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COVER NOTE

From: Letter from José Manuel Campa, Chairperson, European Banking Authority (EBA)

date of receipt: 5 August 2025

To: John Berrigan, Director General Directorate-General for Financial Stability, Financial Services and Capital Markets Union (FISMA), European Commission

Subject: Banking Prudential: draft RTS specifying what constitutes an “equivalent legal mechanism” to ensure that a residential property under construction is completed within a reasonable timeframe, as referred to in Article 124(3)(a)(iii)(2) of the CRR

**REDACTED DOCUMENT ACCESSIBLE TO THE PUBLIC (12.12.2025). ONLY
MARGINAL PERSONAL DATA HAVE BEEN REDACTED.**

Delegations will find attached the draft RTS referred to above that the EBA recently submitted to the Commission. The RTS provides a harmonised framework at EU level for the prudential treatment of exposures secured by unfinished residential properties, recognising national completion guarantee schemes that meet strict prudential safeguards. This RTS forms part of the first phase of the EBA’s credit risk roadmap on the implementation of the EU Banking Package.

THE CHAIRPERSON

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EBA-2025-D-5280

John Berrigan
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Directorate-General for Financial Stability,
Financial Services and Capital Markets Union (FISMA)
European Commission
Rue de Spa 2
1049 Brussels
Belgium

5 August 2025

Subject: Submission of the RTS on the equivalent legal mechanism under Article 124(14) CRR

Dear Mr Berrigan,

In accordance with Article 124(14) of Regulation (EU) No 575/2013 (the Capital Requirements Regulation, CRR), as amended by Regulation (EU) 2019/876, the EBA is mandated to develop regulatory technical standards (RTS) specifying what constitutes an "equivalent legal mechanism" to ensure that a residential property under construction is completed within a reasonable timeframe, as referred to in Article 124(3)(a)(iii)(2) of the CRR. The RTS provide a harmonised framework at EU level for the prudential treatment of exposures secured by unfinished residential properties, recognising national completion guarantee schemes that meet strict prudential safeguards. This RTS forms part of the first phase of the EBA's credit risk roadmap on the implementation of the EU Banking Package.

It is my pleasure to submit to you today the final draft of these RTS, as endorsed by the EBA's Board of Supervisors. These standards were developed following the procedure described in Article 10 of Regulation (EU) No. 1093/2010 (EBA Regulation). As previously agreed, the draft regulatory technical standards are attached in Legiswrite format.

In addition, the draft regulatory technical standards will be published on the EBA's public website.

I look forward to the completion of the process of adoption of the standards.

Yours sincerely,


José Manuel Campa

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CC: Aurore Lalucq, Chair of the Committee on Economic and Monetary Affairs European Parliament
[REDACTED] ECDN Secretariat
Stephanie Lose, ECDN Chair, Minister for Economic Affairs, Presidency of the Council of the EU
Tuomas Saareheimo, Chair of Economic and Finance Committee, Council of the European Union
Thérèse Blanchet, Secretary-General, Council of the European Union
Ugo Bassi, Director Dir D, Banking, Insurance and Financial Crime, DG FISMA
[REDACTED] Unit D1, Bank regulation and supervision, DG FISMA

End: Final draft RTS on the equivalent legal mechanism under Article 124(14) CFR.



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



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

of XXX

on 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 ensuring that the 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 No (EU) 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 No (EU) 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 February 2024 and the consultation closed on 15 April 2024. In addition, the EBA invited the Banking Stakeholder Group, set up in accordance with Article 37 of Regulation No (EU) 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 No (EU) 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

on 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 ensuring that the 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 investment firms and amending Regulation (EU) No 648/2012, and in particular Article 124(14), thereof,

Whereas:

- (1) Taking into account proportionality while at the same time ensuring strict prudential standards, it is appropriate to consider a legal mechanism as equivalent for the second indent of Article 124(3)(a)(iii) of Regulation (EU) 575/2013 if this legal mechanism ensures that a protection provider, has the legal powers and ability to ensure that the property under construction will be finished within a reasonable time frame and is required to or has committed in a legally binding manner to do so where the construction would otherwise not be finished within a reasonable time frame.
- (2) Serving as a significant risk mitigation tool and acting as a safety net, the protection provider should issue a completion guarantee, providing sufficient assurances that contractual obligations in relation to unfinished properties will be met, thus fostering trust and reducing potential disputes on completion of the property.
- (3) Through this completion guarantee, the protection provider should be required, without undue delay, to finance all remaining construction costs, including any potential budget overruns, to ensure the completion of the property; alternatively, when the construction cannot be completed, including cases where attempts have been made to do so, it should be obligated to pay to the institution, either directly or through the obligor, an amount at least equal to the amount owed by the obligor of the exposure for which the institution treats the unfinished immovable property as securing this exposure. In this second case, the repayment should be required to be done without undue delay, i.e. all amounts owed to the bank should become immediately due once the repayment guarantee is triggered. It should be practically ensured that no additional undrawn amounts of the exposure for which the institution treats the unfinished immovable property as securing this exposure can be drawn after the activation of the repayment guarantee, unless a new equivalent legal mechanism meeting all the criteria in this regulation is set in place.
- (4) In order to make sure that the entity that should ensure that the property under construction will be finished has the legal powers and ability to do so, it is necessary to specify the minimum requirements on that entity. In particular, the ability of the entity

to ensure that the property under construction will be finished should not be impeded by insufficient credit worthiness. This minimum credit worthiness should be evaluated in light of the minimum own fund requirements applicable to exposures secured by residential immovable properties, that cannot have a risk weight above 20%. In addition, the protection provider should be a regulated institution or an insurance undertaking, in line with the nature of the completion guarantee.

- (5) When the protection is provided by the entity benefiting from this protection, no reduction of risk is observed, as the entity would at same time benefit from the guarantee and be liable for it. Therefore, if both the institution and the protection provider belong to the same group, the treatment of the property as completed 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 solo (individual institution) level.
- (6) As the coexistence of several providers may hinder coordination for the completion of the whole property, it is necessary to require either the completion guarantees for all the housing units in a given residential immovable property under construction are provided by the same entity; or that multiple protection providers jointly and severally provide a single guarantee.
- (7) Similarly, to maintain the effectiveness of the completion guarantee and ensure the protection provider remains committed to the timely completion of the property, it should be foreseen that no clauses increase the effective cost or allow the protection provider to unilaterally reduce, cancel, or relieve themselves from their obligations, except in cases of force majeure covered by another insurance or guarantee.
- (8) Where the completion guarantee is turned into a repayment guarantee, any financial compensation paid to the obligor shall be ultimately transferred to the institution to reimburse the loan secured by the unfinished property, so that these monies are not left at the free disposal of the obligor.
- (9) This Regulation is based on the draft regulatory technical standards submitted to the Commission by the European Banking Authority.
- (10) 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 Council.

HAS ADOPTED THIS REGULATION:

Article 1
Equivalent Legal mechanism

A completion guarantee provided by a protection provider that meets all the conditions set out in Article 2 and where the guarantee meets all the conditions set out in Article 3, shall constitute an equivalent legal mechanism for the purpose of Article 124(3)(a)(iii)(2) of Regulation (EU) No 575/2013.

Article 2
Requirements for the protection provider

1. The protection provider shall be an institution or an insurance undertaking subject to prudential requirements in accordance with Regulation 575/2013 or Directive 2009/138/EC.
2. Where the remaining costs required for the completion of the immovable property would constitute a direct unsecured exposure to the provider of the completion guarantee, the risk weight applicable to such exposure under Chapter 2 of Title II of Part III of Regulation (EU) No 575/2013 shall not exceed 20%.
3. 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.

Article 3
Requirements for completion guarantees

1. 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.
2. As soon as it is no longer ensured that the construction of the immovable property protected by the completion guarantee will be finished within a reasonable time frame, including for reasons related to the real estate developer, the protection provider shall be legally required to perform at least one of the following obligations without undue delay:
 - (a) Finance, without limitation or cap including for potential budget overruns, all remaining construction costs for the completion of the construction of such property until completion in order to ensure that the construction work continues and that the property under construction is actually completed within a reasonable timeframe; or
 - (b) Where a completion guarantee is turned into a repayment guarantee, pay to the institution directly or through the obligor an amount at least equal to the amount owed by the obligor of the exposure for which the institution treats the unfinished immovable property as securing this exposure.
3. A single completion guarantee shall cover all housing units in a given residential immovable property under construction. In case of more than one provider for a single completion guarantee, those providers shall be jointly and severally liable in a legally binding manner.
4. The obligor and the institution shall have a legally enforceable claim against the protection provider for the obligations according to point (a) or (b) of paragraph 2, as applicable.
5. It must be legally and practically ensured that the obligation of the protection provider is activated in a timely manner. No additional activation conditions shall exist in the completion guarantee, and a default of the obligor shall not prevent the activation of the completion guarantee.
6. In the event of the conversion of such completion guarantee into a repayment guarantee in accordance with paragraph 2(b), all the following conditions shall be met:

- (a) The amount referred to in paragraph 2(b) becomes legally due immediately;
 - (b) In case the protection provider pays the amount referred to in paragraph 2(b) through the obligor, the obligor shall be legally required to repay the received amount to the institution and this payment shall become legally due immediately once the obligor has received this amount from the protection provider;
 - (c) It shall be ensured that 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 in this regulation is set in place before such drawings are possible.
7. The extent of the completion guarantee shall be clearly set out and incontrovertible.
8. The completion guarantee shall not have a fixed duration and shall apply at least until the completion of the property under construction.
9. The completion guarantee shall not contain any clause the fulfilment of which is outside the direct control of the obligor, where such clause would increase the effective cost of the completion guarantee including due to an increase in the risk that the real estate developer will not complete the property under construction or would allow the protection provider to do any of the following:
- (a) Cancel the completion guarantee;
 - (b) Reduce unilaterally the amount or the duration of the completion guarantee;
 - (c) Free or in any way relieve the protection provider, except only in cases of force majeure if they are covered by other insurance or guarantee, from the obligation to complete in a timely manner the property under construction as specified in paragraph 2, point (a) or, where a completion guarantee is turned into a repayment guarantee, from the payment obligation specified in paragraph 2, point (b).
10. The completion guarantee shall be documented in writing and shall be legally effective and enforceable in all relevant jurisdictions.

Article 4
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*.

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

Done at Brussels,

For the Commission
The President