

1 Introduction

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When the author of this section began his first day of work after graduating from university in January 2008, he had no idea what developments the year would hold in store for the financial sector. Nor did he suspect that the reaction of regulators and supervisors would shape his working life for more than a decade.

As early as 2008 and 2009, measures were agreed at meetings of the G20 countries and the Financial Stability Board (FSB), and at the end of 2011, the first adjustment of banking supervisory requirements in response to the crisis came into force in the EU (“Basel 2.5” or CRD III).¹ Also in 2011, the Basel III framework was adopted by the Basel Committee,² which came into force in the European Union in 2014 in the form of the first Capital Requirements Regulation (CRR).³

The measures contained in the two packages were intended both to address the immediate causes of the crisis (CRD III: market risk, derivatives, securitisation) and, in principle, to ensure greater stability in the financial sector (e.g. through stricter capital adequacy requirements under the CRR). However, they were only the prelude to a series of much more far-reaching reforms that would fundamentally change the calculation of risk-weighted assets.

From the author’s point of view, the starting signal for this was the first paper of the Basel Committee for the Review of the Market Risk Framework (“Fundamental Review of the Trading Book” – FRTB), which was published in 2012.⁴ It was followed by numerous other papers, which were intended to fundamentally change by 2017 all risks included in Pillar 1 (including credit, market and operational risk) both under the standardised and the internal model approaches. As is well known, the Basel Committee reached the preliminary endpoint of this development at the end of 2017 with the finalisation of Basel III,⁵ while in public and among the editors of this book the term Basel IV is used.

While the work of the Basel Committee came to an end in 2017, almost ten years after the outbreak of the financial market crisis, the work at EU level was to drag on even further. In 2016, the EU had already incorporated part of the Basel IV papers of the Basel Committee into the first major amendment of the CRR. The so-called CRR 2 was adopted by 2019, with significant parts coming into force in 2021.⁶ It includes, for example, new requirements in the area of counterparty credit risk and market risk as well as the finalisation of the requirements for the net stable funding ratio (NSFR)

¹ Cf. Directive 2010/76/EU.

² See BCBS 189.

³ Cf. Regulation (EU) No 575/2013.

⁴ See BCBS 219.

⁵ See BCBS 424.

⁶ Cf. Regulation (EU) 2019/876.

and leverage ratio (LR). Since it is already in force and has been applied by institutions for more than a year, we have deliberately decided not to describe its contents again in this book and instead to focus on those topics that have yet to come into force in the EU.

The paper published by the Basel Committee at the end of 2017, the contents of which have not yet been considered in CRR 2, essentially contains requirements for credit risk (CR SA, IRB), operational risk and the output floor, as well as further adjustments to other topics. According to the Basel Committee, these requirements should be implemented by 2022. However, under the influence of the COVID pandemic, it was decided in March 2020 to postpone the initial application date to 1 January 2023.⁷

At the level of the European Union, however, an initial draft amendment to the CRR (“CRR 3”) was not published until October 2021 by the EU Commission.⁸ It provides for the regulations to enter into force on 1 January 2025, two years later than agreed internationally. At the time of writing, a large number of amendments have already been tabled by the EU Parliament and compromise proposals have been put forward by the EU Council Presidency. Nevertheless, it is difficult to estimate by when the so-called trilogue will be concluded and the final version of CRR 3 can enter into force. January 2025 therefore currently appears to be the earliest possible date, although a postponement cannot be ruled out.

However, even if there is no postponement and CRR 3 comes into force on 1 January 2025, the proposals of the EU Commission provide for transitional arrangements. Provisions that are expected to have a major impact on the level of risk-weighted assets, such as the capital floor or the increase in the credit conversion factors in the CR SA from the current 0 percent to 10 percent in the future, are subject to long-term transitional arrangements. As things currently stand, the regulations will not take full effect until 2032.

By then, almost a quarter of a century will have passed since the outbreak of the financial market crisis. And thus, the professional life of the author of these lines will continue to be shaped by the regulatory processing of the financial market crisis for the foreseeable future.

To make it easier for the reader to understand these regulations even if he or she has not spent 25 years working with them, we have presented in the following sections the main requirements of the EU Commission’s draft amendment of the CRR, CRD⁹ and BRRD.¹⁰ In doing so, we aim to highlight the differences that arise compared to the Basel requirements from December 2017. We also address those requirements that have found their way into the consultation on the EU’s own initiative, i.e., are not based on Basel initiatives, such as the amendments to the CRD presented in section 12.

⁷ See Basel Committee press release, 27 March 2020: <https://www.bis.org/press/p200327.htm>.

⁸ Cf. CRR 3 Draft of the EU Commission.

⁹ Cf. CRD 6 draft of the EU Commission.

¹⁰ Cf. BRRD draft of the EU Commission.

Finally, the amendment also addresses issues that have evolved dramatically since 2017 and now occupy a significant place on the regulators' agenda. For this reason, section 10 on ESG and section 11 on the regulation of cryptoassets have been newly included in the book.

As in the previous editions, our aim is to present the regulations in an easy-to-read and understandable form and, in particular, to address the foreseeable challenges in future implementation.

Literature

Basel Committee on Banking Supervision; BCBS 189 (2010): Basel III: A global regulatory framework for more resilient banks and banking systems.

Basel Committee on Banking Supervision; BCBS 219 (2012): Consultative document – Fundamental review of the trading book.

Basel Committee on Banking Supervision; BCBS 424 (2017): Basel III: Finalising post-crisis reforms.

Proposal for a Directive of the European Parliament and of the Council amending Directive 2013/36/EU as regards supervisory powers, sanctions, third-country branches, and environmental, social and governance risks, and amending Directive 2014/59/EU (CRD 6 Draft of the EU Commission).

Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 575/2013 as regards requirements for credit risk, credit valuation adjustment risk, operational risk, market risk and the output floor (CRR 3 draft of the EU Commission).

Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 575/2013 and Directive 2014/59/EU as regards the prudential treatment of global systemically important institution groups with a multiple point of entry resolution strategy and a methodology for the indirect subscription of instruments eligible for meeting the minimum requirement for own funds and eligible liabilities (BRRD draft of the EU Commission).

Directive 2010/76/EU of the European Parliament and of the Council of 24 November 2010 amending Directives 2006/48/EC and 2006/49/EC as regards capital requirements for the trading book and re-securitisations, and the supervisory review of remuneration policies (CRD III).

Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 646/2012 (CRR).



Regulation (EU) 2019/876 of the European Parliament and of the Council of 20 May 2019 amending Regulation (EU) No 575/2013 as regards the leverage ratio, the structural liquidity 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 Regulation (EU) No 648/2012 (CRR 2).

