



EUROPEAN COMMISSION  
DIRECTORATE-GENERAL FOR FINANCIAL STABILITY, FINANCIAL SERVICES AND CAPITAL  
MARKETS UNION

The Director-General

Brussels  
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José Manuel Campa  
Chair  
European Banking Authority  
20 avenue André Pothin  
92927 Paris  
France

**Subject: Draft regulatory technical standards specifying what constitutes an equivalent legal mechanism ensuring that the property under construction is completed within a reasonable time frame – intention to adopt with changes according to art 10(1) of Regulation (EU) 1093/2010**

Dear Mr Campa,

On 5 August 2025, the European Banking Authority ('EBA') sent to the Commission the draft regulatory technical standards ('RTS') supplementing Regulation (EU) No 575/2013 <sup>(1)</sup> of the European Parliament and of the Council ('Capital Requirements Regulation' or 'CRR') with regard to regulatory technical standards specifying what constitutes an equivalent legal mechanism for the purpose of CRR Article 124(3), point (a)(iii)(2), ensuring that a residential property under construction is completed within a reasonable time frame. The draft RTS specify further prudential conditions to that effect.

In particular, the EBA was tasked under CRR Article 124(14) to specify what constitutes an equivalent legal mechanism, reflecting a situation present in some Member States whereby a protection provider (i.e. a private entity, for example a credit institution or an insurance undertaking) guarantees that the property under construction will be finished within a reasonable time frame. This mandate aimed at acknowledging existing national practices and legislations that proved resilient over the past decades and economic cycles.

The final EBA report <sup>(2)</sup> confirmed the importance of the mandate under CRR Article 124(14), stating that the existence of an equivalent legal mechanism appears the only possibility to make effective the CRR provisions, under Article 124(3), point (a)(iii)(2), allowing a preferential risk-

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<sup>(1)</sup> OJ L 176, 27.6.2013, pp. 1–337

<sup>(2)</sup> Draft regulatory technical standards (EBA/RTS/2025/05) on equivalent mechanism for unfinished property under Article 124(14) of EU Regulation 575/2013 (<https://www.eba.europa.eu/publications-and-media/press-releases/eba-publishes-its-final-draft-technical-standards-equivalent-legal-mechanism-unfinished-property>)

weight for unfinished immovable property with more than four residential housing units, and assimilating it to an exposure secured by an immovable property.

However, when specifying the necessary prudential conditions to qualify as equivalent legal mechanism, in particular that the direct unsecured exposure to the protection provider of the completion guarantee shall not exceed a risk weight of 20% under Chapter 2 of Title II of Part III of the CRR, the draft RTS would indirectly impose structural effects on the market for protection providers in some of the concerned Member States, possibly leading to significant concentration and related implications for the financial stability and fair competition in these Member States. These structural effects were not assessed by the EBA.

Considering the mandate, it is important for the draft RTS to find the right balance between prudence and adequate recognition of existing practices, also reflecting the extensive scrutiny by micro-prudential and macro-prudential authorities on real estate markets. For these reasons, the RTS would need to be redrafted to increase the maximum risk weight for protection providers for the completion guarantees up to a level that would allow sufficient substitutability.

Moreover, a significant number of provisions of the draft RTS were lacking clarity as to the real addressee of the provisions in question. This created legal uncertainty and left the possibility open for undesirable interpretations. Therefore, some redrafting was deemed necessary to bring the necessary clarity to these provisions.

Finally, the draft RTS were found to refer specifically to national legal systems and concepts found therein. Referring to concepts that are not necessarily harmonised at EU level, with no precise nor delineated meaning, raised uncertainties <sup>(3)</sup> that had to be addressed.

Based on the above, I inform you that my services, acting in accordance with the procedure set out in the sixth and seventh subparagraphs of Article 10(1) of Regulation (EU) 1093/2010, intends to propose the Commission to adopt the draft RTS submitted by EBA with some amendments, as set out in the annex.

In view of the adoption of the RTS by the Commission, I therefore kindly ask you to confirm that EBA agrees with the proposed technical adjustments to the RTS.

I would like to express our appreciation for the work undertaken by EBA to deliver the draft RTS and look forward to continuing our good cooperation on this legal act.

Yours sincerely,

John BERRIGAN  
(e-signed)

Enclosure: Amended draft Commission Delegated Regulation supplementing Regulation (EU) No 575/2013 of the European Parliament and of the Council with regard

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<sup>(3)</sup> Article 3(10), point (c) of the draft RTS refers to *force majeure*

to regulatory technical standards specifying what constitutes an equivalent legal mechanism ensuring that the property under construction is completed within a reasonable time frame

c.c.: Aurore Lalucq, MEP, Chair of the Committee on Economic and Monetary Affairs (EP);  
ECON Secretariat (EP);  
Makis Keravnos, President of the ECOFIN (Council);  
Thérèse Blanchet, Secretary-General (Council).