and supervision is regularly reviewed.

Amendment 14

Proposal for a directive
Article 1 – paragraph 1 – point 11 a (new)
Directive 2013/36/EU
Article 57 – paragraph 1 – introductory sentence

Present text	*Amendment*
	11a. The introductory sentence in Article 57(1) is amended as follows:
'(1) Notwithstanding Articles 53, 54 and 55, Member States ***may authorise*** exchange of information between the competent authorities and the authorities responsible for overseeing:	'(1) Notwithstanding Articles 53, 54 and 55, Member States ***shall ensure that an*** exchange of information ***takes place*** between the competent authorities and the authorities responsible for overseeing:

Or. de

(http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:176:0338:0436:en:PDF)

Justification

Exchanges of information between competent supervisory authorities and the authorities responsible for overseeing resolution and insolvency procedures or contractual or institutional protection schemes should be mandatory, not optional. These provisions should apply until such time as an integrated reporting system pursuant to Article 101a of Regulation 575/2013 enters into force.

Amendment 15

Proposal for a directive
Article 1 – paragraph 1 – point 13
Directive 2013/36/EU
Article 84 – paragraph 3

Text proposed by the Commission	*Amendment*
(3) Competent authorities may require ***institutions*** to use the standardised methodology referred to in paragraph 1 where the internal systems implemented by the institutions for the purposes of evaluating the risks referred to in paragraph 1 are not satisfactory.	(3) Competent authorities may require ***the institution*** to use the standardised methodology referred to in paragraph 1 where the internal systems implemented by the institutions for the purposes of evaluating the risks referred to in paragraph 1 are not satisfactory.

Or. de

Justification

The requirement to use the standardised methodology should be assessed on a case-by-case basis if the internal systems for assessing interest rate risk are not satisfactory.

Amendment 16

Proposal for a directive
Article 1 – paragraph 1 – point 13 a (new)
Directive 2013/36/EU
Article 84a (new)

Text proposed by the Commission	*Amendment*
	(5a) The following Article 84a is inserted:
	'Article 84a
	Climate-related risks
	1. The competent authorities shall ensure that policies and processes for the identification, measurement and management of all material sources and effects of climate-specific risks are implemented.
	2. For the purposes of paragraph 1, the institution shall identify the following:
	a) the risks to which the institution is exposed in the short, medium and long terms;
	b) a description of significant concentrations of credit exposures involving carbon-related assets, if these exposures are material;
	c) a description of the impact of the climate-related risks on the institution's business, strategy and financial planning, if these risks are material and financial;
	d) a description of the processes which the institution uses to identify, assess and manage climate-related risks;
	e) the parameters which the institution used to assess the impact of short-,

	medium- and long-term climate-related risks on lending and financial intermediary transactions, if these risks are material. ***3. The EBA shall issue guidelines to specify:*** ***a) what is meant by a short-term, a medium-term and a long-term time frame;*** ***b) what is meant by specific climate-related problems which may arise in the short, medium or long term and which could have a material, financial impact on the institution;*** ***c) what is meant by physical risks and transition risks;*** ***d) what is meant by the processes used to determine which risks could have a material, financial impact on the institution;*** ***e) what is meant by a carbon-related asset.*** ***The EBA shall publish these guidelines by ... [two years after the entry into force of this Directive].'***

Or. de

Justification

In the context of climate change and the requirements of the energy transition, institutions' risk management should also cover climate-related risks.

Amendment 17

Proposal for a directive
Article 1 – paragraph 1 – point 15 – point b
Directive 2013/36/EU
Article 92 – paragraph 2 – introductory sentence

Text proposed by the Commission	*Amendment*
Competent authorities shall ensure that, when establishing and applying the total remuneration policies, inclusive of salaries	Competent authorities shall ensure that, when establishing and applying the total remuneration policies, inclusive of salaries

and discretionary pension benefits, for categories of staff including senior management, risk takers, staff engaged in control functions and any employee receiving total remuneration that takes them into the same remuneration bracket as senior management ***and risk takers, whose professional activities have a material impact on their risk profile***, institutions comply with the following principles in a manner that is appropriate to their size, internal organisation and the nature, scope and complexity of their activities.	and discretionary pension benefits, for categories of staff ***whose professional activities have a material impact on their risk profile,*** including senior management, risk takers, staff engaged in control functions and any employee receiving total remuneration that takes them into the same remuneration bracket as senior management, institutions comply with the following principles in a manner ***and to an extent*** that is appropriate to their size, internal organisation and the nature, scope and complexity of their activities.

Or. de

Justification

In the Commission proposal, the requirement to identify the persons whose professional activities have a material impact on an institution's risk profile will generate additional administrative costs without as a rule achieving its intended purpose. This amendment should ensure that no additional costs arise. Similarly, the addition of the words 'and to an extent' should ensure that the competent authorities are not hampered in their efforts to apply the requirements in a proportional manner.

Amendment 18

Proposal for a directive
Article 1 – paragraph 1 – point 15 – point b a (new)
Directive 2013/36/EU
Article 92 – paragraph 2

Text proposed by the Commission	*Amendment*
	ba) In paragraph 2, the following letter ca is inserted:
	'ca) each year, in exercising its supervisory function, the management body of a large institution as defined in Article 4(1)[144b] of Regulation (EU) No 575/2013 shall set a maximum remuneration ratio and shall be responsible for applying it. The large institution shall calculate its remuneration ratios as quotients of:
	i) the remuneration received by each

	individual member of its board;
	ii) and the median of the annual remuneration of all its employees with the exception of board members.'

Or. de

(Regulation (EU) No 575/2013, Article 4(1) number 146)

Justification

In recent years differences in the remuneration of the board members and employees of individual institutions have increased disproportionately. Large institutions, in which these differences are as a rule the greatest, should therefore set and disclose a remuneration ratio which specifies the maximum difference between the remuneration received by individual board members and the median remuneration received by employees.

Amendment 19

Proposal for a directive
Article 1 – paragraph 1 – point 15 – point b b (new)
Directive 2013/36/EU
Article 92 – paragraph 2 a (new)

Text proposed by the Commission	*Amendment*
	bb) The following paragraph 2a is inserted:
	'(2a) Paragraph 2 and Articles 94 and 95 shall be without prejudice to the full exercise of fundamental rights guaranteed by Article 153(5) TFEU, general principles of national contract and labour law, Union and national law regarding shareholders' rights and involvement and the general responsibilities of the management bodies of the institution concerned, and the rights, where applicable, of the social partners to conclude and enforce collective agreements, in accordance with national law and customs.'

Or. de

Justification

At present this requirement is laid down only in Recital 69 of Directive 2013/36/EU. It must be incorporated into the body of the directive in order to rule out confusion in connection with the transposition of the requirements into national law.

Amendment 20

Proposal for a directive
Article 1 – paragraph 1 – point 16 – point b
Directive 2013/36/EU
Article 94 – paragraph 3 – point a a (new)

Text proposed by the Commission	*Amendment*
	aa) an institution which is part of a banking group and the value of whose assets was on average equal to or less than EUR 5 billion over the four-year period immediately preceding the current financial year;

Or. de

Justification

The exemptions under paragraph 3a should apply to individual institutions which are part of a banking group if they meet the threshold criterion.

Amendment 21

Proposal for a directive
Article 1 – paragraph 1 – point 18 – point a a (new)
Directive 2013/36/EU
Article 98 – paragraph 1 – letter j a (new)

Text proposed by the Commission	*Amendment*
	aa) In paragraph 1, point (ja) is inserted: ***'ja) the assessment of the climate-related risks linked to an institution's exposures and the incorporation of climate-related risks into the institution's risk management system.'***

Or. de

Justification

In the context of climate change and the requirements of the energy transition, institutions' risk management should also cover climate-related risks.

Amendment 22

Proposal for a directive
Article 1 – paragraph 1 – point 18 – point b
Directive 2013/36/EU
Article 98 – paragraph 5

Text proposed by the Commission	*Amendment*
(5) The review and evaluation performed by competent authorities shall include the exposure of institutions to the interest rate risk arising from non-trading book activities. Supervisory measures shall be required at least in the case of institutions whose economic value of equity referred to in Article 84(1) declines by more than 15% of their Tier 1 capital as a result of a sudden and unexpected change in interest rates as set out in any of six supervisory shock scenarios applied to interest rates.	(5) The review and evaluation performed by competent authorities shall include the exposure of institutions to the interest rate risk arising from non-trading book activities. Supervisory measures shall be required at least in the case of institutions whose economic value of equity referred to in Article 84(1) declines by more than 15 % of their Tier 1 capital as a result of a sudden and unexpected change in interest rates as set out in any of six supervisory shock scenarios applied to interest rates. ***Supervisory measures of this kind need not be carried out if the competent authorities, working on the basis of the review and evaluation of the interest rate risk, conclude that the institution is taking adequate steps to monitor and manage that risk.*** ***For the purposes of this Article, supervisory measures shall mean one of the following:*** ***a) measures under Article 104(1)*** ***b) common modelling and parametric assumptions that institutions must reflect in their calculation of the economic value of equity under paragraph 5.***

Or. de

Justification

Supervisory measures should not be carried out automatically if the competent authorities take the view that the institution is taking adequate steps to manage the interest rate risk.

Amendment 23

Proposal for a directive
Article 1 – paragraph 1 – point 18 – point c
Directive 2013/36/EU
Article 98 – paragraph 5a – letter b

Text proposed by the Commission	*Amendment*
b) common modelling and parametric assumptions that institutions shall reflect in their calculation of the economic value of equity under paragraph 5;	b) ***taking account of international standards,*** common modelling and parametric assumptions that institutions shall reflect in their calculation of the economic value of equity under paragraph 5;

Or. de

Justification

When drawing up common modelling and parametric assumptions, the EBA should take international standards into account.

Amendment 24

Proposal for a directive
Article 1 – paragraph 1 – point 18 – point c a (new)
Regulation 2013/36 EU
Article 98 – paragraph 7 a (new)

Text proposed by the Commission	*Amendment*
	ca) The following paragraph 7a is inserted:
	(7a) With a view to the proportional application of the requirements laid down in this Directive and in Regulation (EU) No 575/2013, when conducting the supervisory review and evaluation process the competent authorities shall show in particular how they have taken account of

	the size and scope of the business operations of an institution and the complexity of the risks stemming from the institution's business model.

Or. de

Justification

This addition emphasises the importance of observing the proportionality principle in the context of the supervisory review and evaluation process.

Amendment 25

Proposal for a directive
Article 1 – paragraph 1 – point 22
Directive 2013/36/EU
Article 104 a – paragraph 1

Text proposed by the Commission	*Amendment*
Competent authorities shall impose the additional own funds requirement referred to in Article 104(1)(a) ***only*** where, on the basis of the reviews carried out in accordance with Articles 97 and 101, they ascertain any of the following situations for an individual institution:	Competent authorities shall impose the additional own funds requirement referred to in Article 104(1)(a) where, on the basis of the reviews carried out in accordance with Articles 97 and 101, they ascertain any of the following situations for an individual institution:

Or. de

Justification

Unnecessary constraint on the work of the supervisory authorities.

Amendment 26

Proposal for a directive
Article 1 – paragraph 1 – point 22
Directive 2013/36/EU
Article 104 a – paragraph 1 – letter b

Text proposed by the Commission	*Amendment*
b) the institution does not meet the requirements set out in Articles 73 and 74	b) the institution does not meet the requirements set out in Articles 73 and 74

of this Directive or in Article 393 of Regulation (EU) No 575/2013 and the sole application of other administrative measures is unlikely to sufficiently improve the arrangements, processes, mechanisms and strategies within an appropriate timeframe***;***	of this Directive or in Article 393 of Regulation (EU) No 575/2013 and the sole application of other administrative measures is unlikely to sufficiently improve the arrangements, processes, mechanisms and strategies within an appropriate timeframe ***or other supervisory measures would be enough to meet the above-mentioned requirements within an appropriate timeframe.***

Or. de

Justification

The requirements under the second pillar (P2R) are supervisory requirements. Although P2R can be accompanied by administrative requirements, it is only one of many supervisory options. Reference should therefore be made to other supervisory requirements.

Amendment 27

Proposal for a directive
Article 1 – paragraph 1 – point 22
Directive 2013/36/EU
Article 104 a – paragraph 2 – subparagraph 1

Text proposed by the Commission	*Amendment*
For the purposes of paragraph 1(a), risks or elements of risk shall ***only*** be considered as not covered or not sufficiently covered by the own funds requirements set out in Parts Three, Four, Five and Seven of Regulation (EU) No 575/2013 where the amounts, types and distribution of capital considered adequate by the competent authority ***following*** the supervisory review of the assessment carried out by institutions in accordance with the first paragraph of Article 73, are higher than the institution's own funds requirements set out in Parts Three, Four, Five and Seven of Regulation (EU) No 575/2013.	For the purposes of paragraph 1(a), risks or elements of risk shall be considered as not covered or not sufficiently covered by the own funds requirements set out in Parts Three, Four, Five and Seven of Regulation (EU) No 575/2013 where the amounts, types and distribution of capital considered adequate by the competent authority ***taking account of*** the supervisory review of the assessment carried out by institutions in accordance with the first paragraph of Article 73, are higher than the institution's own funds requirements set out in Parts Three, Four, Five and Seven of Regulation (EU) No 575/2013.

Or. de

Justification

The original wording implies that the ICAAP is the only relevant factor when it comes to issuing P2R for risks which are not covered under the first pillar. According to the EBA guidelines, however, the ICAAP is only the starting point of the SREP. The wording should therefore be changed to ensure that other factors not highlighted by the ICAAP may also be relevant to P2R.

Amendment 28

Proposal for a directive
Article 1 – paragraph 1 – point 22
Directive 2013/36/EU
Article 104 a – paragraph 2 – subparagraph 2

Text proposed by the Commission	*Amendment*
For the purposes of the first subparagraph, the capital considered adequate shall cover all material risks or elements of such risks that are not ***subject to a specific*** own funds ***requirement***. ***This may include risks or elements of risks that are explicitly excluded from*** the own funds requirements set out in Parts Three, Four, Five and Seven of Regulation (EU) No 575/2013.	***For the purposes of the first subparagraph, risks or elements of risks shall not be regarded as being covered by Regulation (EU) No 2013/575 if they are explicitly excluded from the own funds requirements set out in Parts Three, Four, Five and Seven of that regulation or are not covered by that regulation.***
	Risks or elements of risks which are not regarded as being adequately covered by that regulation shall include risks or elements of risks which have probably been underestimated even though the applicable requirements set out in Parts Three, Four, Five and Seven of Regulation (EU) No 575/2013 have been met.
	For the purposes of the first subparagraph, the capital considered adequate shall cover all material risks or elements of such risks that are not ***covered or not adequately covered by the*** own funds ***requirements set out in Parts Three, Four, Five and Seven of Regulation (EU) No 575/2013***.

Or. de

Justification

Article 104a(1)(a) must be clarified to specify which risks or elements of risks should be regarded as not covered or not adequately covered by Regulation (EU) No 575/2013.

Amendment 29

Proposal for a directive
Article 1 – paragraph 1 – point 22
Directive 2013/36/EU
Article 104 a – paragraph 2 – subparagraph 3

Text proposed by the Commission	*Amendment*
Interest rate risk arising from non-trading positions ***shall only*** be considered material ***when the economic value of equity declines by more than 15 % of the institution Tier 1 capital as a result of any of the six supervisory shock scenarios*** referred to in Article 98(5) ***that are applied to interest rates or any other case identified by EBA pursuant to Article 98(5)(c)***.	Interest rate risk arising from non-trading positions ***may*** be considered material ***if a case*** referred to in Article 98(5) ***arises, unless the competent authorities, in conducting the supervisory review and evaluation process, come to the conclusion that the institution is adequately monitoring and managing the interest rate risk stemming from non-trading book activities***.

Or. de

Justification

Supervisory measures should not be carried out automatically if the competent authorities take the view that the institution is taking adequate steps to monitor and manage the interest rate risk stemming from non-trading book activities.

Amendment 30

Proposal for a directive
Article 1 – paragraph 1 – point 22
Directive 2013/36/EU
Article 104 a – paragraph 4

Text proposed by the Commission	*Amendment*
The institution shall meet the additional own funds requirement referred to in Article 104(1)(a) with own funds ***instruments*** subject to the following	The institution shall meet the additional own funds requirement referred to in Article 104(1)(a) with own funds subject to the following conditions:

conditions:

Or. de

Justification

Clarification that own funds such as retentions from profits can be taken into account.

Amendment 31

Proposal for a directive
Article 1 – paragraph 1 – point 22
Directive 2013/36/EU
Article 104 a – paragraph 4 – subparagraph 1 a (new)

Text proposed by the Commission	*Amendment*
	By way of derogation from the first subparagraph, the competent authority may require a higher percentage of Tier 1 capital or Common Equity Tier 1 capital if the specific circumstances so warrant and the competent authority gives the institution concerned adequate reasons to justify the increase.

Or. de

Justification

The competent authority should have the discretion to insist on a higher percentage of Tier 1 capital or Common Equity Tier 1 capital for the purposes of P2R if the circumstances of an institution so warrant.

Amendment 32

Proposal for a directive
Article 1 – paragraph 1 – point 22
Directive 2013/36/EU
Article 104 a – paragraph 4 – subparagraph 2

Text proposed by the Commission	*Amendment*
Own funds used to meet the additional own funds requirement referred to in Article 104(1)(a) shall not be used towards	Own funds used to meet the additional own funds requirement referred to in Article 104(1)(a) shall not be used towards

meeting any of the own funds requirements set out in points (a), (b) and (c) of Article 92(1) of Regulation (EU) No 575/2013 ***or*** the combined buffer requirement defined in Article 128(6) of this Directive.	meeting any of the own funds requirements set out in points (a), (b) and (c) of Article 92(1) of Regulation (EU) No 575/2013***,*** the combined buffer requirement defined in Article 128(6) of this Directive ***or the own funds recommendation set out in Article 104b***.

Or. de

Justification

Own funds used to meet the additional own funds requirements should not be used to comply with the own funds recommendation.

Amendment 33

Proposal for a directive
Article 1 – paragraph 1 – point 22
Directive 2013/36/EU
Article 104 a – paragraph 6

Text proposed by the Commission	*Amendment*
(6) EBA shall develop draft regulatory technical standards specifying how the risks and elements of risks referred to in paragraph 2 shall be measured.	***deleted***
EBA shall ensure that the draft regulatory technical standards are proportionate in light of:	
a) the implementation burden on institutions and competent authorities; and	
b) the possibility that the general higher level of capital requirements that apply where institutions do not use internal models may justify the imposition of lower capital requirements when assessing risks and elements of risks in accordance with paragraph 2.	
EBA shall submit those draft regulatory technical standards to the Commission by [one year after entry into force].	
Power is conferred on the Commission to	

adopt the regulatory technical standards referred to in paragraph 6 in accordance with Articles 10-14 of Regulation (EU) No 1093/2010.

Or. de

Justification

The leeway available to the competent authorities would be restricted too much if regulatory technical standards were to define even more narrowly how risks in connection with additional capital add-ons are measured. What is more, this could prevent the supervisory authorities from measuring risks under the second pillar which did not exist prior to the entry into force of the regulatory technical standards.

Amendment 34

Proposal for a directive
Article 1 – paragraph 1 – point 29 a (new) – point a (new)
Directive 2013/36/EU
Article 128 – point 2

Present text	*Amendment*
	29a. Article 128 is amended as follows:
	(a) point 2 is replaced by the following:
2. 'institution-specific countercyclical capital buffer' means the own funds that an institution is required to maintain in accordance with Article 130;	2. 'institution-specific countercyclical capital buffer' means the own funds that an institution is required to maintain in accordance with Article 130***(1) to (6)***;

Or. de

(http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013R0575&from=EN)

Amendment 35

Proposal for a directive
Article 1 – paragraph 1 – point 29 a (new) – point b (new)
Directive 2013/36/EU
Article 128 – point 2 a (new)

Present text	*Amendment*
	(b) The following point 2a is inserted:
	2a. 'institution-specific countercyclical leverage ratio adjustment' means the own funds that an institution is required to maintain in accordance with Article 130(6a);

Or. de

(http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013R0575&from=EN)

Justification

The purpose of this amendment is to ensure that the ratio between the leverage ratio and the risk-weighted minimum capital requirements remain the same if the capital requirements are raised as a result of an increase in a countercyclical capital buffer. In that case the leverage ratio is raised accordingly.

Amendment 36

Proposal for a directive
Article 1 – paragraph 1 – point 29 a (new) – point c (new)
Directive 2013/36/EU
Article 128 – point 4

Present text	*Amendment*
4. 'O-SII buffer' means the own funds that may be required to be maintained in accordance with Article 131(5);	*Does not affect the EN version.*

Or. de

(http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013R0575&from=EN)

Amendment 37

Proposal for a directive
Article 1 – paragraph 1 – point 29 a (new) – point d (new)
Directive 2013/36/EU
Article 128 – point 4 a (new)

Present text	Amendment
	(d) The following point 4a is inserted:
	(4a) 'O-SII leverage ratio adjustment' means the own funds that an O-SII is required to maintain in accordance with Article 131(5)(b).'

Or. de

(http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013R0575&from=EN)

Justification

The purpose of this amendment is to ensure that the ratio between the leverage ratio and the risk-weighted minimum capital requirements remains the same if the capital requirements are raised as a result of an increase in an O-SII capital buffer. In that case the leverage ratio is raised accordingly, although the adjustment may not exceed 1%.

Amendment 38

Proposal for a directive
Article 1 – paragraph 1 – point 29 b (new) – point a (new)
Directive 2013/36/EU
Article 130 – title

Present text	Amendment
	29b. Article 130 is amended as follows:
	(a) The title is replaced by the following:
'Requirement to maintain an institution-specific countercyclical capital buffer'	'Requirement to maintain an institution-specific countercyclical capital buffer ***and a countercyclical leverage ratio adjustment***'
	(This amendment is linked to Amendments 41 and 42.)

Or. de

(http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:176:0338:0436:en:PDF)

Justification

The purpose of this amendment is to ensure that the ratio between the leverage ratio and the risk-weighted minimum capital requirements remains the same if the capital requirements are raised as a result of an increase in a countercyclical capital buffer. In this case, the leverage ratio increases proportionally for G-SIIs by a factor of 0.47, and for all other institutions by a factor of 0.35.

Amendment 39

Proposal for a directive
Article 1 – paragraph 1 – point 29 b (new) – point b (new)
Directive 2013/36/EU
Article 130 – paragraph 5

Present text	*Amendment*
	(b) Paragraph 5 is replaced by the following:
'Institutions shall meet the requirement imposed by paragraph 1 with Common Equity Tier 1 capital, which shall be additional to any Common Equity Tier 1 capital maintained to meet the own funds requirement imposed by Article 92 of Regulation (EU) No 575/2013, the requirement to maintain a capital conservation buffer under Article 129 of this Directive and any requirement imposed under Article 104 of this Directive.'	'Institutions shall meet the requirement imposed by paragraph 6a with Common Equity Tier 1 capital, which shall be additional to any Common Equity Tier 1 capital maintained to meet the own funds requirement imposed by Article 92***(1)(a) to (c)*** of Regulation (EU) No 575/2013, the requirement to maintain a capital conservation buffer under Article 129 of this Directive and any requirement imposed under Article 104 of this Directive.
	Institutions shall meet the requirement imposed by paragraph 1 with Common Equity Tier 1 capital, which shall be additional to any Common Equity Tier 1 capital maintained to meet the own funds requirement imposed by Article 92(1)(d) of Regulation (EU) No 575/2013 or, where applicable, under Article 92(1)[e] of that regulation.'

Or. de

(http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:176:0338:0436:en:PDF)

Justification

The requirements in respect of Common Equity Tier 1 capital in connection with compliance with the countercyclical leverage ratio adjustment may not be met using Common Equity Tier 1 capital already earmarked to ensure compliance with the leverage ratio.

Amendment 40

Proposal for a directive
Article 1 – paragraph 1 – point 29 b (new) – point c (new)
Directive 2013/36/EU
Article 130 – paragraph 6 a (new)

Present text	*Amendment*
	(c) The following paragraph 6a is inserted:
	'(6a) Member States shall also require institutions, on an individual or consolidated basis, to carry out an institution-specific countercyclical leverage ratio adjustment which is additional to the leverage ratio to be maintained in accordance with Article 92(1)(d) of Regulation (EU) No 575/2013 or, where applicable, Article 92(1)(e) of Regulation (EU) No 575/2013, and which is determined by multiplying the following amounts:
	a) the weighted average value of the countercyclical buffer ratios calculated in accordance with Article 140 of this Directive; and
	b) 0.47 for all institutions which are G-SIIs or parts of G-SIIs or 0.35 for all other institutions.
	The own capital required for this purpose shall be determined by multiplying the result of the calculation described in this paragraph with the institution's total leverage exposure measure in accordance with Article 429(4) of Regulation (EU) No 575/2013.'

Or. de

(http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:176:0338:0436:en:PDF)

Justification

The purpose of this amendment is to ensure that the ratio between the leverage ratio and the risk-weighted minimum capital requirements remains the same if the capital requirements are raised as a result of an increase in a countercyclical capital buffer. In this case, the leverage ratio increases proportionally for G-SIIs by a factor of 0.47, and for all other institutions by a factor of 0.35.

Amendment 41

Proposal for a directive
Article 1 – paragraph 1 – point 30 a (new) – point a (new)
Directive 2013/36/EU
Article 131 – paragraph 5

Present text	*Amendment*
	30a. Article 131 is amended as follows:
	a) Paragraph 5 is replaced by the following:
'The competent authority or designated authority may require each O-SII, on a consolidated or sub-consolidated ***or individual*** basis, as applicable, to maintain an O-SII buffer of up to ***2 %*** of the total risk exposure amount calculated in accordance with Article 92(3) of Regulation (EU) No 575/2013***, taking into account*** the criteria for the identification of the O-SII. ***That buffer shall consist of and shall be supplementary to Common Equity Tier 1 capital.***	'The competent authority or designated authority may require each O-SII, on a consolidated or sub-consolidated basis, as applicable, to maintain:
	a) an O-SII buffer of up to ***3.5 %*** of the total risk exposure amount calculated***, which shall consist of and shall be supplementary to Common Equity Tier 1 capital***; ***in that connection,*** the criteria for the identification of the O-SII ***shall be taken into account; combined with***
	b) an O-SII leverage ratio adjustment which is to be maintained in addition to the leverage ratio pursuant to Article 92(1)[d] of Regulation (EU) No 575/2013 and is determined by multiplying the

	following amounts:
	i) the O-SII buffer ratio as referred to in letter (a), which for this purpose shall not exceed 2.85 %, and
	ii) a factor of 0.35.
	The own capital required for this purpose shall be determined by multiplying the result of the calculation described in this paragraph with the institution's total leverage exposure measure in accordance with Article 429(4) of Regulation (EU) No 575/2013.'

Or. de

(http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:176:0338:0436:en:PDF)

Justification

The ceiling for the O-SII buffer is increased to 3.5 %, to create greater leeway for controlling structural, systemic risks, and is brought into line with the ceiling for the G-SII buffer. This amendment also ensures that the ratio between the leverage ratio and the risk-weighted minimum capital requirements remains the same if the capital requirements are raised as a result of an increase in an O-SII capital buffer. In that case the leverage ratio is raised accordingly, although the adjustment may not exceed 1%.

Amendment 42

Proposal for a directive
Article 1 – paragraph 1 – point 30 a (new) – point b (new)
Directive 2013/36/EU
Article 131 – paragraph 9

Present text	*Amendment*
	b) Paragraph 9 is replaced by the following:
There shall be ***at least*** five subcategories of G-SIIs. The lowest boundary and the boundaries between each subcategory shall be determined by the scores under the identification methodology. The cut-off scores between adjacent sub-categories shall be defined clearly and shall adhere to the principle that there is a constant linear	There shall be five subcategories of G-SIIs. The lowest boundary and the boundaries between each subcategory shall be determined by the scores under the identification methodology. The cut-off scores between adjacent sub-categories shall be defined clearly and shall adhere to the principle that there is a constant linear

increase of systemic significance, between each sub-category resulting in a linear increase in the requirement of additional Common Equity Tier 1 capital, with the exception of the highest sub-category. For the purposes of this paragraph, systemic significance is the expected impact exerted by the G-SII's distress on the global financial market. The lowest sub-category shall be assigned a G-SII buffer of 1 % of the total risk exposure amount calculated in accordance with Article 92(3) of Regulation (EU) No 575/2013 and the buffer assigned to each sub-category shall increase in gradients of 0,5 % of the total risk exposure amount calculated in accordance with Article 92(3) of Regulation (EU) No 575/2013 up to and including the fourth sub-category. The highest sub-category of the G-SII buffer shall be subject to a buffer of 3,5 % of the total risk exposure amount calculated in accordance with Article 92(3) of Regulation (EU) No …/2013□.

increase of systemic significance, between each sub-category resulting in a linear increase in the requirement of additional Common Equity Tier 1 capital, with the exception of the highest sub-category. For the purposes of this paragraph, systemic significance is the expected impact exerted by the G-SII's distress on the global financial market. The lowest sub-category shall be assigned a G-SII buffer of 1 % of the total risk exposure amount calculated in accordance with Article 92(3) of Regulation (EU) No 575/2013 and the buffer assigned to each sub-category shall increase in gradients of 0,5 % of the total risk exposure amount calculated in accordance with Article 92(3) of Regulation (EU) No 575/2013 up to and including the fourth sub-category. The highest sub-category of the G-SII buffer shall be subject to a buffer of 3,5 % of the total risk exposure amount calculated in accordance with Article 92(3) of Regulation (EU) No …/2013□.

If an institution is placed in the highest sub-category of the G-SII buffer, a further, new sub-category shall immediately be added. The buffer assigned to each following sub-category shall increase in gradients of 1% of the total risk exposure amount calculated in accordance with Article 92(3) of Regulation (EU) No 575/2013.'

(http://www.bis.org/publ/bcbs255.pdf)

Or. de

(http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:176:0338:0436:en:PDF)

Justification

Approximation to the requirements laid down by the Basel Committee. This ensures that if a G-SII is placed in the highest sub-category, a new sub-category is added, so that there is still no incentive for a G-SII to become more systemically important.

Amendment 43

Proposal for a directive
Article 1 – paragraph 1 – point 30 a (neu) – point c (neu)
Directive 2013/36/EU
Article 131 – paragraph 13

Present text	*Amendment*
	c) Paragraph 13 is replaced by the following:
Systemically important institutions shall not use Common Equity Tier 1 capital that is maintained to meet the requirements under paragraphs 4 and 5 to meet any requirements imposed under Article 92 of Regulation (EU) No 575/2013 and Articles 129 and 130 of this Directive and any requirements imposed under Articles 102 and 104 of this Directive. "	Systemically important institutions shall not use Common Equity Tier 1 capital that is maintained to meet the requirements under paragraphs 4 and 5 to meet any requirements imposed under Article 92 of Regulation (EU) No 575/2013 and Articles 129 and 130 of this Directive and any requirements imposed under Articles 102 and 104 of this Directive.
	In complying with the requirements laid down in paragraph 5(b), institutions shall not use Common Equity Tier 1 capital that is already maintained to meet the requirements in respect of the institution-specific countercyclical leverage ratio adjustment provided for in Article 130(7) of this Directive and the leverage ratio requirement provided for in Article 92(1)(d).'

Or. de

(http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:176:0338:0436:en:PDF)

Justification

The requirements in respect of Common Equity Tier 1 capital in connection with compliance with the G-SII leverage ratio adjustment may not be met using Common Equity Tier 1 capital which must already be maintained to ensure compliance with the leverage ratio.

Amendment 44

Proposal for a directive
Article 1 – paragraph 1 – point 30 a (new) – point d (new)

Directive 2013/36/EU
Article 131 – paragraph 14 – point a a (new)

Present text	*Amendment*
	d) In paragraph 14 the following letter is added:
	'aa) a G-SII leverage ratio in accordance with Article 92(1)(e) of Regulation (EU) No 575/2013 and an O-SII leverage ratio adjustment.'

Or. de

(http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:176:0338:0436:en:PDF)

Justification

If an institution is subject to a G-SII leverage ratio and an O-SII leverage ratio adjustment, the more stringent requirement should apply. This may not exceed 4 %, however.

Amendment 45

Proposal for a directive
Article 1 – paragraph 1 – point 32 a (new) – point a (new)
Directive 2013/36/EU
Article 142 – paragraph 1

Present text	*Amendment*
	32a. Article 142 is amended as follows:
	a) Paragraph 1 is replaced by the following:
Where an institution fails to meet its combined buffer requirement, it shall prepare a capital conservation plan and submit it to the competent authority no later than five working days after it identified that it was failing to meet that requirement, unless the competent authority authorises a longer delay up to 10 days.	'Where an institution fails to meet ***either:***
Competent authorities shall grant such authorisations only on the basis of the individual situation of a credit institution	***a)*** its combined buffer requirement***; or***

and taking into account the scale and complexity of the institution's activities.	
	b) the combined requirement for the leverage ratio adjustment, which consists of an institution-specific leverage ratio adjustment and an O-SII leverage ratio adjustment,
	it shall prepare a capital conservation plan and submit it to the competent authority no later than five working days after it identified that it was failing to meet that requirement, unless the competent authority authorises a longer deadline of up to 10 days.
	Competent authorities shall grant such authorisations only on the basis of the individual situation of a credit institution and taking into account the scale and complexity of the institution's activities.

Or. de

(http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:176:0338:0436:en:PDF)

Justification

The introduction of a countercyclical leverage ratio adjustment pursuant to Article 128(2a) and a G-SII leverage ratio adjustment pursuant to Article 128(4a) gives rise, parallel to the risk-weighted combined capital buffer requirement, to an unweighted leverage ratio adjustment requirement. Should the combined leverage ratio adjustment requirement not be met, the institution must draw up a capital conservation plan.

Amendment 46

Proposal for a directive
Article 1 – paragraph 1 – point 32 a (new) – point b (new)
Directive 2013/36/EU
Article 142 – paragraph 2 – point c

Present text	*Amendment*
	b) paragraph 2(c) is replaced by the following:
c) a plan and timeframe for the increase of own funds with the objective of meeting	'c) a plan and timeframe for the increase of own funds with the objective of meeting

fully the ***combined buffer requirement***;	fully the ***requirements the institution has failed to meet under paragraph 1***.’

Or. de

(http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:176:0338:0436:en:PDF)

Justification

The introduction of a countercyclical leverage ratio adjustment pursuant to Article 128(2a) and a G-SII leverage ratio adjustment pursuant to Article 128(4a) gives rise, parallel to the risk-weighted combined capital buffer requirement, to an unweighted leverage ratio adjustment requirement. Should the combined leverage ratio adjustment requirement not be met, the institution must draw up a capital conservation plan.

Amendment 47

Proposal for a directive
Article 1 – paragraph 1 – point 32 a (new) – point c (new)
Directive 2013/36/EU
Article 142 – paragraph 3

Present text	*Amendment*
	c. Paragraph 3 is replaced by the following:
The competent authority shall assess the capital conservation plan, and shall approve the plan only if it considers that the plan, if implemented, would be reasonably likely to conserve or raise sufficient capital to enable the institution to meet its ***combined buffer requirements*** within a period which the competent authority considers appropriate.	The competent authority shall assess the capital conservation plan, and shall approve the plan only if it considers that the plan, if implemented, would be reasonably likely to conserve or raise sufficient capital to enable the institution to meet ***the requirement it has failed to meet under paragraph 1*** within a period which the competent authority considers appropriate.

Or. de

(http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:176:0338:0436:en:PDF)

Justification

The introduction of a countercyclical leverage ratio adjustment pursuant to Article 128(2a)

and a G-SII leverage ratio adjustment pursuant to Article 128(4a) gives rise, parallel to the risk-weighted combined capital buffer requirement, to an unweighted leverage ratio adjustment requirement. Should the combined leverage ratio adjustment requirement not be met, the institution must draw up a capital conservation plan.

EXPLANATORY STATEMENT

With a view to enhancing financial stability and restoring confidence in the market, in the wake of the 2008 financial crisis, together with its international partners in the Basel Committee on Banking Supervision, the EU gave an undertaking to start the process of establishing a comprehensive financial regulation system - Basel III. Four years after the adoption of the CRR and the CRD IV, the purpose of the revision of the two legislative packages is now to continue the process of transposing the international rules already agreed as part of Basel III into European law. The aim is to enhance financial stability and bank resilience further. At the same time, the revision is intended to take account of specific European circumstances, to make a significant contribution to boosting the EU economy by increasing lending capacity and to facilitate the establishment of deeper, more liquid capital markets.

Overview of the report

The rapporteur warmly welcomes the overall objectives underpinning the revision of the CRR and CRD by the Commission, but sees a need for further improvement in some key areas.

Firstly, the report significantly strengthens the Commission's approach - which seeks to bring about more proportionality for small financial institutions - by reducing institutions' compliance costs without watering down prudential standards.

Secondly, the report seeks to take greater account of the specific features of the European economy and the work banks do to strengthen that economy. These measures are intended to boost lending to small and medium-sized enterprises and social enterprises and broaden the scope for providing economic stimulus through the activities of promotional banks and investment in future-oriented areas, such as green assets and badly needed infrastructure.

Thirdly, the complex market risk-related capital requirements laid down in the Commission proposal are to be implemented, despite the delays in bringing in similar requirements in the USA. The report takes care to ensure, however, that the requirements generally do not go beyond the Basel standard and seeks to facilitate compliance by financial institutions by introducing a clearly defined and longer transposition phase.

Fourthly, with a view to enhancing financial stability, and in keeping with the principle of upward proportionality, a number of additional requirements are imposed on large banks, such as a higher leverage ratio for global systemically important institutions and the disclosure of a remuneration ratio.

Fifthly, the draft report seeks to advance the development of the banking union by introducing cross-border exemptions from capital and liquidity requirements combined with full guarantees of financial stability. With a view to breaking the log jam in the Council on this issue, the rapporteur is proposing the gradual introduction of partial exemptions.

Lastly, the rapporteur welcomes the Commission's clarification that capital add-ons under the second pillar are primarily intended to cover institution-specific risks. Due account is then taken of macroprudential risks by strengthening the relevant instruments, such as an

adjustment of the leverage ratio geared to the O-SII buffer and the countercyclical capital buffer.

The report in detail

As a matter of principle, the rapporteur has sought to establish a level playing field. As small institutions face higher compliance costs in proportion to their balance sheet total than larger institutions when new regulatory requirements are introduced, bespoke adjustments to the rules which are consistent with the principle of proportionality and which go beyond the Commission proposal are needed. With that aim in view, the definition of what was originally an absolute threshold for small, non-complex institutions of EUR 1.5 billion of their balance sheet total has been revised to include a relative component which is geared to the gross domestic product of a given Member State and thus - provided that the competent authority approves the adjustment - tailors the threshold precisely to the economic situation in the Member State concerned. Since the size of an institution has little bearing on its risk profile, additional, cumulative qualitative criteria have been introduced.
The aim is that less stringent reporting, disclosure and remuneration requirements and a simplified but more precisely calibrated NSFR will reduce administrative costs for small non-complex institutions without watering down prudential standards. In addition, by drawing up proposals for uniform reporting arrangements the EBA will make the reporting requirements for all institutions and the competent authorities simpler and more efficient. The use of simplified approaches to calculating market risk and the SA-CCR and to establishing remuneration rules will also apply to individual institutions which are part of a consolidated group and to institutions which are not small but which meet the relevant thresholds.

The draft report also focuses on measures to boost the economy and to take account of the specific characteristics of the European economy. The broader application of the SME factor in the Commission proposal and the introduction of a support factor for investment in infrastructure, which is particularly important in the light of the major challenges posed by, for example, electromobility and the expansion of broadband, are welcome. The draft report also stipulates that the support factor for investment in infrastructure should also apply to lending to public enterprises. What is more, the rapporteur is convinced of the need for a set of criteria to govern the exclusion of certain institutions from the scope, with a view to encouraging Member States to continue setting up promotional banks. Such banks could also then be excluded from the scope, subject to compliance with strict criteria. The draft report also proposes the introduction of a support factor for lending to social enterprises. Investment in green assets should likewise be facilitated, in the light of the challenges posed by climate change. In a similar vein, for the first time institutions are being authorised to assess and disclose climate change-related risks in their balance sheets.

In connection with the Fundamental review of the trading book (FRTB), the rapporteur has been guided by the standards drawn up by the Basel Committee. The aim is that these should be properly incorporated into EU law. The draft report seeks to reduce significantly the number of EBA mandates; it makes no provision for gold-plating of the Basel rules. It is also important that institutions be given enough time to carry out implementation properly, by extending the deadlines for compliance with the technical regulatory standards and by introducing step by step the capital requirement rules resulting from the FRTB.

With a view to continuing the efforts to reduce risk effectively, more stringent rules should apply to large institutions, in keeping with the proportionality principle. At present, on

average, global systemically important institutions (G-SIIs) in the EU have leverage ratios which are significantly higher than the statutory figure of 3%. It is only logical, therefore, that the draft report should provide for an increase in that ratio for G-SIIs to 4%. When the TLAC standard for G-SIIs is incorporated into European law, a grandfather clause should be introduced to ensure that the buffers for bail-inable liabilities are built up as quickly as possible; that clause should stipulate that instruments issued prior to the entry into force of the regulation are also eligible, subject to compliance with certain criteria. As regards remuneration rules, and with a view to enhancing transparency in respect of managers' salaries, large institutions would also be required to set and disclose a figure for the salary of each individual board member which represents a proportion of the median salary of the institutions' employees.

Completion of the banking union is a further significant political objective. The rapporteur therefore welcomes the introduction of waivers in respect of the own funds and liquidity requirements for banking groups which operate across borders. This should not serve to increase the level of risk to financial stability in individual Member States, however. In order to counter such a development, the rapporteur is proposing that the waivers should be introduced in a gradual but constructive manner. With that aim in view, waivers in respect of cross-border capital requirements should initially be the subject of a comprehensive EBA report assessing the potential benefits and risks and the conditions governing the granting of waivers; only then should the Commission submit a legislative proposal. In contrast, it should be possible to grant waivers in respect of liquidity requirements from the time when the CRR II enters into force, as provided for in the Commission proposal; in that connection, however, the draft report seeks to increase security by introducing additional, stricter conditions.

The rapporteur explicitly welcomes the clarification provided in the Commission proposal to the effect that, in the context of the prudential review process, primarily institution-specific risks are to be covered by capital add-ons. Steps must still be taken to ensure that macroprudential risks are properly covered, however. For that reason, the draft report introduces a change to the leverage ratio which is proportional to the countercyclical capital buffer and the O-SII buffer. The leverage ratio adjustment geared to the countercyclical capital buffer is to be proportional to that buffer, subject to a factor of 0.35 and 0.47 for G-SIIs. The leverage ratio adjustment geared to the O-SII capital buffer is also subject to a factor of 0.35 and is limited to 4%. The aim is to ensure that the ratio between the risk-weighted minimum own funds requirements and the unweighted leverage ratio remains the same even if the risk-weighted own funds requirements alter as a result of an increase in an O-SII capital buffer or a countercyclical capital buffer.

The rapporteur is convinced that these and many other provisions improve the already ambitious Commission proposal and will help the EU achieve the objective of better banking regulation. The EU, the European institutions and the Member States should continue to play a key role in safeguarding global financial stability in the future. In that connection, the level playing field and the broad implementation of the agreed Basel standards by all participating states are important. Only in this way can financial stability be guaranteed, confidence in the market restored and a healthy and competitive financial and banking sector strengthened in the long term.