



Commission de Surveillance  
du Secteur Financier

CSSF Regulation No 18-03  
as amended by  
CSSF Regulation No 23-03

This consolidated text was drawn up by the CSSF for information purposes only. In case of discrepancies between the French and the English consolidated texts, the texts published in the Journal officiel du Grand-Duché de Luxembourg are the sole authoritative and universally valid versions.

## **CSSF Regulation No 18-03**

**1) implementing certain discretions of Regulation (EU) No 575/2013 and implementing Guideline (EU) 2017/697 of the European Central Bank of 4 April 2017 on the exercise of options and discretions available in Union law by national competent authorities in relation to less significant institutions (ECB/2017/9) and**

**2) repealing CSSF Regulation N° 14-01**

**(Mém. A 2018, No 486)**

as amended by:

CSSF Regulation No 23-03 of 30 June 2023

- 1) implementing Guideline (EU) 2022/508 of 25 March 2022 amending Guideline (EU) 2017/697 of the European Central Bank on the exercise of options and discretions available in Union law by national competent authorities in relation to less significant institutions (ECB/2022/12) and
- 2) amending CSSF Regulation No 18-03 of 5 June 2018.

The Executive Board of the Commission de Surveillance du Secteur Financier,

Having regard to Article 108a of the Constitution;

Having regard to the Law of 23 December 1998 establishing a financial sector supervisory commission ("Commission de surveillance du secteur financier"), as amended, and in particular Article 9(2) thereof;

Having regard to the Law of 5 April 1993 on the financial sector, as amended, and in particular Article 42 thereof;

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;

Having regard to Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC;

Having regard to Commission Delegated Regulation (EU) 2015/61 of 10 October 2014 to supplement Regulation (EU) No 575/2013 of the European Parliament and the Council with regard to liquidity coverage requirement for Credit Institutions;

Having regard to Council Regulation (EU) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions;

Having regard to Regulation (EU) No 468/2014 of the European Central Bank of 16 April 2014 establishing the framework for cooperation within the Single Supervisory Mechanism between the European Central Bank and national competent authorities and with national designated authorities (ECB/2014/17);

Having regard to Regulation (EU) 2016/445 of the European Central Bank of 14 March 2016 on the exercise of options and discretions available in Union law (ECB/2016/4);

Having regard to Guideline (EU) 2017/697 of the European Central Bank of 4 April 2017 on the exercise of options and discretions available in Union law by national competent authorities in relation to less significant institutions (ECB/2017/9);

Having regard to the Recommendation of the European Central Bank of 4 April 2017 on common specifications for the exercise of some options and discretions available in Union law by national competent authorities in relation to less significant institutions (ECB/2017/10);

Having regard to Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012, of the European Parliament and of the Council, as transposed by the Law of 18 December 2015 on the failure of credit institutions and certain investment firms, as amended;

Having regard to Commission Delegated Regulation (EU) 2018/171 of 19 October 2017 on supplementing Regulation (EU) No 575/2013 of the European Parliament and of the Council with regard to regulatory technical standards for the materiality threshold for credit obligations past due;

Having regard to the opinion of the Consultative Committee for Prudential Regulation;

Decides:

## **Part I**

### **Definitions**

#### **Article 1**

For the purposes of this regulation, the following definitions shall apply:

- 1) "**competent authority**" shall mean a competent authority as defined in point (2) of Article 1 of the Law of 5 April 1993 on the financial sector, as amended. In accordance with Regulation (EU) No 1024/2013, the ECB is the competent authority for significant credit institutions and the CSSF is the competent authority for less significant credit institutions.
- 2) "**resolution authority**" shall mean an authority as defined in point (8) of Article 1 of the Law of 18 December 2015 on the failure of credit institutions and certain investment firms, as amended;
- 3) "**ECB**" shall mean the European Central Bank;
- 4) "**significant credit institution**" shall mean a credit institution as defined in Article 2(16) of Regulation (EU) No 468/2014 which has the status of significant entity directly supervised by the ECB pursuant to an ECB decision based on Article 6(4) or Article 6(5)(b) of Regulation (EU) No 1024/2013;
- 5) "**less significant credit institution**" shall mean a credit institution as defined in Article 2(7) of Regulation (EU) No 468/2014 which has the status of less significant entity directly supervised by the CSSF in its capacity as national competent authority within the meaning of Article 2(2) of Regulation (EU) No 1024/2013;
- 6) "**LFS**" shall mean the Law of 5 April 1993 on the financial sector, as amended.

Without prejudice to the definitions of this article, the definitions included in Article 1 of the LFS shall apply to this regulation.

## **Part II**

### **Requirements, options and discretions applicable to CRR institutions**

#### **Article 2**

##### **Scope**

Part II of this regulation shall apply to all CRR institutions as well as to Luxembourg branches of credit institutions or CRR investment firms incorporated in a third country, hereinafter deemed to be included in the notion of CRR institution. "Article 3(1) and Article 4(1) shall also apply to investment firms other than CRR investment firms."<sup>1</sup>

#### **Section 1**

##### **Own funds**

#### **Article 3**

##### **Recognition of Additional Tier 1 instruments**

(1) "Credit institutions and investment firms"<sup>2</sup> that wish to include Additional Tier 1 instruments in their own funds shall obtain the prior approval of the competent authority. The competent authority shall verify the compliance with the conditions set out in Part Two of Regulation (EU) No 575/2013 and in the delegated regulations in force.

(2) CRR institutions that wish to include Additional Tier 1 instruments in their own funds in accordance with paragraph 1 shall include in the contractual documentation governing the instrument concerned that the resolution authority has the power to write down all these instruments or to convert them into Common Equity Tier 1 instruments at the point of non-viability and before any resolution action is taken in accordance with the Law of 18 December 2015 on the failure of credit institutions and certain investment firms, as amended.

(3) A copy of the final contractual documentation governing the instrument concerned, where applicable, duly signed by the parties, shall be provided to the competent authority once the approval referred to in paragraph (1) has been obtained.

#### **Article 4**

##### **Recognition of Tier 2 instruments**

(1) "Credit institutions and investment firms"<sup>3</sup> that wish to include Tier 2 instruments in their own funds shall obtain the prior approval of the competent authority. The competent authority shall verify the compliance with the conditions set out in Part Two of Regulation (EU) No 575/2013 and in the delegated regulations in force.

(2) CRR institutions that wish to include Tier 2 instruments in their own funds shall include in the contractual documentation governing the instrument concerned that the resolution authority has the power to write down all these instruments or to convert them into Common Equity Tier 1 instruments at the point of non-viability and before any resolution action is taken in accordance with the Law of 18 December 2015 on the failure of credit institutions and certain investment firms, as amended.

---

<sup>1</sup> CSSF Regulation No 23-03

<sup>2</sup> CSSF Regulation No 23-03

<sup>3</sup> CSSF Regulation No 23-03

(3) A copy of the final contractual documentation governing the instrument concerned, where applicable, duly signed by the parties, shall be provided to the competent authority once the approval referred to in paragraph (1) has been obtained.

## **Section 2**

### **Large exposures**

#### **Article 5**

##### **Full exemptions**

“(1) Pursuant to Article 493(3) of Regulation (EU) No 575/2013, the provisions of paragraph 2 below shall apply instead of the provisions of Article 400(2)(a) to (j) and of Article 400(3) of Regulation (EU) No 575/2013 until 31 December 2028 or until the date of entry into force of any legal act following the review in accordance with Article 507 of that regulation, whichever is the earlier.”<sup>4</sup>

(2) The following exposures shall be fully exempted from the application of Article 395(1) of Regulation (EU) No 575/2013:

- (a) covered bonds falling within Article 129(1), (3) and (6) of Regulation (EU) No 575/2013;
- (b) asset items constituting claims on regional governments or local authorities of Member States where those claims would be assigned a 20% risk weight under Part Three, Title II, Chapter 2 of Regulation (EU) No 575/2013 and other exposures to or guaranteed by those regional governments or local authorities, claims on which would be assigned a 20% risk weight under Part Three, Title II, Chapter 2 of that regulation;
- (c) asset items constituting claims on and other exposures, including participations or other kinds of holdings, to regional or central credit institutions with which the credit institution belongs to a network in accordance with legal or statutory provisions and which are responsible, under those provisions, for cash-clearing operations within the network;
- (d) asset items constituting claims on and other exposures to credit institutions incurred by credit institutions, one of which operates on a non-competitive basis and provides or guarantees loans under legislative programmes or its statutes, to promote specified sectors of the economy under some form of government oversight and restrictions on the use of the loans, provided that the respective exposures arise from such loans that are passed on to the beneficiaries via credit institutions or from the guarantees of these loans;
- (e) asset items constituting claims on and other exposures to institutions as defined in Article 391 of Regulation (EU) No 575/2013, provided that those exposures do not constitute such institutions' own funds, do not last longer than the following business day and are not denominated in a major trading currency, such as the euro (EUR), the US dollar (USD), the pound sterling (GBP) or the yen (JPY);
- (f) asset items constituting claims on central banks in the form of required minimum reserves held at those central banks which are denominated in their national currencies;
- (g) asset items constituting claims on central governments in the form of statutory liquidity requirements held in government securities which are denominated and funded in their national currencies provided that the credit assessment of those central governments assigned by a nominated ECAI is investment grade;

---

<sup>4</sup> CSSF Regulation No 23-03

- (h) 50% of medium/low risk off-balance sheet documentary credits and of medium/low risk off-balance sheet undrawn credit facilities referred to in Annex I of Regulation (EU) No 575/2013 and 80% of guarantees other than loan guarantees which have a legal or regulatory basis and are given for their members by mutual guarantee schemes possessing the status of credit institutions;
- (i) legally required guarantees used when a mortgage loan financed by issuing mortgage bonds is paid to the mortgage borrower before the final registration of the mortgage in the land register, provided that the guarantee is not used as reducing the risk in calculating the risk-weighted exposure amounts; and
- (j) assets items constituting claims on and other exposures to recognised exchanges.

*(CSSF Regulation No 23-03)*

“(3) In accordance with Article 400(2)(k) and (l) of Regulation (EU) No 575/2013, the following exposures shall be fully exempted from the application of Article 395(1) of Regulation (EU) No 575/2013:

- (a) exposures in the form of a collateral or a guarantee for residential loans, provided by an eligible protection provider referred to in Article 201 of Regulation (EU) No 575/2013 qualifying for the credit rating which is at least the lower of the following:
  - i) credit quality step 2;
  - ii) the credit quality step corresponding to the central government foreign currency rating of the Member State where the protection provider's headquarters are located;
- (b) exposures in the form of a guarantee for officially supported export credits, provided by an export credit agency qualifying for the credit rating which is at least the lower of the following:
  - i) credit quality step 2;
  - ii) the credit quality step corresponding to the central government foreign currency rating of the Member State where the export credit agency's headquarters are located.”

### **Section 3**

#### **Accounting standards**

#### **Article 6**

#### **Article 24(2) of Regulation (EU) No 575/2013: Valuation of assets and off-balance sheet items and use of IFRS**

(1) By way of derogation from Article 24(1) of Regulation (EU) No 575/2013, CRR institutions shall effect the valuation of assets and off-balance sheet items and determine own funds in accordance with International Accounting Standards as applicable under Regulation (EC) No 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards.

(2) This article shall not apply to CRR investment firms and to Luxembourg branches of CRR investment firms incorporated in a third country.

**Article 7** (repealed by CSSF Regulation No 23-03)

### **Part III**

#### **Options and discretions applicable to less significant credit institutions, CRR investment firms and Luxembourg branches of credit institutions and of CRR investment firms incorporated in a third country**

#### **Article 8**

##### **Scope**

(1) Part III of this regulation shall apply to CRR institutions which are less significant credit institutions and CRR investment firms. It shall also apply to Luxembourg branches of credit institutions and of CRR investment firms incorporated in a third country, hereinafter deemed to be included in the concept of CRR institution.

(2) Part III shall not apply to significant credit institutions which are subject to Regulation (EU) 2016/445 with respect to options and discretions provided for in Regulation (EU) No 575/2013 and in Commission Delegated Regulation (EU) No 2015/61. For the purposes of Part III, the term "CRR institution" shall exclude significant credit institutions.

#### **Section 1**

##### **Own funds**

#### **Article 9**

##### **Article 49(1) and (3) of Regulation (EU) No 575/2013: Requirement for deduction where consolidation, supplementary supervision or institutional protection schemes are applied**

(1) CRR institutions that wish to exercise the option provided for in Article 49(1) of Regulation (EU) No 575/2013 not to deduct the holdings of own funds instruments of a financial sector entity in which the parent institution, parent financial holding company or parent mixed financial holding company has a significant investment, shall obtain the prior approval of the CSSF. The CSSF shall verify the compliance with the conditions set out in Article 49(1) of Regulation (EU) No 575/2013.

(2) The option provided for in Article 49(3) of Regulation (EU) No 575/2013 shall not be exercised.

#### **Article 10**

##### **Article 89(3) of Regulation (EU) No 575/2013: Treatment of qualifying holdings outside the financial sector**

Pursuant to Article 89(3) of Regulation (EU) No 575/2013, for the purpose of calculating the capital requirement in accordance with Part Three of that regulation, CRR institutions shall apply a risk weight of 1,250% to the greater of the following:

- i) the amount of qualifying holdings referred to in Article 89(1) in excess of 15% of eligible capital of the CRR institution; and
- ii) the total amount of qualifying holdings referred to in Article 89(2) that exceed 60% of the eligible capital of the CRR institution.

**Article 11** *(repealed by CSSF Regulation No 23-03)*

**Article 12** *(repealed by CSSF Regulation No 23-03)*

### **Article 13**

#### **Article 178(1)(b) of Regulation (EU) No 575/2013: Default of an obligor**

For exposure classes specified in Article 178(1)(b) of Regulation (EU) No 575/2013, CRR institutions shall apply the 'more than 90 days past due' standard.

### **Article 14**

#### **Article 178(2)(d) of Regulation (EU) No 575/2013: Setting of a materiality threshold for credit obligations past due**

(1) The reasonable amount of the absolute component of the materiality threshold for exposures other than retail exposures in accordance with Article 2(2) of Regulation (EU) 2018/171 shall not exceed EUR 500.

(2) The reasonable amount of the absolute component of the materiality threshold for retail exposures in accordance with Article 1(2) of Regulation (EU) 2018/171 shall not exceed EUR 100.

(3) The reasonable level of the relative component in accordance with Article 1(2) and Article 2(2) of Regulation (EU) 2018/171 is set at 1%.

CRR institutions shall apply the materiality thresholds on all their exposures as from 1 January 2020 at the latest. A derogation to this date may be authorised by the CSSF upon fully reasoned request and only in exceptional cases but the application shall be no later than 31 December 2020.

**Article 15** *(repealed by CSSF Regulation No 23-03)*

## **Section 2**

### **Liquidity requirements**

### **Article 16**

#### **Article 420(2) of Regulation (EU) No 575/2013: Liquidity outflows**

During the assessment of their liquidity outflows, CRR institutions shall use an outflow rate of 5% for trade finance off-balance sheet items referred to in Article 429 of Regulation (EU) No 575/2013 and in Annex I thereto. CRR institutions shall report corresponding liquidity outflows in accordance with Commission Implementing Regulation (EU) No 680/2014 of 16 April 2014 laying down implementing technical standards with regard to supervisory reporting of institutions.

*(CSSF Regulation No 23-03)*

#### **Article 16a**

#### **Article 12(1)(c)(i) of Delegated Regulation (EU) 2015/61: liquidity coverage ratio - identification of Member State or third country major stock indices**

The following indices shall qualify as major stock indices for the purpose of determining the scope of shares that could qualify as level 2B assets pursuant to Article 12(1)(c) of Commission Delegated Regulation (EU) 2015/61:

- i) the indices listed in Annex I to Commission Implementing Regulation (EU) 2016/1646;



- ii) any major stock index, not included under point (i), in a Member State or in a third country, identified as such for the purposes of this point by the competent authority of the relevant Member State or third country public authority;
- iii) any major stock index, not included under points (i) or (ii), which comprises leading companies in the relevant jurisdiction.

#### **Article 16b**

##### **Article 12(3) of Delegated Regulation (EU) 2015/61: liquidity coverage ratio - level 2B assets**

(1) CRR institutions that in accordance with their statutes of incorporation are unable for reasons of religious observance to hold interest bearing assets may include corporate debt securities as level 2B liquid assets in accordance with the conditions laid down in Article 12(1)(b) of Delegated Regulation (EU) No 2015/61.

(2) The CSSF may periodically review the requirement referred to in paragraph 1 and allow an exemption from Article 12(1)(b)(ii) and (iii) of Delegated Regulation (EU) 2015/61, where the conditions laid down in Article 12(3) of that Delegated Regulation have been met.

#### **Article 16c**

##### **Article 428p(10) of Regulation (EU) No 575/2013: Net Stable Funding Ratio (NSFR) - required stable funding factors for off-balance-sheet exposures**

Unless the CSSF determines different required stable funding factors, for the off-balance-sheet exposures in the scope of Article 428p(10) of Regulation (EU) No 575/2013, CRR institutions shall apply to off-balance-sheet exposures not referred to in Chapter 4 of Title IV of Part Six of Regulation (EU) No 575/2013 required stable funding factors that correspond to the outflow rates that they apply to related products and services in the context of Article 23 of Delegated Regulation (EU) 2015/61 in the liquidity coverage requirement.

#### **Article 16d**

##### **Article 428q(2) of Regulation (EU) No 575/2013: NSFR – determination of the term of encumbrance for assets that have been segregated**

Where assets have been segregated in accordance with Article 11(3) of Regulation (EU) No 648/2012 of the European Parliament and of the Council and CRR institutions are not able to freely dispose of such assets, CRR institutions shall consider such assets as encumbered for a period corresponding to the term of the liabilities to the institutions' customers to whom that segregation requirement relates.

#### **Article 16e**

##### **Article 428aq(10) of Regulation (EU) No 575/2013: NSFR – required stable funding factors for off-balance-sheet exposures**

CRR institutions for which permission to apply the simplified net stable funding requirement referred to in Chapter 5 of Title IV of Part Six of Regulation (EU) No 575/2013 has been granted, shall follow the approach as specified in Article 7c.

**Article 16f****Article 428ar(2) of Regulation (EU) No 575/2013: NSFR – determination of the term of encumbrance for assets that have been segregated**

CRR institutions for which permission to calculate the simplified net stable funding ratio referred to in Chapter 5 of Title IV of Part Six of Regulation (EU) No 575/2013 has been granted, shall follow the approach specified in Article 7d.”

**Part IV  
Final provisions****Article 17****Entry into force**

Without prejudice to Article 14, this regulation shall enter into force with immediate effect.

**Article 18****Repeal of CSSF Regulation N° 14-01**

CSSF Regulation N° 14-01 on the implementation of certain discretions of Regulation (EU) No 575/2013 is repealed.

**Article 19****Publication**

This regulation shall be published in the Journal officiel du Grand-Duché de Luxembourg and on the website of the Commission de Surveillance du Secteur Financier.

Luxembourg, 5 June 2018

**Commission de Surveillance du Secteur Financier**

**Jean-Pierre FABER**  
Director

**Claude SIMON**  
Director

**Simone DELCOURT**  
Director

**Claude MARX**  
Director General