

In case of discrepancies between the French and the English text, the French text shall prevail.

**CSSF Regulation N° 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**

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.

**Section 1**  
**Own funds**

**Article 3**  
**Recognition of Additional Tier 1 instruments**

(1) CRR institutions 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) CRR institutions 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.

(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 this article shall apply instead of the provisions of Article 400(2) and (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.

(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;

(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.

### **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**

#### **Introduction of amendments to IAS 19**

The option referred to in Article 473 of Regulation (EU) No 575/2013 shall not be exercised.

### **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**

#### **Article 471 of Regulation (EU) No 575/2013: Obligation to deduct equity holdings in insurance companies from Common Equity Tier 1 items**

The option referred to in Article 471 of Regulation (EU) No 575/2013 shall not be exercised.

## **Article 12**

### **Article 486 of Regulation (EU) No 575/2013: Eligibility for grandfathering of items that qualified as own funds under national transposition measures for Directive 2006/48/EC**

The applicable percentage referred to in Article 486 of Regulation (EU) No 575/2013 shall be:

40% in 2018;

30% in 2019;

20% in 2020; and

10% in 2021.

## **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**

### **Article 282(6) of Regulation (EU) No 575/2013: Hedging sets**

For the transactions referred to in Article 282(6) of Regulation (EU) No 575/2013, CRR institutions shall use the mark-to-market method set out in Article 274 of Regulation (EU) No 575/2013.

**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.

**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



## Comments on the articles

### Explanatory memorandum

The purpose of this regulation is to recast the provisions of CSSF Regulation N° 14-01 on the implementation of certain discretions of Regulation (EU) No 575/2013 (**Regulation 14-01**). This recast became necessary due to the entry into force of the Banking Union, the amendment to the Law of 5 April 1993 on the financial sector, as amended (**LFS**) following the transposition of Directive 2013/36/EU (**CRD IV**) and the expiry of certain transitional provisions of Regulation 14-01.

As a reminder, Regulation 14-01 concerned the implementation of certain discretions of Regulation (EU) No 575/2013 (**CRR**) and indicated how the CSSF intended to exercise these discretions made available by the CRR to the Member States and competent authorities.

With the Banking Union, which entered into force on 1 November 2014, the European Central Bank (**ECB**) became the competent authority (within the meaning of CRD IV and the CRR) to carry out direct prudential supervision of some institutions qualified as significant, whereas the CSSF remained competent for the direct prudential supervision of institutions qualified as less significant. However, the ECB is responsible for the effective and consistent functioning of the Single Supervisory Mechanism (**SSM**) in accordance with Regulation (EU) No 1024/2013 (**SSM Regulation**). It exercises the oversight over the functioning of the system to ensure the consistent application of high supervisory standards and the consistency of supervisory outcomes across the participating Member States. Therefore, the ECB may issue guidelines to national competent authorities (**NCA**s) of participating Member States in the Banking Union, including the CSSF, with which NCAs are required to comply when performing their supervisory tasks and adopting supervisory decisions.

In this context, the ECB issued the following texts which recommend how the NCAs must exercise, with respect to the banks under their direct supervision, the options and discretions of the CRR, CRD IV and Commission Delegated Regulation (EU) No 2015/61 with regard to liquidity coverage requirement for credit institutions (**Liquidity Regulation**):

- Guideline (EU) 2017/697 of the European Central Bank on the exercise of options and discretions available in Union law in relation to less significant institutions (ECB/2017/9) (**ECB Guideline**); and
- Recommendation of the ECB on common specifications for the exercise of some options and discretions available in Union law in relation to less significant institutions (ECB/2017/10) (**ECB Recommendation**).

It is important to recall that the ECB Guideline and the ECB Recommendation only concern credit institutions that qualify as less significant institutions pursuant to Article 6(4) of the SSM Regulation.

The purpose of this regulation is to implement in Luxembourg law the measures recommended by the ECB with respect to less significant credit institutions. This regulation implements mainly the provisions of the ECB Guideline which are of a regulatory nature, whereas the provisions of the ECB Recommendation are less of a regulatory nature but rather aim to guide NCAs in the assessments and analyses to be performed when exercising such options or discretions. However, it should be noted that some options of the CRR, already exercised in Regulation 14-01 as recommended by the ECB Guideline, are included again in this regulation (a renumbering was necessary, a correlation table between Regulation 14-01 and this regulation is included below).

Credit institutions that are significant are for their part subject to the following two texts (with which the ECB Guideline and the ECB Recommendation are mostly aligned) as regards the options and discretions of the CRR, CRD IV and the Liquidity Regulation:

- Regulation (EU) 2016/445 on the exercise of options and discretions available in Union law (ECB/2016/4) (**ECB Regulation**); and
- ECB Guide on options and discretions available in Union law (consolidated version, November 2016) (**ECB Guide**).

Therefore, it has become necessary to distinguish in the scope of this regulation between:

- the provisions regarding an option of the Member State (for example, the application of Article 493(3) of the CRR on large exposure limit exemption) or any other national power (for example, the requirement to obtain a prior approval for the recognition of some instruments as own funds) applicable to significant credit institutions and less significant institutions; and
- the provisions which only apply to less significant institutions.

In line with the CSSF's prudential approach, CRR investment firms as well as Luxembourg branches of credit institutions and CRR investment firms incorporated in third countries will be subject to the same regime as less significant credit institutions.

Thus, this regulation consists of four parts:

- **Part I** (Article 1) - Definitions;
- **Part II** (Articles 2 to 7) - Requirements, options and discretions applicable to all CRR institutions;
- **Part III** (Articles 8 to 16) - Options and discretions applicable to less significant credit institutions, CRR investment firms and Luxembourg branches of credit institutions and CRR investment firms incorporated in a third country;
- **Part IV** (Articles 17 to 19) - Final provisions

The structure of this regulation and its scope may be summarised as follows:

Regulation	Entities concerned
<b>Part I</b> (Article 1) - Definitions	
<p><b>Part II</b> (Articles 2 to 7) - Requirements, options and discretions applicable to all CRR institutions</p> <p><u>Topics covered:</u></p> <ul style="list-style-type: none"> <li>• approval for the recognition of own funds instruments (exercise of a national power), and</li> <li>• large exposure limit exemption (exercise of a national power)</li> <li>• valuation of assets and off-balance sheet items and determination of own funds in accordance with the IFRS</li> </ul>	<p>Applies to the following entities:</p> <ul style="list-style-type: none"> <li>• significant credit institutions</li> <li>• less significant credit institutions</li> <li>• CRR investment firms (except Article 6)</li> <li>• Luxembourg branches of third-country credit institutions</li> <li>• Luxembourg branches of third-country CRR investment firms (except Article 6)</li> </ul>
<p><b>Part III</b> (Articles 8 to 16) - Options and discretions applicable to less significant credit institutions, CRR investment firms and Luxembourg branches of credit institutions and CRR investment firms incorporated in a third country</p>	<p>Applies to the following entities:</p> <ul style="list-style-type: none"> <li>• less significant credit institutions</li> <li>• CRR investment firms</li> <li>• Luxembourg branches of third-country credit institutions</li> </ul>

<p><u>Topics covered:</u></p> <ul style="list-style-type: none"> <li>all options and discretions of the CRR and Liquidity Regulation as recommended in the ECB Guideline by the ECB</li> </ul>	<ul style="list-style-type: none"> <li>Luxembourg branches of third-country CRR investment firms</li> </ul>
<p><b>Part IV</b> (Articles 17 to 19) - Final provisions</p>	

## Article-by-article comments

### Article 1

In order to take into account the difference to be made between significant and less significant credit institutions (within the meaning of the SSM Regulation) as well as the responsibilities shared between the ECB which ensures direct supervision of significant credit institutions and the CSSF which ensures direct supervision of less significant credit institutions, certain definitions needed to be included in the regulation.

### Article 2

Article 2 indicates that Part II of this regulation, which falls within the exercise of national options, applies to all CRR institutions, i.e. to all credit institutions, whether significant or less significant credit institutions (within the meaning of the SSM Regulation), and to CRR investment firms. Article 2 clarifies, like Regulation 14-01 did, that Luxembourg branches of third-country credit institutions and third-country CRR investment firms are included in the concept of CRR institutions. The above implies that the supervision of these branches is carried out by the CSSF according to the same rules as those applicable to CRR institutions pursuant to Article 42-3 of the LFS.

### Article 3

Article 3 corresponds to Article 2 of Regulation 14-01. The principle of prior approval of the competent authority for the recognition of Additional Tier 1 instruments remains. Therefore, any CRR institution, including institutions that are significant and less significant (within the meaning of the SSM Regulation), must obtain a prior approval for the recognition of Additional Tier 1 instruments.

Article 3 also imposes, in line with Recital 81 of Directive 2014/59/EU establishing a framework for the recovery and resolution of credit institutions and investment firms, the inclusion in the contractual documentation governing the instrument of a bail-in provision at the point of non-viability of the institution, i.e. a provision recognising the power of the resolution authority to write down the instrument in full or to convert it to Common Equity Tier 1 at the point of non-viability in order to absorb losses.

Finally, Article 3 requires the submission of a copy of the final contractual documentation governing the relevant instrument in order to allow the competent authority to verify that the instrument complies with the requirements of the CRR and its delegated acts.

### Article 4

Article 4 replicates Article 3 of Regulation 14-01. The comments to Article 3 of this regulation apply *mutatis mutandis* to the recognition of Tier 2 instruments.

## Article 5

Article 5 which sets out large exposure limit exemptions replicates Article 19 of Regulation 14-01. It should be noted that Article 20 of Regulation 14-01 on large exposure group exemption is now set out in Article 56-1 of the LFS and that, therefore, it has not been replicated in this regulation.

Please note that, as indicated in Circular CSSF 18/682, Luxembourg uses the national option made available to Member States by Article 493 of the CRR with respect to the large exposure limit exemption. In so far as it is an option for the Member State (and not for a competent authority), the ECB must apply the national option of Article 493 of the CRR as it is implemented in Article 56-1 of the LFS as well as in Article 5 of this Regulation (formerly, Articles 19 and 20 of Regulation 14-01) with respect to significant credit institutions. Consequently, these provisions adopted pursuant to Article 493 of the CRR are included in Part II of this regulation which applies to all CRR institutions.

## Article 6

Article 6 concerns an option made available to competent authorities by Article 24(2) of the CRR. In fact, Article 6 implements in this regulation a principle already included in Circular CSSF 14/593 according to which CRR institutions must carry out the valuation of assets and off-balance sheet items and determine own funds in accordance with the IFRS accounting standards. Therefore, Article 6 does not affect the current practice.

## Article 7

Article 7 replicates Article 10 of Regulation 14-01 on the introduction of amendments to IAS 19 and the option laid down in Article 473(1) of the CRR on defined pension funds or plans which will expire on 31 December 2018. The CSSF will continue not to make use of the option provided for in Article 473(1) of the CRR with respect to less significant credit institutions and significant credit institutions as permitted by Article 17(2) of Regulation (EU) 2016/445.

## Article 8

In so far as Part III concerns the options and discretions which apply to all CRR institutions other than significant credit institutions, Article 8 clarifies that where the term "CRR institution" is used in Part III, it should be understood as not including significant credit institutions.

## Article 9

Article 9 replicates Article 4 of Regulation 14-01 on, notably deductions of own funds to be made with respect to holdings of own funds instruments of financial sector entities. Article 9 is thus in line with the process that the ECB recommends in the ECB Recommendation in relation to Article 49(1) of the CRR and with point (1) of Section IV of Part Two of the ECB Recommendation as regards Article 49(3) of the CRR.

## Article 10

Article 10 replicates Article 18 of Regulation 14-01 on the treatment of qualifying holdings outside the financial sector. Article 10 is thus in line with Article 3 of the ECB Guideline.

### Article 11

Article 11 replicates Article 9 of Regulation 14-01 on the obligation to deduct equity holdings in insurance companies from Common Equity Tier 1 items. Article 11 is in line with Article 8 of the ECB Guideline in so far as the ECB does not require the national competent authorities to accept a deduction of own funds. Therefore, the CSSF continues not to make use of the option provided for in Article 471 of the CRR.

### Article 12

Article 12 replicates Article 17 of Regulation 14-01 on the eligibility for grandfathering of items that qualified as own funds under national transposition measures for Directive 2006/48/EC. Unlike Article 17 of Regulation 14-01, Article 12 does not include the percentages applied for the years 2014 to 2017.

### Article 13

Article 13 implements Article 4 of the ECB Guideline regarding the definition of “default” for the purposes of credit risk in Article 178(1)(b) of the CRR and confirms that CRR institutions must apply the rule of “more than 90 days past due”. It should be noted that the CSSF already applies this rule in accordance with paragraph 226 of Circular CSSF 12/552.

### Article 14

Article 14 ensures the compliance of the CSSF with a requirement provided for in Commission Delegated Regulation (EU) 2018/171 of 19 October 2017 supplementing Article 178 of the CRR by specifying regulatory technical standards for the materiality threshold for credit obligations past due.

As a reminder, Article 178 of the CRR deals with cases where an obligor is deemed to be in default for the purposes of calculating own funds requirements for credit risk. The definition of default applies to exposures for which own funds requirements are calculated according to the Internal Ratings Based Approach (IRB Approach) for the estimate of the risk parameters of probability of default, loss given default and conversion factors. However, the definition of default also applies to exposures for which own funds requirements are calculated according to the Standardised Approach for credit risk pursuant to Article 127 of the CRR.

Article 178(1)(b) of the CRR lays down notably that an obligor is deemed to be in default where, among others, the obligor is past due more than 90 days on any “material” credit obligation to the institution, the parent undertaking or any of its subsidiaries. Article 178(2) of the CRR requires the competent authorities to set thresholds above which a credit obligation that is past due more than 90 days is considered as “material” (hereinafter, the materiality thresholds). Commission Delegated Regulation (EU) 2018/171 lays down the definition of a materiality threshold composed of an absolute component and a relative component. An obligor is thus considered to be in default where the two limits consisting of the absolute component and the relative component of the materiality threshold are exceeded for 90 consecutive days.

The setting of these materiality thresholds is based on an assessment of the risk level perceived as “reasonable” by the competent authority. The conditions under which the competent authority sets these materiality thresholds are regulated by Commission Delegated Regulation (EU) 2018/171.

Taking into consideration the analyses performed by the CSSF, the CSSF concluded that the materiality thresholds proposed by Commission Delegated Regulation (EU) 2018/171 are “reasonable” and

intends to apply them. Thus, Article 14 of this regulation provides that the absolute component amounts is of EUR 100 for retail exposures or EUR 500 for exposures other than retail exposures. The relative component is 1% of the total amount of on-balance sheet exposures to the obligor of the institution, its parent undertaking or its subsidiaries, excluding equity exposures.

It should be noted that CRR institutions must apply the materiality thresholds on all their exposures as from 1 January 2020 at the latest or at a later date upon reasoned request to the CSSF and in exceptional cases but the application shall not be later than 31 December 2020.

#### Article 15

Article 15 implements Article 5 of the ECB Guideline which requires CRR institutions to use the mark-to-market method as defined in Article 274 of Regulation (EU) No 575/2013 for market risk.

#### Article 16

Article 16 implements Section V of Part Two of the ECB Recommendation and uses the option available to the competent authorities to apply, when CRR institutions assess their liquidity outflows, a liquidity outflow rate of 5% for trade finance off-balance sheet items referred to in Article 429 of the CRR and its Annex I. Article 16 clarifies also that CRR institutions must report to the CSSF the corresponding liquidity outflows in accordance with Commission Implementing Regulation (EU) No 680/2014.

#### Article 17

The regulation comes into force with immediate effect. However, Article 14 which provides that the materiality thresholds referred to in this same article must be applied by CRR institutions to all their exposures as from 1 January 2020 or at a later date upon fully reasoned request to the CSSF and in exceptional cases but the application shall not be later than 31 December 2020, must also be taken into account.

#### Article 18

Article 18 indicates that CSSF Regulation N° 14-01 is repealed on the date of the entry into force of this regulation.

#### Article 19

No comment.

## Correlation table between CSSF Regulation N° 14-01 and CSSF Regulation N° 18-03

Abbreviations used:

SI	Significant credit institution
LSI	Less significant credit institution
CRR IF	CRR investment firm
SPT	Luxembourg branch of a third country credit institution or third country CRR investment firm

CSSF Regulation N° 14-01	CSSF Regulation N° 18-03
<p style="text-align: center;">The Executive Board of the Commission de Surveillance du Secteur Financier;</p> <p>Having regard to Article 108a of the Constitution;</p> <p>Having regard to the Law of 23 December 1998 establishing a financial sector supervisory commission ("Commission de surveillance du secteur financier") and in particular Article 9(2) thereof;</p> <p>Having regard to the Law of 5 April 1993 on the financial sector and in particular Article 56 thereof;</p> <p>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;</p> <p>Having regard to Directive 2013/36/EU of the European Parliament and 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;</p> <p>Having regard to the opinion of the Consultative Committee for Prudential Regulation;</p>	<p>Citation is unchanged but supplemented in order to:</p> <ul style="list-style-type: none"> <li>- refer to Article 42 of the LFS;</li> <li>- include European texts mentioned in the body of the regulation.</li> </ul>
<p style="text-align: center;">Decides:</p> <p style="text-align: center;"><b><u>Part I</u></b> <b><u>Scope</u></b></p>	<p>The scope is amended and detailed in Articles 2 and 8.</p>

<p style="text-align: center;"><b>Article 1</b> <b>Scope</b></p> <p>This regulation shall apply to all institutions referred to in point (3) of Article 4(1) of Regulation (EU) No 575/2013, hereinafter "CRR institutions" as well as to the Luxembourg branches of such institutions incorporated in a third country, hereinafter deemed to be included in the concept of CRR institutions.</p>	
<p style="text-align: center;"><b><u>Part II</u></b> <b>Own funds</b></p> <p style="text-align: center;"><b>Article 2</b> <b>Prior approval of the CSSF with respect to Additional Tier 1 instruments</b></p> <p>(1) By virtue of Recital 75 of Regulation (EU) No 575/2013, the CRR institutions that wish to include Additional Tier 1 instruments in their own funds shall obtain the prior approval of the CSSF. The CSSF shall verify the compliance with the conditions set out in Part Two of Regulation (EU) No 575/2013.</p> <p>(2) A copy of the contractual documentation governing the instrument concerned, duly signed by the parties, shall be provided to the CSSF once the approval referred to in paragraph (1) has been obtained.</p>	<p>Article 2 becomes Article 3.</p> <p>It is unchanged as regards the principle of prior approval for a recognition as Additional Tier 1 instruments.</p> <p>It is complemented to reflect Recital 81 of the BRRD which provides that the terms and conditions of own funds instruments shall include the possibility of a bail-in at the point of non-viability (PONV).</p> <p>It applies to SI, LSI, CRR IF and SPT.</p>
<p style="text-align: center;"><b>Article 3</b> <b>Prior approval of the CSSF with respect to Tier 2 instruments</b></p> <p>(1) By virtue of Recital 75 of Regulation (EU) No 575/2013, the CRR institutions that wish to include Tier 2 instruments, whether they are capital instruments or subordinated loans, in their own funds, shall obtain the prior approval of the CSSF. The CSSF shall verify the compliance with the conditions set out in Part Two of Regulation (EU) No 575/2013.</p> <p>(2) A copy of the contractual documentation governing the instrument concerned, duly signed by the parties, shall be provided to the CSSF once the approval referred to in paragraph (1) has been obtained.</p>	<p>Article 3 becomes Article 4.</p> <p>It is unchanged as regards the principle of prior approval for a recognition as Tier 2 instruments.</p> <p>It is complemented to reflect Recital 81 of the BRRD which provides that the terms and conditions of own funds instruments shall include the possibility of a bail-in at PONV.</p> <p>It applies to SI, LSI, CRR IF and SPT.</p>
<p style="text-align: center;"><b>Article 4</b> <b>Requirement for deduction where consolidation, supplementary supervision or institutional protection schemes are applied</b></p>	<p>Article 4 becomes Article 9.</p>



<p>(1) The 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.</p> <p>(2) The option provided for in Article 49(3) of Regulation (EU) No 575/2013 shall not be exercised in Luxembourg.</p>	<p>It applies to LSI, CRR IF and SPT.</p>
<p style="text-align: center;"><b>Article 5</b> <b>Own funds requirements applicable as of 1 January 2014</b></p> <p>By virtue of Article 465 of Regulation (EU) No 575/2013, CRR institutions shall apply the following own funds requirements during the period from 1 January 2014 to 31 December 2014:</p> <p>(a) a Common Equity Tier 1 capital ratio of 4.5%; and</p> <p>(b) a Tier 1 capital ratio of a level of 6%.</p> <p>Consequently, as of 2014, CRR institutions shall meet the three solvency ratios defined in Article 92(1) of Regulation (EU) No 575/2013.</p>	<p>Repealed. Transitional provision expired.</p>
<p style="text-align: center;"><b>Article 6</b> <b>Capital buffers applicable as of 1 January 2014</b></p> <p>By virtue of Article 56 of the LFS, CRR institutions shall have a capital conservation buffer made up of Common Equity Tier 1 equal to 2.5% of the total amount of their risk exposure, calculated in accordance with Article 92(3) of Regulation (EU) No 575/2013 on an individual and consolidated basis, as applicable, in accordance with Part One, Title II of that regulation.</p>	<p>Repealed. Implemented in Article 59-5 of the LFS.</p>
<p style="text-align: center;"><b>Article 7</b> <b>Unrealised losses measured at fair value</b></p> <p>(1) The applicable percentage referred to in Article 467(1) of Regulation (EU) No 575/2013 shall be determined as follows:</p> <p>In 2014, the higher of:</p> <p>(a) the percentage of unrealised losses measured at fair value referred to in Article 35 of Regulation (EU) No 575/2013 and included by the CRR institution in the calculation of Common Equity Tier 1 items as at 31 December 2013; and</p> <p>(b) 20%.</p>	<p>Repealed. Transitional provision expired. It was not deemed useful to indicate that the percentage is 100% from 2018.</p>

<p>In 2015, the higher of:</p> <ul style="list-style-type: none"> <li>(a) the percentage of unrealised losses measured at fair value referred to in Article 35 of Regulation (EU) No 575/2013 and included by the CRR institution in the calculation of Common Equity Tier 1 items as at 31 December 2013; and</li> <li>(b) 40%.</li> </ul> <p>In 2016, the higher of:</p> <ul style="list-style-type: none"> <li>(b) the percentage of unrealised losses measured at fair value referred to in Article 35 of Regulation (EU) No 575/2013 and included by the CRR institution in the calculation of Common Equity Tier 1 items as at 31 December 2013; and</li> <li>(c) 60%.</li> </ul> <p>In 2017, the higher of:</p> <ul style="list-style-type: none"> <li>(a) the percentage of unrealised losses measured at fair value referred to in Article 35 of Regulation (EU) No 575/2013 and included by the CRR institution in the calculation of Common Equity Tier 1 items as at 31 December 2013; and</li> <li>(b) 80%.</li> </ul> <p>(2) By way of derogation from paragraph 1 and without prejudice to Article 8, CRR institutions shall be authorised not to include in any element of own funds unrealised gains or losses on exposures to central governments classified in the 'Available for Sale' category of the International Accounting Standard (IAS) 39, as endorsed by the European Union.</p> <p>The treatment set out in the first subparagraph shall be used only by the CRR institutions that have been authorised to apply this treatment before 1 January 2014. It shall only be applied until the European Commission has adopted a regulation on the basis of Regulation (EC) No 1606/2002 endorsing the International Financial Reporting Standard replacing IAS 39.</p>	
<p style="text-align: center;"><b>Article 8</b> <b>Unrealised gains measured at fair value</b></p> <p>The applicable percentage referred to in Article 468(1) of Regulation (EU) No 575/2013 shall be 100% in 2014, 2015, 2016 and 2017.</p> <p>CRR institutions shall thus not be authorised to include unrealised gains measured at fair value referred to in Article 35 of Regulation (EU) No 575/2013 in the calculation of their Common Equity Tier 1 items in the years 2014 to 2017.</p>	<p>Repealed. Transitional provision expired. It was not deemed useful to indicate that the percentage is 100%.</p>
<p style="text-align: center;"><b>Article 9</b> <b>Obligation to deduct equity holdings in insurance companies from Common Equity Tier 1 items</b></p> <p>The option referred to in Article 471 of Regulation (EU) No 575/2013 shall not be exercised in Luxembourg.</p>	<p>Article 9 becomes Article 11.</p> <p>It applies to LSI, CRR IF and SPT.</p>

<p style="text-align: center;"><b>Article 10</b> <b>Introduction of amendments to IAS 19</b></p> <p>The option referred to in Article 473 of Regulation (EU) No 575/2013 shall not be exercised in Luxembourg.</p>	<p>Article 10 becomes Article 7.</p> <p>It applies to SI, LSI, CRR IF and SPT.</p>
<p style="text-align: center;"><b>Article 11</b> <b>Deferred tax assets</b></p> <p>(1) The applicable percentage, pursuant to Article 478(3) of Regulation (EU) No 575/2013, to deferred tax assets that rely on future profitability as from 1 January 2014 and which shall be deducted pursuant to point (c) of Article 36(1) of Regulation (EU) No 575/2013, shall be 100% as from the year 2014.</p> <p>(2) By virtue of Article 478(3) of Regulation (EU) No 575/2013, the following percentages shall apply to deferred tax assets that rely on future profitability which existed before 1 January 2014 and which shall be deducted pursuant to point (c) of Article 36(1) of Regulation (EU) No 575/2013:</p> <p style="padding-left: 40px;">20% in 2014;</p> <p style="padding-left: 40px;">40% in 2015;</p> <p style="padding-left: 40px;">60% in 2016; and</p> <p style="padding-left: 40px;">80% in 2017.</p> <p>Notwithstanding the percentages laid down in the first subparagraph, CRR institutions shall not apply a percentage lower than the percentage of deferred tax assets that rely on future profitability that they have already deducted from their prudential own funds as at 31 December 2013.</p> <p>(3) By virtue of point (b) of Article 478(3) of Regulation (EU) No 575/2013, the following percentages shall apply to the aggregate amount of deferred tax assets that rely on future profitability and arise from temporary differences and the items referred to in point (i) of Article 36(1) of Regulation (EU) No 575/2013 that shall be deducted pursuant to Article 48 of that regulation.</p> <p style="padding-left: 40px;">20% in 2014;</p> <p style="padding-left: 40px;">40% in 2015;</p> <p style="padding-left: 40px;">60% in 2016; and</p>	<p>Repealed. Transitional provision expired. It was not deemed useful to indicate that the percentage is 100% from 2018.</p>

80% in 2017.	
<p style="text-align: center;"><b>Article 12</b> <b>Applicable percentages for the other deductions from Common Equity Tier 1 items</b></p> <p>(1) The applicable percentage for the purposes of point (a) of Article 478(3) of Regulation (EU) No 575/2013 to the following items shall be 100% as from the year 2014:</p> <ul style="list-style-type: none"> <li>• losses for the current financial year to be deducted pursuant to point (a) of Article 36(1) of Regulation (EU) No 575/2013;</li> <li>• intangible assets to be deducted pursuant to point (b) of Article 36(1) of Regulation (EU) No 575/2013;</li> <li>• for the CRR institutions calculating risk-weighted exposure amounts using the Internal Ratings Based Approach, negative amounts resulting from the calculation of expected loss amounts laid down in Articles 158 and 159 of Regulation (EU) No 575/2013 to be deducted pursuant to point (d) of Article 36(1) of that regulation;</li> <li>• defined benefit pension fund assets on the balance sheet of the CRR institution to be deducted pursuant to point (e) of Article 36(1) of Regulation (EU) No 575/2013;</li> <li>• direct, indirect and synthetic holdings by a CRR institution of own Common Equity Tier 1 instruments, including own Common Equity Tier 1 instruments that a CRR institution is under an actual or contingent obligation to purchase by virtue of an existing contractual obligation to be deducted pursuant to point (f) of Article 36(1) of Regulation (EU) No 575/2013;</li> <li>• direct, indirect and synthetic holdings of the Common Equity Tier 1 instruments of financial sector entities where those entities have a reciprocal cross holding with the CRR institution that the CSSF considers to have been designed to inflate artificially the own funds of the institution to be deducted pursuant to point (g) of Article 36(1) of Regulation (EU) No 575/2013; and</li> <li>• the applicable amount of direct, indirect and synthetic holdings by the CRR institution of Common Equity Tier 1 instruments of financial sector entities where the institution does not have a significant investment in those entities to be deducted pursuant to point (h) of Article 36(1) of Regulation (EU) No 575/2013.</li> </ul>	<p>Repealed. Transitional provision expired. It was not deemed useful to indicate that the percentage is 100%.</p>
<p style="text-align: center;"><b>Article 13</b> <b>Applicable percentages for deductions from Additional Tier 1 items</b></p>	

<p>The applicable percentage for the purposes of Article 478 of Regulation (EU) No 575/2013 to the following items shall be 100% as from the year 2014:</p> <ul style="list-style-type: none"> <li>• direct, indirect and synthetic holdings of the Additional Tier 1 instruments of financial sector entities with which the CRR institution has reciprocal cross holdings that the CSSF considers to have been designed to inflate artificially the own funds of the CRR institution to be deducted pursuant to point (b) of Article 56 of Regulation (EU) No 575/2013;</li> <li>• the applicable amount determined in accordance with Article 60 of Regulation (EU) No 575/2013 of direct, indirect and synthetic holdings of the Additional Tier 1 instruments of financial sector entities, where a CRR institution does not have a significant investment in those entities to be deducted pursuant to point (c) of Article 56 of Regulation (EU) No 575/2013; and</li> <li>• direct, indirect and synthetic holdings by the CRR institution of the Additional Tier 1 instruments of financial sector entities where the CRR institution has a significant investment in those entities, excluding underwriting positions held for five working days or fewer to be deducted pursuant to point (d) of Article 56 of Regulation (EU) No 575/2013.</li> </ul>	<p>Repealed. Transitional provision expired. It was not deemed useful to indicate that the percentage is 100%.</p>
<p style="text-align: center;"><b>Article 14</b> <b>Applicable percentages for deductions from Tier 2 items</b></p> <p>The applicable percentage for the purposes of Article 478 of Regulation (EU) No 575/2013 to the following items shall be 100% as from the year 2014:</p> <ul style="list-style-type: none"> <li>• direct, indirect and synthetic holdings of the Tier 2 instruments of financial sector entities with which the CRR institution has reciprocal cross holdings that the competent authority considers to have been designed to inflate artificially the own funds of the CRR institution to be deducted pursuant to point (b) of Article 66 of Regulation (EU) No 575/2013;</li> <li>• the applicable amount determined in accordance with Article 70 of Regulation (EU) No 575/2013 of direct, indirect and synthetic holdings of the Tier 2 instruments of financial sector entities, where a CRR institution does not have a significant investment in those entities to be deducted pursuant to point (c) of Article 66 of Regulation (EU) No 575/2013; and</li> <li>• direct, indirect and synthetic holdings by the CRR institution of the Tier 2 instruments of financial sector entities where the CRR institution has a significant investment in those entities, excluding underwriting positions held for fewer than five working days to be deducted pursuant to point (d) of Article 66 of Regulation (EU) No 575/2013.</li> </ul>	<p>Repealed. Transitional provision expired. It was not deemed useful to indicate that the percentage is 100%.</p>

<p style="text-align: center;"><b>Article 15</b> <b>Minority interests and qualifying own funds</b></p> <p>(1) The applicable percentage referred to in Article 479(2) of Regulation (EU) No 575/2013 shall be 0% as from the year 2014.</p> <p>(2) The applicable factor referred to in Article 480(1) of Regulation (EU) No 575/2013 shall be 1 as from the year 2014.</p> <p>(3) CRR institutions shall thus apply, as from 2014, the provisions of Part Two, Title II of Regulation (EU) No 575/2013 as is.</p>	<p>Repealed. Transitional provision expired. The obligation to publish the percentage (Article 479(4) of the CRR) was only required for the duration of the transitional period.</p>
<p style="text-align: center;"><b>Article 16</b> <b>Additional filters and deductions</b></p> <p>(1) The applicable percentage referred to in Article 481(1) of Regulation (EU) No 575/2013 shall be 0% as from the year 2014.</p> <p>(2) The option provided for in Article 481(2) of Regulation (EU) No 575/2013 shall not be exercised in Luxembourg.</p>	<p>Repealed. Transitional provision expired. The obligation to publish the percentage (Article 481(5) of the CRR) was only required for the duration of the transitional period.</p>
<p style="text-align: center;"><b>Article 17</b> <b>Eligibility for grandfathering of items that qualified as own funds under national transposition measures for Directive 2006/48/EC</b></p> <p>The applicable percentage referred to in Article 486 of Regulation (EU) No 575/2013 shall be:</p> <p style="padding-left: 40px;">80% in 2014;</p> <p style="padding-left: 40px;">70% in 2015;</p> <p style="padding-left: 40px;">60% in 2016;</p> <p style="padding-left: 40px;">50% in 2017;</p> <p style="padding-left: 40px;">40% in 2018;</p> <p style="padding-left: 40px;">30% in 2019;</p> <p style="padding-left: 40px;">20% in 2020; and</p>	<p>Article 17 becomes Article 12 but it is amended to delete the references to the percentages for 2014, 2015, 2016 and 2017.</p> <p>It applies to LSI, CRR IF and SPT.</p>

10% in 2021.	
<p style="text-align: center;"><b><u>Part III</u></b> <b><u>Qualifying holdings outside the financial sector</u></b> <b><u>Article 18</u></b> <b><u>Treatment of qualifying holdings outside the financial sector</u></b></p> <p>By virtue of 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:</p> <ul style="list-style-type: none"> <li>i) the amount of qualifying holdings referred to in Article 89(1) in excess of 15% of eligible capital of the CRR institution; and</li> <li>ii) the total amount of qualifying holdings referred to in Article 89(2) that exceed 60% of the eligible capital of the CRR institution.</li> </ul>	<p>Article 18 becomes Article 10.</p> <p>It applies to LSI, CRR IF and SPT.</p>
<p style="text-align: center;"><b><u>Part IV</u></b> <b><u>Large exposures</u></b>  <b><u>Article 19</u></b> <b><u>Full exemptions</u></b></p> <p>(1) Pursuant to Article 493(3) of Regulation (EU) No 575/2013, the provisions of this article shall apply instead of the provisions of Article 400(2) and (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 the earlier.</p> <p>(2) The following exposures shall be fully exempted from the application of Article 395(1) of Regulation (EU) No 575/2013:</p> <ul style="list-style-type: none"> <li>(a) covered bonds falling within Article 129(1), (3) and (6) of Regulation (EU) No 575/2013;</li> <li>(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;</li> <li>(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;</li> </ul>	<p>Article 19 becomes Article 5.</p> <p>It applies to SI, LSI, CRR IF and SPT.</p>

<p>(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;</p> <p>(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);</p> <p>(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;</p> <p>(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;</p> <p>(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;</p> <p>(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</p> <p>(j) assets items constituting claims on and other exposures to recognised exchanges.</p>	
<p style="text-align: center;"><b>Article 20</b> <b>Group exemption</b></p> <p>(1) Pursuant to point (c) of Article 493(3) of Regulation (EU) No 575/2013, the provisions of this article shall apply instead of the provisions of point (c) of Article 400(2) and Article 400(3) of Regulation (EU) No 575/2013 until 31 December 2028 or until the entry into force of any legal act following the review in accordance with Article 507 of that regulation, whichever is the earlier.</p> <p>(2) Exposures, including participations or other kinds of holdings, incurred by a CRR institution to its parent undertaking, to other subsidiaries of that parent undertaking or to its own subsidiaries, in so far as those undertakings are covered by the</p>	<p>Repealed. The provisions of Article 20 are now in Article 56-1 of the LFS.</p>



supervision on a consolidated basis to which the CRR institution itself is subject, in accordance with Regulation (EU) No 575/2013, Directive 2002/87/EC or with equivalent standards in force in a third country, shall be exempted from the application of Article 395(1) of Regulation (EU) No 575/2013 if the following conditions are met:

- (a) the counterparty is itself a CRR institution, a third-country credit institution or a third-country investment firm;
- (b) the financial situation in terms of risks and solvency and the liquidity situation of the counterparties in question does not present disproportionate credit risks for the CRR institution;
- (c) financing the exposures in question does not present significant liquidity risk in terms of currency and maturity mismatches for the CRR institution; and
- (d) the exposures in question would have no disproportionate negative impact on the CRR institution if a resolution procedure were to be applied to all or part of the group to which the CRR institution belongs.

A CRR institution may ignore the condition set out in point (a) as regards its own subsidiaries, if these subsidiaries are covered by the supervision on a consolidated basis to which the CRR institution itself is subject, in accordance with Regulation (EU) No 575/2013, Directive 2002/87/EC or with equivalent standards in force in a third country.

(3) The CRR institutions shall be able to demonstrate, upon request and to the satisfaction of the CSSF, that the conditions set out in points (a) to (d) of paragraph (2) are met.

CRR institutions which, as at 31 December 2013, had not been granted an exemption by the CSSF under point 24 of Part XVI of Circular CSSF 06/273, or point 24 of Part XVI of Circular CSSF 07/290, shall provide the CSSF with the justification, in writing, referred to in subparagraph 1 if they intend to use the exemption provided for in paragraph (2).

Should the CSSF not be satisfied with the justification provided by the CRR institution in accordance with subparagraph 1 or subparagraph 2, it may limit the exemption referred to in paragraph (2) for the CRR institution in question.

CRR institutions shall inform the CSSF, spontaneously and without delay, of any change that occurred or of a future change that the CRR institutions are aware of and which significantly alters the degree of compliance of the CRR institutions with the conditions set out in points (a) to (d) of paragraph (2).

**Part V**  
**Other provisions**

**Article 21**  
**Treatment of equity exposures under the IRB Approach**

Repealed. Transitional provision expired.

<p>In accordance with Article 495(1) of Regulation (EU) No 575/2013 and by way of derogation from Chapter 3 of Part Three of that regulation, until 31 December 2017, equity exposures held by a CRR institution and its EU subsidiaries as at 31 December 2007 may be exempted from the IRB treatment.</p> <p>The exempted position shall be measured as the number of shares as of 31 December 2007 and any additional share arising directly as a result of owning those holdings, provided that they do not increase the proportional share of ownership in a portfolio company.</p> <p>If an acquisition increases the proportional share of ownership in a specific holding the part of the holding which constitutes the excess shall not be subject to the exemption. Nor shall the exemption apply to holdings that were originally subject to the exemption, but have been sold and then bought back.</p> <p>Equity exposures subject to this provision shall be subject to the capital requirements calculated in accordance with the Standardised Approach under Part Three, Title II, Chapter 2 of Regulation (EU) No 575/2013 and the requirements set out in Part Three, Title IV of that regulation, as applicable.</p>	
<p style="text-align: center;"><b>Article 22</b> <b>Transitional provisions relating to Fonds Communs de Créances</b></p> <p>Until 31 December 2017, the 10% limit for senior units issued by French Fonds Communs de Créances or by securitisation entities which are equivalent to French Fonds Communs de Créances laid down in points (d) and (e) of Article 129(1) of Regulation (EU) No 575/2013, shall not be applicable, provided that both of the following conditions are fulfilled:</p> <ul style="list-style-type: none"> <li>(a) the securitised residential property or commercial immovable property exposures were originated by a member of the same consolidated group of which the issuer of the covered bonds is a member, or by an entity affiliated to the same central body to which the issuer of the covered bonds is affiliated, where that common group membership or affiliation shall be determined at the time the senior units are made collateral for covered bonds; and</li> <li>(b) a member of the same consolidated group of which the issuer of the covered bonds is a member, or an entity affiliated to the same central body to which the issuer of the covered bonds is affiliated, retains the whole first loss tranche supporting those senior units.</li> </ul>	<p>Repealed. Transitional provision expired.</p>
<p style="text-align: center;"><b>Article 23</b> <b>Transitional provisions relating to the leverage ratio</b></p> <p>The option provided for in Article 499(3) of Regulation (EU) No 575/2013 shall not be exercised in Luxembourg.</p>	<p>Repealed. Transitional provision expired.</p>
<p style="text-align: center;"><b>Article 24</b> <b>Transitional requirements for liquidity</b></p>	<p>Repealed. Transitional provision expired.</p>

By virtue of Article 412(5) of Regulation (EU) No 575/2013, liquidity requirements that were applicable in 2013 and notably Table B 1.5 on the liquidity ratio as described in Circulars CSSF 07/316 and CSSF 07/331 remain applicable until binding minimum standards for liquidity coverage requirements are specified and fully introduced in the Union in accordance with Article 460 of Regulation (EU) No 575/2013.

**Article 25  
Publication**

This regulation shall be published in the Mémorial and on the website of the Commission de Surveillance du Secteur Financier.

Luxembourg, 11 February 2014

COMMISSION DE SURVEILLANCE DU SECTEUR FINANCIER