

EBA/Op/2026/03

20 February 2026

Opinion of the European Banking Authority on the Commission's amendments to the final draft RTS on equivalent legal mechanism in accordance with Article 124(14) of Regulation (EU) No 575/2013

Introduction and legal basis

This Opinion is issued in accordance with Article 10(1) of Regulation (EU) No 1093/2010 (EBA Regulation), following notification by the European Commission of its intention to endorse the EBA final draft RTS with amendments.

The draft RTS specify what constitutes an equivalent legal mechanism for the purposes of Article 124(14) of Regulation (EU) No 575/2013 (CRR).

In accordance with Article 14(7) of the Rules of Procedure of the Board of Supervisors¹, the Board of Supervisors has adopted this opinion which is addressed to the European Commission.

General Comments / Proposals

1. On 5 August 2025, the EBA submitted to the European Commission the final draft RTS specifying what constitutes an equivalent legal mechanism ensuring that a residential property under construction is completed within a reasonable timeframe, in accordance with Article 124 (14) of Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions.

¹ Decision adopting the Rules of Procedure of the European Banking Authority Board of Supervisors of 22 January 2020 (EBA/DC/2020/307).

2. The draft RTS specified that a legal mechanism is considered equivalent where it provides a level of assurance comparable to that resulting from the involvement of a central government, regional government or local authority, or a public sector entity, in ensuring that the residential property under construction is completed within a reasonable timeframe, in accordance with Article 124(3), point (a)(iii)(2), of Regulation (EU) No 575/2013.
3. To this end, the draft RTS required that such a mechanism ensures a degree of certainty and effectiveness equivalent to direct public intervention, including through legally binding commitments, legal enforceability throughout the construction phase, and the ability to intervene in a timely manner in the event of construction interruption.
4. In developing the draft RTS, the EBA took into account the need to ensure a harmonised and prudent application of Article 124(14) of the CRR across Member States, while allowing for the recognition of existing national legal frameworks that pursue the same policy objective, provided that they meet equivalent safeguards in terms of reliability, legal certainty and prudential soundness.
5. On 9 January 2026, the Commission sent a letter to the EBA (hereinafter the “Commission’s letter”) informing it of its intention to endorse these draft RTS with amendments and transmitted to the EBA a modified version of the RTS.
6. This notification from the Commission opened a six-week period during which, in accordance with Article 10(1), fifth subparagraph of Regulation (EU) No 1093/2010 (EBA Regulation), the EBA may amend its draft RTS in light of the Commission’s proposed amendments and resubmit it to the Commission in the form of a formal opinion (hereinafter “this Opinion”). The EBA will transmit a copy of this Opinion to the European Parliament and to the Council.
7. Recital (23) of Regulation (EU) No 1093/2010 specifies that the draft regulatory technical standards “should be subject to amendment only in very restricted and extraordinary circumstances, since the Authority [the EBA] is the actor in close contact with the market and knowing best the daily functioning of financial markets”. The recital specifies that “draft regulatory technical standards would be subject to amendment if they were incompatible with Union law, did not respect the principle of proportionality or ran counter to the fundamental principles of the internal market for financial services as reflected in the acquis of Union financial services legislation”.
8. The EBA notes that the Commission introduced a number of amendments to the final draft RTS. These amendments include both substantive and non-substantive changes. While the EBA does not object to certain non-substantive amendments, it considers that other amendments, both substantive and non-substantive, would benefit from reverting to the approach set out in the EBA’s draft RTS or from targeted clarifications, in order to preserve the intended prudential safeguards, legal certainty and supervisory consistency. The EBA therefore sets out its technical assessment and recommendations in the section “Specific comments”.

9. The EBA considers as substantive the amendments envisaged by the European Commission listed in the subsection “Specific comments - substantive changes”, which concern two elements: (i) the creditworthiness threshold applicable to the protection provider, and (ii) the removal of the explicit requirement that the completion guarantee be required by the law of the Member State where the residential property is being built. First, by increasing the cap on the risk weight from 20% to 30%, the Commission widens eligibility from credit quality step (CQS) 1 to CQS 2 under the standardised approach for exposures to institutions (Article 120 CRR). The EBA considers that limiting eligibility to CQS 1 constitutes a core prudential safeguard to ensure that reliance on a private protection provider delivers a level of assurance comparable to that underpinning statutory completion schemes and to preserve the prudential equivalence intended by Article 124(3)(a)(iii)(2) CRR. Allowing CQS 2 protection providers could also lead to outcomes that are inconsistent with the broader CRR credit risk framework, as it may result in preferential risk weights for exposures benefiting from such mechanisms that are lower than those applicable to comparable direct or guaranteed exposures to the same counterparty under the standardised approach. Under the EBA draft RTS, the 20% risk-weight threshold also implicitly excluded unrated entities from becoming eligible protection providers under an equivalent legal mechanism, as without an external rating, institutions and corporates cannot obtain a risk weight below 30% under the Standardised Approach for credit risk under the CRR. This safeguard is no longer ensured under the Commission’s text, which may allow unrated protection providers to qualify despite the absence of an externally validated credit quality assessment. Second, the EBA objects to the Commission’s amendment removing the requirement that the completion guarantee be required by law, as this criterion was included to ensure that the RTS refer to a legal mechanism rather than to a purely private contractual arrangement between a protection provider and a borrower. The EBA has serious concerns that dropping this requirement would open the application of the RTS to any private contractual arrangement, which would not meet the notion of a “legal mechanism” and would materially weaken the prudential safeguards underpinning the framework. For these reasons, the EBA recommends maintaining the approach set out in its draft RTS.
10. As regards non-substantive amendments, the Commission amended the intragroup treatment by making the equivalent legal mechanism unavailable where the protection provider and the lending institution belong to the same group. The EBA considers that a blanket ineligibility at both individual and consolidated levels is disproportionate and may give rise to an inconsistency with Recital 2 of the draft RTS, which indicates that, in such intragroup cases, the recognition of risk mitigation benefits arising from the completion guarantee, specifically, the treatment of the property as completed, should be limited to the calculation of own funds requirements at the individual institution level.
11. The EBA notes that certain drafting changes introduced in the Commission’s RTS may give rise to unintended prudential or legal consequences. These include, in particular, amendments to the force majeure provision and the removal of the explicit requirement that the completion guarantee be documented in writing and be legally effective and enforceable in all relevant jurisdictions. While acknowledging the objective of clarification, the EBA considers that these changes could weaken legal certainty, enforceability and the essential prudential features of the mechanism, and therefore recommends targeted drafting adjustments to address these risks.

12. Finally, the EBA identifies certain minor drafting and typographical issues in the Commission's RTS and recommends correcting these.
13. Annex 1 to this Opinion provides a revised version of the Commission's RTS, reflecting the EBA's recommended drafting adjustments.
14. For the purposes of this Opinion, the "Commission's RTS" refers to the version of the RTS submitted by the Commission with amendments on 9 January 2026, whereas the "draft RTS" refers to the version of the RTS submitted by the EBA on 5 August 2025. The version of the RTS provided in the Annex is referred to as the "Annexed RTS".

Specific comments

Substantive changes

Substantive change 1: Creditworthiness threshold of the protection provider

15. In Article 1(5) of the Commission's RTS, the cap on the risk weight applicable to a direct unsecured exposure to the protection provider was changed from 20% to 30% (with reference to Articles 120 to 122 CRR) reflecting the Commission's view that the 20% cap could lead to market concentration, limited substitutability among protection providers and potential implications for fair competition in certain Member States.
16. The EBA considers that restricting eligibility to protection providers whose exposures are risk-weighted at 20% (CQS 1 under Article 120(1), Table 1, CRR and under Article 122(1), Table 1, CRR) is a core prudential safeguard. The completion guarantee is relied upon to allow institutions to treat a residential property under construction as completed for the purposes of applying the preferential treatment under Article 124(3)(a)(iii)(2) CRR. This preferential treatment is justified only if the legal mechanism provides a high degree of certainty that, in the event the construction would otherwise not be completed within a reasonable timeframe, the protection provider will be able and willing to step in without undue delay and either (i) finance all remaining construction costs (including potential budget overruns) or, where applicable, (ii) pay the amount owed under a repayment guarantee.
17. By anchoring the creditworthiness threshold to CQS 1, the EBA's draft RTS ensures that reliance on a private protection provider is prudentially comparable to the assurance typically provided by statutory completion schemes. This approach differs from the Commission's assessment that prudential equivalence could still be achieved with protection providers attracting a 30% risk weight, but is considered by the EBA to be a fundamental element to support the intended equivalence under Article 124 CRR.
18. The 20% risk-weight threshold set out in the EBA draft RTS also has the effect of implicitly excluding unrated protection providers. In the absence of an external credit assessment, institutions and corporates cannot obtain a risk weight below 30% under the Standardised Approach, meaning that unrated entities cannot meet the CQS 1 requirement. This implicit exclusion was a deliberate prudential safeguard, reflecting the fact that, without an externally

validated credit quality assessment, the reliability of the protection provider cannot be established with a degree of confidence comparable to that of rated CQS 1 counterparties. Under the Commission’s proposal, this safeguard would no longer be ensured, potentially allowing unrated protection providers to qualify.

19. In addition, allowing protection providers with a credit quality corresponding to CQS 2 would be inconsistent with the overall structure and internal coherence of the CRR credit risk framework. Under Article 120(1) of the CRR, a direct unsecured exposure to a counterparty with CQS 2 attracts a risk weight of 30%. Likewise, under the general credit risk mitigation framework set out in Articles 235 and 236 CRR, an exposure benefiting from a guarantee provided by such a counterparty would be treated as an exposure to the guarantor and therefore could not receive a risk weight lower than 30%. While acknowledging the Commission’s view that Article 124 CRR constitutes a specific regime intended to accommodate certain national arrangements, reliance on a CQS 2 or an unrated protection provider as an “equivalent legal mechanism” under Article 124(3)(a)(iii)(2) of the CRR could, under certain conditions, allow the exposure to benefit from the preferential risk weights applicable to residential immovable property under Articles 124(2) and 125 CRR, which may be lower than 30%. This would result in a more favourable prudential treatment than that applicable to comparable exposures elsewhere in the Standardised Approach, undermining the principle that credit risk mitigation should not lead to outcomes that are more favourable than those implied by the credit quality of the protection provider itself.
20. Broadening eligibility to protection providers that would attract a 30% risk weight (CQS 2) increases the likelihood that the protection provider may not be able to perform its obligations in a timely manner, particularly given the heightened operational, legal and liquidity risks inherent to the construction phase. This would weaken the prudential equivalence of the mechanism and could lead to the application of preferential treatment in cases where the risk mitigation is not sufficiently robust.
21. The EBA therefore recommends maintaining the 20% risk-weight cap, as set out in Article 2(2) of the EBA’s draft RTS.

Substantive change 2: legal basis/national-law requirement for the completion guarantee

22. Article 3(1) of the EBA’s draft RTS required that the completion guarantee be required by the law of the Member State where the residential property is being built and remain in place until construction is completed. The Commission’s RTS removes this explicit national-law requirement and instead places stronger emphasis on contractual documentation and enforceability (in particular Articles 1(2) and 1(6) of the Commission’s RTS).
23. The EBA objects to this amendment. Firstly, the requirement that the completion guarantee be mandatory under national law is intended as a core element of the amendments introduced to Article 124(3)(a)(iii)(2) of Regulation No. (EU) 575/2013, reflecting the existence of jurisdictions where such mechanisms exist, to which the preferential treatment is tied. Secondly, the requirement that the completion guarantee be mandatory under national law essentially ensures that such legal mechanism is equivalent to those described under point (2) of the aforementioned

provision, as opposed to purely private contractual arrangements between the parties. Thirdly, from a practical perspective a legal obligation at national level ensures that all residential units forming part of a property under construction are covered by the same completion guarantee, as the mechanism is imposed by law and not left to individual contractual arrangements. This provides an additional and important prudential safeguard and supports consistent and comprehensive coverage of the construction project.

Non-substantive changes

Non-substantive change 1: intragroup treatment

24. In Article 1(4) of the Commission's RTS, the condition was amended that the protection provider and the lending institution must not belong to the same group, which results in a full ineligibility of intragroup arrangements.
25. In the EBA's draft RTS, intragroup arrangements are ineligible only at the consolidated level. Specifically, Article 2(3) of the EBA's draft RTS provides that, where the lending institution and the protection provider belong to the same group, the completion guarantee does not qualify as an equivalent legal mechanism for the consolidated level of any group to which both belong.
26. The EBA considers that the key prudential consideration in intragroup cases is that the treatment should not reduce own funds requirements at the consolidated level, as the risk remains within the group. This is also reflected in the relevant recital (i.e. Recital 2) of the Commission's RTS, which indicates that the recognition of risk mitigation benefits arising from the completion guarantee should be limited to the individual institution level in intragroup cases.
27. A blanket ineligibility at the individual level would prevent recognition even where a legally enforceable completion guarantee exists and provides risk mitigation for the individual lending institution. The EBA therefore recommends reverting to the approach in its draft RTS and limiting the restriction to the consolidated level, while allowing recognition at the individual institution level where the conditions of the RTS are met.
28. In light of the above, the EBA explicitly requests the Commission to revert to the approach set out in the EBA draft RTS, by limiting the ineligibility of intragroup completion guarantees to the consolidated level only. This amendment would also restore consistency between the operative provision and the corresponding recital in the Commission's RTS, which indicates that, in intragroup cases, the recognition of risk-mitigation benefits should be limited to the individual institution level.

Non-substantive change 2: force majeure

29. The EBA notes that the Commission's RTS replaced the reference to "force majeure" contained in the EBA's draft RTS with a description referring to "unpredictable and unavoidable events that are beyond the control of the parties involved" and moved the exception into a standalone paragraph (Article 1(10) of the Commission's RTS).

30. The EBA also notes that, as currently drafted, the exception in Article 1(10) may be interpreted as a general carve-out from all prohibitions listed in that provision, including those preventing the protection provider from increasing the effective cost, cancelling the completion guarantee, or unilaterally reducing its amount or duration. From a prudential perspective, allowing the exception to extend to those elements could materially weaken the continuity and reliability of the completion guarantee precisely during the construction phase, i.e. when completion risk is highest, by enabling the protection provider to withdraw protection following a broadly framed event “beyond the control” of the parties. This would undermine the risk-mitigation effect that justifies treating the property as completed under Article 124(14) CRR and could also lead to divergent supervisory assessments and outcomes across jurisdictions.

31. The EBA therefore recommends clarifying the scope of the exception in Article 1(10) by limiting it solely to the prohibition under point (d), i.e. the clauses that would otherwise relieve the protection provider from its obligation to complete the property or, where applicable, to pay under a repayment guarantee. In particular, the EBA recommends amending Article 1(10) to specify that “Point (d) shall not apply...” in the case of unpredictable and unavoidable events beyond the control of the parties involved, provided that those events are covered by another insurance or guarantee ensuring continuous protection without interruption for the lending institution and the obligor, while clarifying that “Points (a) to (c) shall continue to apply in all cases.” This approach is warranted because points (a) to (c) safeguard the essential prudential features of the mechanism, namely that the completion guarantee remains in place on stable terms and cannot be cancelled, reduced, or repriced at the moment of stress, thereby preserving the reliability of the protection and avoiding gaps, disputes, or timing mismatches in coverage even where an alternative insurance or guarantee exists.

Non-substantive change 3: written documentation and enforceability in all relevant jurisdictions

32. The EBA notes that the Commission’s RTS no longer explicitly states that the completion guarantee shall be documented in writing and shall be legally effective and enforceable in all relevant jurisdictions, which was included in Article 3(10) of the EBA’s draft RTS.

33. To preserve legal certainty and facilitate supervisory assessment, the EBA recommends reinstating an explicit requirement to this effect in the Commission’s RTS (see Annex 1).

Minor drafting and typographical points

34. The EBA notes minor drafting and typographical issues in the Commission’s RTS, notably: (i) “le protection provider” in Article 1(6) (which should “the protection provider”); and (ii) “multiple protections providers” in Article 1(8) (which should “multiple protection providers”). The EBA recommends correcting these for legal clarity (see Annex 1).

Conclusions

Taking into account the considerations set out above, the EBA does not agree with the substantive amendment introduced by the Commission concerning the creditworthiness threshold of the

protection provider, as reflected in the section “Specific comments”. The EBA considers that this amendment would weaken a core prudential safeguard underpinning the recognition of completion guarantees and would not be consistent with the prudential equivalence intended by Article 124(3)(a)(iii)(2) of the CRR.

The EBA also does not agree with the substantive amendment removing the requirement that the completion guarantee be mandatory under the national law of the Member State where the property is being built. The EBA considers this requirement to be a core element of the framework, necessary to ensure that the mechanism qualifies as a legal mechanism rather than a purely contractual arrangement and to guarantee comprehensive coverage of all residential units, thereby providing an important prudential safeguard.

With respect to the remaining amendments, which are of a non-substantive nature, the EBA acknowledges that several of them aim to improve the clarity and readability of the RTS. While the EBA does not object to a number of these changes, it considers that certain drafting adjustments would benefit from targeted refinements in order to avoid potential unintended effects and to ensure consistency between the operative provisions and the underlying prudential rationale of the RTS.

The EBA therefore invites the Commission to consider the targeted drafting clarifications set out in this Opinion, with a view to preserving legal certainty, supervisory consistency and the effective application of Article 124(14) CRR.

A revised version of the Commission’s RTS reflecting the EBA’s recommended adjustments is attached in Annex 1 to this Opinion.

This Opinion will be published on the EBA’s website.

Done at Paris, 20 February 2026

[signed]

[Helmut Ettl]

Vice Chairperson
For the Board of Supervisors

Annex I



Brussels, **XXX**
[...](2025) **XXX** draft

COMMISSION DELEGATED REGULATION (EU) .../...

of **XXX**

supplementing Regulation (EU) No 575/2013 of the European Parliament and of the Council with regard to regulatory technical standards specifying what constitutes an equivalent legal mechanism that ensures that a residential property under construction is completed within a reasonable time frame

(Text with EEA relevance)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

Article 124(14) of Regulation (EU) No 575/2013 empowers the Commission to adopt, following the submission of draft technical standards by the European Banking Authority (EBA), and in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010, delegated acts specifying what constitutes an equivalent legal mechanism ensuring that the property under construction is completed within a reasonable timeframe.

In accordance with Article 10(1) of Regulation (EU) No 1093/2010 establishing the EBA, the Commission shall decide within three months of receipt of the draft standards whether to endorse the drafts submitted. The Commission may also endorse the draft standards in part only, or with amendments, where the Union's interests so require, having regard to the specific procedure laid down in those Articles.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

In accordance with the third subparagraph of Article 10(1) of Regulation (EU) No 1093/2010, the EBA has conducted a public consultation on the draft regulatory technical standards submitted to the Commission in accordance with Article 124(14) of Regulation (EU) No 575/2013. The consultation paper was published on the EBA website on 13 May 2024 and the consultation closed on 15 August 2024. In addition, the EBA invited the Banking Stakeholder Group, set up in accordance with Article 37 of Regulation (EU) No 1093/2010, to provide its advice on the draft standards.

Together with the final draft technical standards, the EBA has submitted an explanation on how the outcome of the public consultation and the feedback received from stakeholders have been taken into account in the development of the final draft. In line with the requirements of Article 10(1) of Regulation (EU) No 1093/2010, the EBA has also submitted its impact assessment, including an analysis of the costs and benefits related to the draft technical standards. This analysis is available on the EBA website as part of the Final Draft RTS package.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

The final draft technical standards specify the prudential conditions under which a legal mechanism can be considered equivalent, for the purpose of Article 124(3)(a)(iii)(2) of Regulation (EU) No 575/2013, to ensure that the property under construction is completed within a reasonable timeframe.

To that end, the draft standards define the requirements applicable to the protection provider, notably in terms of its creditworthiness, and clarify that the provider must be a regulated institution or insurance undertaking. The draft standards also set out the operational and legal features of a qualifying completion guarantee, including the obligation to cover all remaining construction costs or, where completion is not possible, to repay the credit institution an amount equivalent to the outstanding exposure.

The standards further clarify that completion guarantees must be comprehensive, legally binding and enforceable, and must not contain clauses that allow the provider to unilaterally reduce or cancel its obligations. Where the protection provider and the credit institution belong to the same group, the treatment of the property as completed may not be recognised at the consolidated level.

COMMISSION DELEGATED REGULATION (EU) .../...

of **XXX**

supplementing Regulation (EU) No 575/2013 of the European Parliament and of the Council with regard to regulatory technical standards specifying what constitutes an equivalent legal mechanism that ensures that a residential property under construction is completed within a reasonable time frame

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,
Having regard to Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and amending Regulation (EU) No 648/2012², and in particular Article 124(14), thereof,

Whereas:

- (1) To ensure that the property under construction, as referred to in Article 124(3), point (a)(iii)(2), of Regulation (EU) No 575/2013, is completed within a reasonable timeframe, it is necessary to ensure that the legal mechanism that is to ensure that the property under construction is completed within a reasonable timeframe provides for a protection provider in capacity to act in a reasonable timeframe and has sufficient credit worthiness. **In order to ensure that such mechanism is equivalent to the arrangements referred to in that provision, it should form part of the national legal framework applicable to the construction of the residential property.** Credit institutions and insurance undertakings that are authorised in the Union and subject to robust prudential requirements are the best placed from an operational and procedural point of view. It is therefore necessary to lay down that only those institutions and undertakings can act as protection providers.
- (2) Where the protection is provided by the entity benefiting from that protection, there would be no reduction of risk, as that entity would at the same time benefit from the guarantee and be liable for it. Therefore, where both the lending institution and the protection provider belong to the same group, the treatment should not apply at a consolidated level. Instead, the recognition of risk mitigation benefits arising from the completion guarantee, specifically, the treatment of the property as completed, should be limited to the calculation of own funds requirements at the individual institution level.
- (3) As the coexistence of several protection providers may hinder coordination for the completion of the whole property, it is necessary to require either the completion

² Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and amending Regulation (EU) No 648/2012 (OJ L 176, 27.6.2013, p. 1, ELI: <http://data.europa.eu/eli/reg/2013/575/oj>).

guarantees for all the housing units in the residential property under construction are provided by the same entity, or that multiple protection providers jointly and severally provide a single guarantee.

- (4) To maintain the effectiveness of the completion guarantee and to ensure that the protection provider remains committed to the timely completion of the residential property, the protection provider should not be allowed to increase the effective cost ~~of the construction of the protection that property~~, or to unilaterally reduce, **the duration of or cancel the protection**. **The protection provider may also not otherwise** ~~or~~ relieve itself from its obligations, except in cases related to unexpected and unavoidable events covered by another insurance or guarantee.
- (5) A completion guarantee may be turned into a repayment guarantee, which can have as a consequence that the obligor receives financial compensation from the protection provider. To avoid that the obligor can freely dispose of such compensation, he or she should be obliged to transfer such compensation to the lending institution, to reimburse the loan secured by the unfinished property.
- (6) This Regulation is based on the draft regulatory technical standards submitted to the Commission by the European Banking Authority.
- (7) The European Banking Authority has conducted open public consultations on the draft regulatory technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the advice of the Banking Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council³,

HAS ADOPTED THIS REGULATION:

Article 1

Equivalent legal mechanism

1. A legal mechanism that ensures that the property under construction is completed within a reasonable timeframe, as referred to in Article 124(3), point (a)(iii)(2), of Regulation (EU) No 575/2013, shall comply with the conditions laid down in paragraphs 2 to 12~~3~~.
2. **The completion guarantee shall be required by the law of the Member State where the residential property is being built until its construction is completed.**
3. The legal mechanism requires and ensures the enforceability of a completion guarantee that applies until the construction of the residential property is completed **and that is documented in writing and is legally effective and enforceable in all relevant jurisdictions.**
4. The completion guarantee referred to in paragraph 2 is offered by a protection provider, which is either a credit institution as referred to in Article 4(1), point (3),

³ Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010, p. 12, ELI: <http://data.europa.eu/eli/reg/2010/1093/oj>).

of Regulation (EU) No 575/2013, or an insurance undertaking as referred to in Article 4(1), point (5) of that Regulation.

5. ~~The protection provider and the lending institution do not belong to the same group.~~
If the protection provider and the lending institution belong to the same group, the completion guarantee shall not qualify as equivalent legal mechanism in accordance with Article 124(2) of Regulation (EU) 575/2013 for the consolidated level of any group to which both the lending institution and the protection provider belong.
6. The risk weight applicable to a direct unsecured exposure to the protection provider does not exceed ~~30%~~ 20% of such exposure under Articles 120 ~~to~~ or 122 of Regulation (EU) No 575/2013.
7. The extent of the completion guarantee referred to in paragraph ~~2~~ 3 is clearly set out in the contractual documentation between the lending institution, ~~to~~ the protection provider and the obligor.
8. The completion guarantee referred to in paragraph ~~2~~ 3 is valid until the completion of the residential property under construction.
9. Where there are several housing units within a given residential property under construction, all housing units are covered by a single completion guarantee, either provided by one single protection provider, or by multiple protections providers that are jointly and severally liable for that single completion guarantee.
10. Under the completion guarantee, the obligation of the protection provider is activated in a timely manner, with no conditions limiting the activation of the completion guarantee. A default of the obligor shall not prevent the activation of the completion guarantee.
11. The completion guarantee does not contain any clause which enables the protection provider, for reasons other than those that under the direct control of the obligor, including an increase in the risk that the real estate developer will not complete the property under construction, to do any of the following:
 - (a) increase the effective cost of the completion guarantee;
 - (b) cancel the completion guarantee;
 - (c) reduce unilaterally the amount or the duration of the completion guarantee;
 - (d) free the protection provider:
 - (i) from the obligation to complete in a timely manner the property under construction as specified in paragraph ~~11~~ 12, point (a);
 - (ii) where a completion guarantee is turned into a repayment guarantee, from the payment obligation specified in paragraph ~~11~~ 12, point (b).

Points ~~(a) to (d)~~ shall not apply in the case of unpredictable and unavoidable events that are beyond the control of the parties involved, provided that those events are covered by another insurance or guarantee to the benefit of the protection provider, of the lending institution or of the obligor. Points (a) to (c) shall continue to apply in all cases.

12. As soon as it is no longer ensured that the construction of the residential property will be completed within a reasonable time frame, the protection provider is obliged:
- (a) to finance, without undue delay and without limitation or cap, including for potential budget overruns, all remaining construction costs for the completion of the construction of the residential property until its completion;
 - (b) where a completion guarantee is turned into a repayment guarantee as specified under Article 2, to pay without undue delay to the lending institution directly or through the obligor an amount that is at least equal to the amount still owed by the obligor to the lending institution in relation to the unfinished residential property.
13. The obligor and the lending institution have a legally enforceable right against the protection provider for the obligations referred to in paragraph ~~11~~12, points (a) or (b), **in all relevant jurisdictions**.

Article 2

Conversion of a completion guarantee into a repayment guarantee

No completion guarantee shall be converted into a repayment guarantee unless all of the following conditions are met:

- (a) the amount referred to in Article 1(~~11~~12), point (b), becomes legally due immediately;
- (b) where the protection provider pays the amount referred to in Article 1(~~11~~12), point (b), through the obligor, the obligor is legally required to repay the received amount to the lending institution immediately once he or she has received the amount concerned from the protection provider;
- (c) no additional amounts of the exposure secured by the unfinished property can be drawn after the activation of the repayment guarantee, unless a new equivalent legal mechanism meeting all the criteria laid down in Article 1 is set in place before such drawings are possible.

Article 3

Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

It shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Commission
The President