

**COMMISSION de SURVEILLANCE
du SECTEUR FINANCIER**

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

Luxembourg, 11 February 2014

To all Luxembourg credit institutions, to all Luxembourg investment firms within the meaning of Regulation (EU) No 575/2013 and to branches of such non-EU institutions

CIRCULAR CSSF 14/583

Re: Entry into force of 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

Ladies and Gentlemen,

1. We draw your attention to the entry into force, on 1 January 2014, of 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, published in the Official Journal of the European Union No L 176/1 of 27 June 2013 (hereafter the "CRR"). Please note that the CRR was subject to two corrigenda published in the Official Journal of the European Union No L 208/68 of 2 August 2013 and No 321/6 of 30 November 2013, respectively.

Since 1 January 2014, the CRR has been mandatory in its entirety, except for Article 8(3), Article 21 and Article 451(1) which will be applicable as from 1 January 2015 and Article 413(1) which will be applicable as from 1 January 2016. The CRR is directly applicable in all Member States of the European Union and does not require transposition into national law.

The Luxembourg credit institutions, the Luxembourg investment firms within the meaning of Regulation (EU) No 575/2013¹ and the branches of such non-EU institutions

¹ The investment firms as defined in Article 4(1) point (2) of the CRR are concerned.

(hereafter the "CRR institutions") shall note that the CRR constitutes henceforth the basis for the prudential regulation of the CRR institutions in Europe.

2. The CRR includes rules directly intended for the CRR institutions. Part One of the CRR lays down general provisions, including rules governing the level of application of the requirements. Other provisions are laid down in the following part:

Part Two: Own funds;

Part Three: Capital requirements;

Part Four: Large exposures;

Part Five: Exposures to transferred credit risk;

Part Six: Liquidity;

Part Seven: Leverage;

Part Eight: Disclosure by institutions;

Part Nine: Delegated and implementing acts;

Part Ten: Transitional provisions, reports, reviews and amendments;

Part Eleven: Final provisions.

The CRR includes hence the provisions concerning the calculation of the solvency ratio which was dealt with in CSSF circulars. Thus, the calculation of the solvency ratio has been performed since 1 January 2014 according to the provisions of the CRR, supplemented by CSSF Regulation N° 14-01 on the implementation of certain discretions of Regulation (EU) No 575/2013² and the technical standards of the European Banking Authority³.

3. Generally, it should be noted that, in case the provisions of the CRR and the provisions of the national regulation are conflicting, the provisions of the CRR shall prevail. The national texts concerned (among others, the law of 5 April 1993 on the financial sector and Circulars CSSF 06/273 and 07/290) are currently being reviewed and the reviewed texts will be published within the next months. However, even while the texts are being reviewed, the provisions of the national texts which are in conflict with the CRR, among which, most of Circular CSSF 06/273, are not applicable any more. The same is true for most of Circular CSSF 07/290 applicable to investment firms within the meaning of

² Cf. items 4 and 5 below.

³ Cf. item 8 below.

Regulation (EU) No 575/2013. The other investment firms shall continue to apply Circular CSSF 07/290.

4. Part Ten of the CRR leaves to the discretion of the competent authorities to define certain transitional provisions and certain rules regarding the pace at which the new provisions will be introduced. Moreover, national discretions remained throughout the different articles of the CRR. These discretions require a transposition into national regulation. The rules applicable in Luxembourg in this context are covered in CSSF Regulation N° 14-01 on the implementation of certain discretions of Regulation (EU) No 575/2013.

5. Among the provisions included in the CSSF Regulation N° 14-01 are, inter alia, the exemptions relating to the large exposure limit and notably the large exposure group exemption (Article 20 of CSSF Regulation N° 14-01), i.e. the use of the national discretion laid down in Article 493(3) point (c) of the CRR.

Article 20 of CSSF Regulation N° 14-01 replaces item 24 of Part XVI of Circulars CSSF 06/273 and 07/290. Article 20 includes a set of conditions which shall be fulfilled by the CRR institutions in order to benefit from the large exposure group exemption. These conditions relate to the (normal) scenario of going concern as well as to the scenario of application of a new resolution procedure and aim at guaranteeing the elementary safeguards which relates to the use of this exemption.

Even if the last of these conditions (the one included under Article 20(2)(d)) mentions a "resolution" scenario, it should be read with a view of going concern. By prompting or obliging the CRR institution to ensure that it avoids disproportionate negative effects related to these intra-group exposures, this condition constitutes an early warning sign insofar as it implies an adaptation of the investment strategies of the CRR institution concerned. The latter shall find the right balance between the investment of its excess liquidities in the group and the re-use of these liquidities locally, by taking into account, among others, the schedule of these liquidity investments (by investing more in the short term, for example), the availability of collateral and the keeping of sufficient own funds and eligible debts in the framework of a bail-in (MREL) for the CRR institution as well as for its counterparty.

The CRR institutions shall be able to demonstrate that they fulfil the conditions in question. Where the conditions are not fulfilled, the CSSF may limit the CRR institution's possibilities to apply the exemption similarly to the practice under the regime of the relevant Circulars CSSF 06/273 and 07/290.

6. The CRR is supplemented by 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 (hereafter "CRD IV"). This directive will be transposed into national law through a draft law amending the law of 5 April 1993 on the financial sector and through CSSF regulations. The transposition of CRD IV which is not yet finalised shall not affect the applicability of the CRR.

7. CSSF Regulation N° 14-01 includes in advance of the above-mentioned draft law, a key provision of the directive (CRD IV), namely the introduction of a capital buffer of 2.5% as from 2014.

8. Some provisions of the CRR and of CRD IV will be detailed in the technical standards to be drawn up by the European Banking Authority. These technical standards will be published via regulations of the European Commission, and will be, hence, similarly to the CRR, directly applicable in all Member States of the European Union without transposition into national law.

9. The CRR and CRD IV, as well as the relevant technical standards will be published on the CSSF's website (www.cssf.lu) under: Laws, regulations and circulars > Laws and regulations. The list of the technical standards will be supplemented as the technical standards are published over the next months. The CRR institutions are requested to consult the Official Journal of the European Union and the CSSF's website regularly in order to keep themselves informed of the developments in this matter.

Yours faithfully,

COMMISSION DE SURVEILLANCE DU SECTEUR FINANCIER

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