



Commission de Surveillance  
du Secteur Financier

## Circular CSSF 22/816

Adoption of Guideline (EU) 2022/508 of the European Central Bank of 25 March 2022 (ECB/2022/12) and of the Recommendation of the European Central Bank of 25 March 2022 (ECB/2022/13) regarding the exercise of some options and discretions available in Union law by national competent authorities

## Circular CSSF 22/816

**Re:** Adoption of Guideline (EU) 2022/508 of the European Central Bank of 25 March 2022 (ECB/2022/12) and of the Recommendation of the European Central Bank of 25 March 2022 (ECB/2022/13) regarding the exercise of some options and discretions available in Union law by national competent authorities

Luxembourg, 24 June 2022

**To all credit institutions designated as Less Significant Institutions under the Single Supervisory Mechanism, to all CRR investment firms, and to all Luxembourg branches of credit institutions and of CRR investment firms having their registered office in a third country**

### **Purpose of the Circular**

The purpose of this circular is to inform you of the publication of:

- Guideline (EU) 2022/508 of the European Central Bank 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)<sup>1</sup> (the **Guideline**);
- the Recommendation of the European Central Bank of 25 March 2022 amending Recommendation ECB/2017/10 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/2022/13)<sup>2</sup> (the **Recommendation**).

### **Background**

Regulation (EU) No 575/2013 (**CRR**) and Delegated Regulation (EU) 2015/61 contain a number of options and discretions available to national competent authorities in the course of their supervision. The Guideline and the Recommendation contain specifications of the ECB on how those options and discretions should be applied with respect to less significant institutions. The CSSF extends the application of the Guideline and the Recommendation to all CRR investment firms as well as to all Luxembourg branches of credit institutions or CRR investment firms incorporated in a third country.

<sup>1</sup> The Guideline is annexed to this circular. A consolidated version of the Guideline (EU) 2017/697 as amended by the Guideline (EU) 2022/508 is available at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02017O0009-20220331>

<sup>2</sup> The Recommendation is annexed to this circular. It is also available at [https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ%3AJOC\\_2022\\_142\\_R\\_0001&qid=1648623152665](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ%3AJOC_2022_142_R_0001&qid=1648623152665)

### **The Guideline**

The Guideline amends Guideline (EU) 2017/697 of the ECB, which has been implemented in CSSF Regulation No 18-03<sup>3</sup>. CSSF Regulation No 18-03 will be amended to implement the Guideline.

With respect specifically to the exemption to the large exposure limitation, the CSSF would like to recall, as already indicated in Circular CSSF 18/682, that it continues to make use, as provided in Article 6(f) of Guideline (EU) 2017/697 (as amended by the Guideline), of:

- the national discretion of Article 493(3)(c) of the CRR which is embedded in Article 56-1 of the Law of 5 April 1993 on the financial sector regarding group exemption relating to large exposures;
- the other national discretions of Article 493(3) of the CRR which are made use of in Article 5 of CSSF Regulation No 18-03.

The CSSF intends to apply the Guideline as of 1 October 2022.

### **The Recommendation**

The Recommendation amends Recommendation ECB/2017/10 and is addressed only to national competent authorities. As such it provides transparency on how the CSSF will apply the relevant options and discretions. The CSSF applies the Recommendation with immediate effect.

### **Scope of application**

This circular applies to Less Significant Institutions<sup>4</sup> and CRR investment firms as well as to all Luxembourg branches of credit institutions or CRR investment firms incorporated in a third country.

<sup>3</sup> 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 No 14-01

<sup>4</sup> "Significant supervised entities" as defined in Article 2, point 16 of Regulation (EU) No 468/2014 of the European Central Bank (ECB) of 16 April 2014 (the SSM Framework Regulation) shall refer 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), as amended by Regulation (EU) 2022/504 of the European Central Bank of 25 March 2022 (ECB/2022/14). They shall in particular refer 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), as amended, and the ECB Guide on options and discretions available in Union law (March 2022).

The present circular repeals Circular CSSF 18/682.

This circular shall apply with immediate effect.

Yours faithfully,

**Claude WAMPACH**  
Director

**Marco ZWICK**  
Director

**Jean-Pierre FABER**  
Director

**Françoise KAUTHEN**  
Director

**Claude MARX**  
Director General

Annexes :

Guideline (EU) 2022/508 of the European Central Bank 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/2017/9) (ECB/2022/12)

Recommendation of the European Central Bank of 25 March 2022 amending Recommendation ECB/2017/10 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/2022/13)





**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)**

CHAPTER I

GENERAL PROVISIONS

*Article 1*

**Subject matter and scope**

This Guideline specifies certain of the options and discretions of general application conferred on competent authorities under Union law concerning prudential requirements, the exercise of which by the NCAs in relation to the less significant institutions shall be fully aligned to the ECB's exercise of the relevant options and discretions in Regulation (EU) 2016/445 (ECB/2016/4).

*Article 2*

**Definitions**

For the purposes of this Guideline, the definitions contained in Article 4 of Regulation (EU) No 575/2013, Article 2 of Regulation (EU) No 1024/2013, Article 2 of Regulation (EU) No 468/2014 (ECB/2014/17) and Article 3 of Delegated Regulation (EU) 2015/61 shall apply.

CHAPTER II

**EXERCISE OF OPTIONS AND DISCRETIONS IN RELATION TO LESS  
SIGNIFICANT INSTITUTIONS REQUIRING FULL ALIGNMENT WITH  
THE LAW APPLICABLE TO SIGNIFICANT INSTITUTIONS**

SECTION I

Own funds

*Article 3*

**Article 89(3) of Regulation (EU) No 575/2013: risk weighting and  
prohibition of qualifying holdings outside the financial sector**

Without prejudice to Article 90 of Regulation (EU) No 575/2013 and for the purpose of calculating the capital requirements in accordance with Part Three of Regulation (EU) No 575/2013, NCAs shall require less significant institutions to apply a risk weight of 1 250 % to the greater of the following:

- (a) the amount of qualifying holdings in undertakings referred to in Article 89(1) of Regulation (EU) No 575/2013 in excess of 15 % of the eligible capital of the credit institution; and

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- (b) the total amount of qualifying holdings in undertakings referred to in Article 89(2) of Regulation (EU) No 575/2013 that exceeds 60 % of the eligible capital of the credit institution.

## SECTION II

## Capital requirements

*Article 4***Article 178(1)(b) of Regulation (EU) No 575/2013: default of an obligor**

NCAs shall require less significant institutions to apply the ‘more than 90 days past due’ standard for the categories of exposures specified in Article 178(1)(b) of Regulation (EU) No 575/2013.

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## SECTION III

## Large exposures

**▼M1***Article 6***Article 400(2) of Regulation (EU) No 575/2013: exemptions**

NCAs shall exercise the option with regard to exemptions provided for in Article 400(2) of Regulation (EU) No 575/2013 in relation to less significant institutions in accordance with this Article and the Annexes.

- (a) The exposures listed in Article 400(2)(a) of Regulation (EU) No 575/2013 shall be exempted from the application of Article 395(1) of that Regulation for 80 % of the nominal value of the covered bonds, provided that the conditions set out in Article 400(3) of that Regulation are fulfilled.
- (b) The exposures listed in Article 400(2)(b) of Regulation (EU) No 575/2013 shall be exempted from the application of Article 395(1) of that Regulation for 80 % of their exposure value, provided that the conditions set out in Article 400(3) of that Regulation are fulfilled.
- (c) The exposures listed in Article 400(2)(c) of Regulation (EU) No 575/2013 incurred by a credit institution to the undertakings referred to therein, in so far as those undertakings are established in the Union, shall be exempted from the application of Article 395(1) of that Regulation, provided that the conditions set out in Article 400(3) of that Regulation, as further specified in Annex I to this Guideline, are fulfilled, and insofar as those undertakings are covered by the same supervision on a consolidated basis in accordance with Regulation (EU) No 575/2013, Directive

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2002/87/EC of the European Parliament and of the Council <sup>(1)</sup>, or with equivalent standards in force in a third country, as further specified in Annex I to this Guideline.

- (d) The exposures listed in Article 400(2)(d) of Regulation (EU) No 575/2013 shall be exempted from the application of Article 395(1) of that Regulation, provided that the conditions set out in Article 400(3) of that Regulation, as further specified in Annex II to this Guideline, are fulfilled.
- (e) The exposures listed in Article 400(2)(e) to (l) of Regulation (EU) No 575/2013 shall be exempted in full, or in the case of Article 400(2)(i) shall be exempted up to the maximum allowed amount, from the application of Article 395(1) of that Regulation, provided that the conditions set out in Article 400(3) of that Regulation are fulfilled.
- (f) NCAs shall require less significant institutions to assess whether the conditions specified in Article 400(3) of Regulation (EU) No 575/2013 and in the relevant Annex of this Guideline applicable to the specific exposure, are fulfilled. An NCA may verify this assessment at any time and request credit institutions to submit the documentation referred to in the relevant Annex for this purpose.
- (g) This Article shall only apply where the relevant Member State has not exercised the option under Article 493(3) of Regulation (EU) No 575/2013 to grant a full or partial exemption for the specific exposure.

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## SECTION IV

## Liquidity

**▼ M1***Article 7a*

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

NCAs shall consider that the following indices 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 <sup>(2)</sup>:

<sup>(1)</sup> Directive 2002/87/EC of the European Parliament and of the Council of 16 December 2002 on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate and amending Council Directives 73/239/EEC, 79/267/EEC, 92/49/EEC, 92/96/EEC, 93/6/EEC and 93/22/EEC, and Directives 98/78/EC and 2000/12/EC of the European Parliament and of the Council (OJ L 35, 11.2.2003, p. 1).

<sup>(2)</sup> 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 (OJ L 11, 17.1.2015, p. 1).



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- (i) the indices listed in Annex I to Commission Implementing Regulation (EU) 2016/1646 <sup>(1)</sup>;
- (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 7b***Article 12(3) of Delegated Regulation (EU) 2015/61: liquidity coverage ratio - level 2B assets**

1. NCAs shall allow less significant institutions that in accordance with their statutes of incorporation are unable for reasons of religious observance to hold interest bearing assets to 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) 2015/61.

2. NCAs 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 7c***Article 428p(10) of Regulation (EU) No 575/2013: NSFR - required stable funding factors for off-balance-sheet exposures**

Unless the NCA 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 NCAs shall require less significant institutions to 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.

<sup>(1)</sup> Commission Implementing Regulation (EU) 2016/1646 of 13 September 2016 laying down implementing technical standards with regard to main indices and recognised exchanges in accordance with Regulation (EU) No 575/2013 of the European Parliament and of the Council on prudential requirements for credit institutions and investment firms (OJ L 245, 14.9.2016, p. 5).

**▼ M1***Article 7d***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 <sup>(1)</sup> and institutions are not able to freely dispose of such assets, NCAs shall require less significant institutions to 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 7e***Article 428aq(10) of Regulation (EU) No 575/2013: NSFR – required stable funding factors for off-balance-sheet exposures**

NCAs shall require less significant 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, to follow the approach as specified in Article 7c.

*Article 7f***Article 428ar(2) of Regulation (EU) No 575/2013: NSFR – determination of the term of encumbrance for assets that have been segregated**

NCAs shall require less significant 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, to follow the approach specified in Article 7d.

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## SECTION V

Transitional provisions of Regulation (EU) No 575/2013

**▼ M1****▼ B***Article 9***Article 478(3)(a) and (b) of Regulation (EU) No 575/2013: applicable percentages for deduction from Common Equity Tier 1 items of significant investments in financial sector entities and deferred tax assets that rely on future profitability**

NCAs shall exercise the option with regard to the applicable percentages for deduction from Common Equity Tier 1 items of significant investments in financial sector entities and deferred tax

<sup>(1)</sup> Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories (OJ L 201, 27.7.2012, p. 1).

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assets that rely on future profitability provided for in Article 478(3)(a) and (b) of Regulation (EU) No 575/2013 as follows:

- (a) for the purposes of Article 478(1) of Regulation (EU) No 575/2013, the applicable percentage for the purposes of Article 469(1)(a) and (c) of that Regulation shall be 100 % from 1 January 2018;
- (b) for the purposes of Article 478(2) of Regulation (EU) No 575/2013, the applicable percentage shall be 100 % from 1 January 2018;
- (c) by way of derogation from point (b), where, pursuant to Article 478(2) of Regulation (EU) No 575/2013, national law provides for a 10-year phase-out period, the applicable percentage shall be:
  - (i) 80 % during the period from 1 January to 31 December 2018; and
  - (ii) 100 % from 1 January 2019;
- (d) NCAs shall not apply points (b) and (c) to less significant institutions which, on the date on which this Guideline takes effect, are subject to restructuring plans approved by the Commission;
- (e) where a credit institution falling within the scope of point (d) is acquired by or merges with another credit institution while the restructuring plan is still in operation without modification concerning the prudential treatment of deferred tax assets, NCAs shall apply the exception in point (d) to the acquiring credit institution, new credit institution resulting from the merger or credit institution incorporating the original credit institution, to the same extent that it applied to the acquired, merged or incorporated credit institution;
- (f) in the event of an unforeseen increase in the impact of the deductions provided for in points (b) and (c) which the NCA determines is material, less significant institutions shall be allowed not to apply points (b) or (c);
- (g) where points (b) and (c) do not apply, NCAs shall require less significant institutions to apply national legislative provisions;

This Article is without prejudice to national law existing prior to the date on which this Guideline takes effect, provided that such law sets percentages that are higher than those specified in points (a) to (c).

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CHAPTER III  
**FINAL PROVISIONS**

*Article 10*

**Taking effect and implementation**

1. This Guideline shall take effect on the day following that of its publication in the *Official Journal of the European Union*.
2. The NCAs shall comply with this Guideline from 1 January 2018, except for Article 7 which they shall comply with from 1 January 2019.

*Article 11*

**Addressees**

This Guideline is addressed to the NCAs of participating Member States.

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## ANNEX I

**Conditions for assessing an exemption from the large exposure limit, in accordance with Article 400(2)(c) of Regulation (EU) No 575/2013 and Article 6(c) of this Guideline**

1. This Annex applies in respect of exemptions from the large exposure limit under Article 6(c) of this Guideline. For the purposes of Article 6(c), third countries listed in Annex I to Commission Implementing Decision 2014/908 <sup>(1)</sup> are deemed to be equivalent.
2. NCAs shall require less significant institutions to take the following criteria into account when assessing whether an exposure referred to in Article 400(2)(c) of Regulation (EU) No 575/2013 meets the conditions for an exemption from the large exposure limit, in accordance with Article 400(3) of Regulation (EU) No 575/2013.
  - (a) For the purpose of assessing whether the specific nature of the exposure, the counterparty or the relationship between the credit institution and the counterparty eliminate or reduce the risk of the exposure, as provided for in Article 400(3)(a) of Regulation (EU) No 575/2013, less significant institutions must take into account whether:
    - (i) the conditions provided for in Article 113(6)(b), (c) and (e) of Regulation (EU) No 575/2013 are met and in particular whether the counterparty is subject to the same risk evaluation, measurement and control procedures as the credit institution and whether the IT systems are integrated or, at least, fully aligned. In addition, they must take into account whether there are any current or anticipated material practical or legal impediments that would hinder the timely repayment of the exposure by the counterparty to the credit institution, other than in the event of a recovery or resolution situation when the restrictions outlined in Directive 2014/59/EU of the European Parliament and of the Council <sup>(2)</sup> are required to be implemented;
    - (ii) the intragroup exposures are justified by the group's funding structure and strategy;
    - (iii) the process by which a decision is made to approve an exposure to the intragroup counterparty, and the monitoring and review process applicable to such exposures, at individual level and at consolidated level, where relevant, are similar to those that are applied to third party lending;
    - (iv) the credit institution's risk management procedures, IT system and internal reporting enable it to continuously check and ensure that large exposures to group undertakings are aligned with its risk strategy at legal entity level and at consolidated level, where relevant.

<sup>(1)</sup> Commission Implementing Decision 2014/908/EU of 12 December 2014 on the equivalence of the supervisory and regulatory requirements of certain third countries and territories for the purposes of the treatment of exposures according to Regulation (EU) No 575/2013 of the European Parliament and of the Council (OJ L 359, 16.12.2014, p. 155).

<sup>(2)</sup> 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 (OJ L 173, 12.6.2014, p. 190).

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- (b) For the purpose of assessing whether any remaining concentration risk can be addressed by other equally effective means such as the arrangements, processes and mechanisms provided for in Article 81 of Directive 2013/36/EU, as provided for in Article 400(3)(b) of Regulation (EU) No 575/2013, less significant institutions must take into account whether:
- (i) the credit institution has robust processes, procedures and controls, at individual level and at consolidated level, where relevant, to ensure that use of the exemption would not result in concentration risk that is outside its risk strategy and against the principles of sound internal liquidity management within the group;
  - (ii) the credit institution has formally considered the concentration risk arising from intragroup exposures as part of its overall risk assessment framework;
  - (iii) the credit institution has a risk control framework, at legal entity level and at consolidated level where relevant, that adequately monitors the proposed exposures;
  - (iv) the concentration risk arising has been or will be clearly identified in the internal capital adequacy assessment process (ICAAP) of the credit institution and will be actively managed. The arrangements, processes and mechanisms to manage the concentration risk will be assessed in the supervisory review and evaluation process;
  - (v) there is evidence that the management of concentration risk is consistent with the group's recovery plan.
3. For the purposes of verifying whether the conditions specified in paragraph 1 and 2 are met, NCAs may request less significant institutions to submit the following documentation.
- (a) A letter signed by the credit institution's legal representative, with approval from the management body, stating that the credit institution complies with all the conditions for an exemption as laid down in Article 400(2)(c) and Article 400(3) of Regulation (EU) No 575/2013.
  - (b) A legal opinion, issued either by an external independent third party or by an internal legal department, and approved by the management body, demonstrating that there are no obstacles that would hinder timely repayment of exposures by a counterparty to the credit institution that arise from either applicable regulations, including fiscal regulations, or binding agreements.
  - (c) A statement signed by the legal representative and approved by the management body stating that:
    - (i) there are no practical impediments that would hinder the timely repayment of exposures by a counterparty to the credit institution;
    - (ii) intragroup exposures are justified by the group's funding structure and strategy;
    - (iii) the process by which a decision is made to approve an exposure to an intragroup counterparty and the monitoring and review process applicable to such exposures, at legal entity level and at consolidated level, are similar to those that are applied to third-party lending;

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- (iv) concentration risk arising from intragroup exposures has been considered as part of the credit institution's overall risk assessment framework.
- (d) Documentation signed by the legal representative and approved by the management body attesting that the credit institution's risk evaluation, measurement and control procedures are the same as the counterparty's and that the credit institution's risk management procedures, IT system and internal reporting enable the management body to continuously monitor the level of the large exposure and its compatibility with the credit institution's risk strategy at legal entity level and at consolidated level, where relevant, and with the principles of sound internal liquidity management within the group.
- (e) Documentation showing that the ICAAP clearly identifies the concentration risk arising from the large intragroup exposures and that this risk is actively managed.
- (f) Documentation showing that the management of concentration risk is consistent with the group's recovery plan.

▼ **M1***ANNEX II***Conditions for assessing an exemption from the large exposure limit, in accordance with Article 400(2)(d) of Regulation (EU) No 575/2013 and Article 6(d) of this Guideline**

1. NCAs shall require less significant institutions to take the following criteria into account when assessing whether an exposure referred to in Article 400(2)(d) of Regulation (EU) No 575/2013 meets the conditions for an exemption from the large exposure limit, in accordance with Article 400(3) of Regulation (EU) No 575/2013.

(a) for the purpose of assessing whether the specific nature of the exposure, the regional or central body or the relationship between the credit institution and the regional or central body eliminate or reduce the risk of the exposure, as provided for in Article 400(3)(a) of Regulation (EU) No 575/2013, less significant institutions must take into account whether:

(i) there are any current or anticipated material practical or legal impediments that would hinder the timely repayment of the exposure by the counterparty to the credit institution, other than in the event of a recovery or resolution situation, when the restrictions outlined in Directive 2014/59/EU of the European Parliament and of the Council are required to be implemented;

(ii) the proposed exposures are in line with the credit institution's ordinary course of business and its business model or justified by the funding structure of the network;

(iii) the process by which a decision is made to approve an exposure to the credit institution's central body, and the monitoring and review process applicable to such exposures, at individual level and at consolidated level, where relevant, are similar to those that are applied to third-party lending;

(iv) the credit institution's risk management procedures, ITslt, system and internal reporting enable it to continuously check and ensure that the large exposures to its regional or central body are compatible with its risk strategy;

(b) for the purpose of assessing whether any remaining concentration risk can be addressed by other equally effective means such as the arrangements, processes and mechanisms provided for in Article 81 of Directive 2013/36/EU of the European Parliament and of the Council<sup>(1)</sup> as provided for in Article 400(3)(b) of Regulation (EU) No 575/2013, less significant institutions must take into account whether:

(i) the credit institution has robust processes, procedures and controls to ensure that use of the exemption would not result in concentration risk which is outside its risk strategy;

(ii) the credit institution has formally considered the concentration risk arising from exposures to its regional or central body as part of its overall risk assessment framework;

<sup>(1)</sup> 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, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.6.2013, p. 338).



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- (iii) the credit institution has a risk control framework that adequately monitors the proposed exposures;
  - (iv) the concentration risk arising has been or will be clearly identified in the credit institution's internal capital adequacy assessment process (ICAAP) and will be actively managed. The arrangements, processes and mechanisms to manage the concentration risk will be assessed in the supervisory review and evaluation process.
2. In addition to the conditions set out in paragraph 1, NCAs shall require less significant institutions to take into account, for the purpose of assessing whether the regional or central body with which the credit institution is associated in a network is responsible for cash-clearing operations, as provided for in Article 400(2)(d) of Regulation (EU) No 575/2013, whether the by-laws or articles of association of the regional or central body explicitly contain such responsibilities, including, but not limited to the following:
- (a) market funding for the whole network;
  - (b) clearing liquidity within the network, within the scope of Article 10 of Regulation (EU) No 575/2013;
  - (c) providing liquidity to affiliated credit institutions;
  - (d) absorbing excess liquidity of affiliated credit institutions.
3. For the purposes of verifying whether the conditions specified in paragraph 1 and 2 are met, NCAs may request less significant institutions to submit the following documentation.
- (a) a letter signed by the credit institution's legal representative, with approval from the management body, stating that the credit institution complies with all the conditions laid down in Article 400(2)(d) and Article 400(3) of Regulation (EU) No 575/2013 for an exemption to be granted;
  - (b) a legal opinion, issued either by an external independent third party or by an internal legal department, and approved by the management body, demonstrating that there are no obstacles that would hinder the timely repayment of exposures by a regional or central body to the credit institution arising from either applicable regulations, including fiscal regulations, or binding agreements;
  - (c) a statement signed by the legal representative and approved by the management body that:
    - (i) there are no practical impediments to the timely repayment of exposures by a regional or central body to the credit institution;
    - (ii) the regional or central body exposures are justified by the funding structure of the network;
    - (iii) the process by which a decision is made to approve an exposure to a regional or central body and the monitoring and review process applicable to such exposures, at legal entity level and at consolidated level, are similar to those applied to third-party lending;

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- (iv) the concentration risk arising from exposures to the regional or central body has been considered as part of the credit institution's overall risk assessment framework;
- (d) documentation signed by the legal representative and approved by the management body attesting that the credit institution's risk evaluation, measurement and control procedures are the same as the regional or central body's and that the credit institution's risk management procedures, IT system and internal reporting enable the management body to continuously monitor the level of the large exposure and its compatibility with the credit institution's risk strategy at legal entity level and at consolidated level, where relevant, and with the principles of sound internal liquidity management within the network;
- (e) documentation showing that the ICAAP clearly identifies the concentration risk arising from the large exposures to the regional or central body and that this is actively managed;
- (f) documentation showing that the management of concentration risk is consistent with the network's recovery plan.

## I

(Resolutions, recommendations and opinions)

## RECOMMENDATIONS

## EUROPEAN CENTRAL BANK

## RECOMMENDATION OF THE EUROPEAN CENTRAL BANK

of 25 March 2022

**amending Recommendation ECB/2017/10 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/2022/13)

(2022/C 142/01)

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

Having regard to the Treaty on the Functioning of the European Union,

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 <sup>(1)</sup>, and in particular Article 4(3) and Article 6(1) and (5)(c) thereof,

Whereas:

- (1) On 4 April 2017 the European Central Bank (ECB) adopted Recommendation ECB/2017/10 of the European Central Bank <sup>(2)</sup> (hereinafter the 'O&D Recommendation'), in which it established common specifications for the exercise of certain options and discretions available in Union law by national competent authorities (NCAs) in relation to less significant institutions. Legislation introduced since the adoption of the O&D Recommendation has amended or deleted some of the options and discretions provided in Union law that were included in the O&D Recommendation, and the ECB Guide on options and discretions available in Union law of November 2016 (hereinafter the 'ECB Guide') has also been updated. Therefore, certain consequential amendments to the O&D Recommendation are necessary.
- (2) With respect to the options and discretions related to consolidated supervision and waivers of prudential requirements, in line with the specifications contained in Chapter 1 of Section II of the ECB Guide, NCAs should be encouraged to adopt a prudent approach when granting such waivers on an individual basis. Rules on the identification of the consolidating supervisor and the methods and scope of consolidation and sub-consolidation should also be applied in a manner consistent with the ECB Guide.
- (3) With regard to liquidity waivers at the cross-border level, the ECB recommends a specific approach for less significant institutions given that not all the specifications for the assessment of applications included in the ECB Guide are relevant for these institutions.

<sup>(1)</sup> OJ L 287, 29.10.2013, p.63.

<sup>(2)</sup> 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) (OJ C 120, 13.4.2017, p. 2).

- (4) The ECB recommends a consistent and prudent approach with respect to options and discretions related to own funds requirements, in line with the specifications contained in Chapter 2 of Section II of the ECB Guide. To reflect specificities of less significant institutions in relation to the excess capital margin requirement for reductions of own funds, certain adjustments of those specifications are necessary.
- (5) The ECB recommends a consistent and prudent approach with respect to the options and discretions related to liquidity requirements, which should follow the specifications set out in Chapter 6 of Section II of the ECB Guide, as these options and discretions have an impact on the calculation of liquidity coverage ratio requirements, for example by specifying the treatment of specific inflows and outflows.
- (6) As regards outflows from trade finance off-balance-sheet related products, specifications have been added to the ECB Guide to take account of the new ECB policy which allows additional flexibility in the determination of outflow rates. Therefore, to ensure consistency in the application of outflow rates to trade finance off-balance-sheet exposures amongst significant and less significant institutions, NCAs should follow the specifications included in the ECB Guide.
- (7) As regards the outflow rates to be applied to stable retail deposits, certain factors have impeded the practical application of the discretion addressed in Article 13 of Regulation (EU) 2016/445 of the European Central Bank (ECB/2016/4) <sup>(3)</sup> whereby competent authorities may authorise institutions to apply a 3 % outflow rate to stable retail deposits covered by a deposit guarantee scheme (DGS), subject to the prior approval of the European Commission in accordance with Article 24(4) and (5) of Commission Delegated Regulation (EU) 2015/61 <sup>(4)</sup>. Further evidence and analysis are necessary in order to demonstrate that the run-off rates for stable retail deposits covered by a DGS as referred to in Article 24(5) of Delegated Regulation (EU) 2015/61 would be below 3 % during any stress period experienced consistent with the scenarios referred to in Article 5 of Delegated Regulation (EU) 2015/61. In the absence of such evidence and analysis, the general specification of a 3 % outflow rate has been removed from Guideline ECB/2017/9 of the European Central Bank <sup>(5)</sup> concerning the exercise of options and discretions available in Union law by national competent authorities in relation to less significant institutions. The ECB's position towards this option has been set out in Section III of the ECB Guide. To ensure consistency in the exercise of options and discretions in relation to significant and less significant institutions, NCAs should adopt the same position.
- (8) With respect to the options and discretions related to the leverage ratio, the ECB recommends a consistent and prudent approach, in common with the specifications set out in Chapter 3 of Section I of the ECB Guide and Chapter 7 of Section II thereof.
- (9) With respect to the options and discretions related to intermediate parent undertakings and the possibility for competent authorities to allow two or more institutions in the Union which are part of the same third-country group to have two intermediate EU parent undertakings pursuant to Article 21b(2) of Directive 2013/36/EU of the European Parliament and of the Council <sup>(6)</sup>, and to the relevance of such possibility in the case of less significant institutions, the ECB recommends that NCAs adopt an approach consistent with that set out in Chapter 9 of Section II of the ECB Guide, in order to ensure a level playing field.
- (10) With respect to the options and discretions related to reporting requirements for institutions, in particular concerning valuation of assets and off-balance-sheet items and concerning reporting waivers, the ECB recommends that NCAs follow the approach set out in Chapter 8 of Section II of the ECB Guide, so as to ensure both a consistent application of policy standards across the Single Supervisory Mechanism and a level playing field.

<sup>(3)</sup> 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) (OJ L 78, 24.3.2016, p. 60).

<sup>(4)</sup> 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 (OJ L 11, 17.1.2015, p. 1).

<sup>(5)</sup> Guideline (EU) 2017/697 of the European Central Bank of 4 April 2017 on the exercise of the options and discretions available in Union law by national competent authorities in relation to less significant institutions (ECB/2017/9) (OJ L 101, 13.4.2017, p. 156).

<sup>(6)</sup> 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, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.6.2013, p. 338).

- (11) With respect to the options and discretions related to governance, the O&D Recommendation should be amended to reflect legislative changes concerning the supervisory treatment of (mixed) financial holding companies.
- (12) Therefore, Recommendation ECB/2017/10 should be amended accordingly,

HAS ADOPTED THIS RECOMMENDATION:

PART ONE

**Amendments**

Recommendation ECB/2017/10 is amended as follows:

1. in Part One, paragraph 2 in Section I is replaced by:

‘2. Definitions

For the purposes of this Recommendation, the definitions set out in Regulation (EU) No 1024/2013, Regulation (EU) No 468/2014 (ECB/2014/17), Regulation (EU) No 575/2013, Directive 2013/36/EU, Commission Delegated Regulation (EU) 2015/61 (\*) and Directive 2014/59/EU of the European Parliament and of the Council (\*\*) apply.

(\*) 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 (OJ L 11, 17.1.2015, p. 1).

(\*\*) 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 (OJ L 173, 12.6.2014, p. 190).;

2. in Part Two, the following Section IIa is inserted:

**IIa.**

**Own funds requirements**

1. Article 78(1)(b) of Regulation (EU) No 575/2013: reduction of own funds: excess capital margin requirement
- 1.1 An NCA should determine the excess margin required pursuant to Article 78(1)(b) of Regulation (EU) No 575/2013 for the purpose of a reduction of own funds, provided that the conditions of Article 78(1) are met and after assessing all of the following factors:
- (a) whether the credit institution taking any of the actions referred to in Article 77(1) of Regulation (EU) No 575/2013 would continue to exceed, over a three-year horizon, the overall capital requirements set out in the most recent applicable supervisory review and evaluation process (SREP) decision by at least the guidance on additional own funds set out in the same SREP decision;
  - (b) whether the credit institution taking any of the actions referred to in Article 77(1) of Regulation (EU) No 575/2013 would continue to exceed, over a three-year horizon, the requirements laid down in Directive 2014/59/EU by at least the margin which the National Resolution Authority or the Single Resolution Board, in agreement with the NCA, would consider necessary to fulfil the condition set out in Article 78a of Regulation (EU) No 575/2013;
  - (c) the impact of the planned reduction on the relevant tier of own funds;
  - (d) whether the credit institution taking any of the actions referred to in Article 77(1) of Regulation (EU) No 575/2013 would continue to exceed, over a three-year horizon, the leverage ratio requirement laid down in Article 92(1)(d) of that Regulation, and the additional own funds requirement to address the risk of excessive leverage set out in the most recent applicable SREP decision, by at least the guidance on additional own funds to address the risk of excessive leverage set out in that SREP decision.

- 1.2 Applications to reduce own funds received from credit institutions that do not adhere to the margins set out above should still be approved on a case-by-case basis where they are duly justified by well-founded prudential arguments. Where the margin under point (b) of paragraph 1.1 is not adhered to, the NCA should seek the opinion of the National Resolution Authority or the Single Resolution Board on whether the own funds reduction may jeopardise the fulfilment of the requirements for own funds and eligible liabilities laid down in Directive 2014/59/EU.
- 1.3 Where for the purposes of point (a) or (d) of paragraph 1.1 the credit institution is not subject to guidance on additional own funds, the margin must be determined on a case-by-case basis, having regard to the specific circumstances of the credit institution.
2. Second subparagraph of Article 78(1) of Regulation (EU) No 575/2013: reduction of own funds: general prior permission
- An NCA should grant the general prior permission provided for in the second subparagraph of Article 78(1) of Regulation (EU) No 575/2013 where the conditions set out therein and in Commission Delegated Regulation (EU) No 241/2014 (\*) are met. An NCA should determine the margin specified in the second subparagraph of Article 78(1) of Regulation (EU) No 575/2013, after assessing all of the factors set out in paragraph 1 of Section IIa of this Recommendation.

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(\*) Commission Delegated Regulation (EU) No 241/2014 of 7 January 2014 supplementing Regulation (EU) No 575/2013 of the European Parliament and the Council with regard to regulatory technical standards for Own Funds requirements for institutions (OJ L 74, 14.3.2014, p. 8).;

3. In Part Two, Section V is deleted;
4. The Annex is replaced by the Annex to this Recommendation.

#### PART TWO

#### Addressees

This Recommendation is addressed to the NCAs of participating Member States.  
NCAs are recommended to apply this Recommendation as of the date of its adoption.

Done at Frankfurt am Main, 25 March 2022.

*The President of the ECB*  
Christine LAGARDE

## ANNEX

The Annex to Recommendation ECB/2017/10 is replaced by the following:

## ‘ANNEX

Legal basis of the option and/or discretion	Approach recommended: consistency with the policy on options and discretions for significant institutions
<b><i>Consolidated supervision and waivers of prudential requirements</i></b>	
Article 7(1) to (3) of Regulation (EU) No 575/2013: capital waivers	Section II, Chapter 1 paragraph 3 of the ECB Guide
Article 8(1) and (2) of Regulation (EU) No 575/2013: liquidity waivers	Section II, Chapter 1 paragraph 4 of the ECB Guide
Article 9 of Regulation (EU) No 575/2013: individual consolidation method	Section II, Chapter 1 paragraph 5 of the ECB Guide
Article 10(1) and (2) of Regulation (EU) No 575/2013: waivers for credit institutions permanently affiliated to a central body	Section II, Chapter 1 paragraph 6 of the ECB Guide
Article 18(3) of Regulation (EU) No 575/2013: methods for consolidation in the case of undertakings related within the meaning of Article 22(7) of Directive 2013/34/EU	Section III, Chapter 1 paragraph 1 of the ECB Guide
Article 18(5) of Regulation (EU) No 575/2013: methods for consolidation in the case of participations or capital ties other than those referred to in Article 18(1) and (4)	Section III, Chapter 1 paragraph 2 of the ECB Guide
Article 18(6) of Regulation (EU) No 575/2013: consolidation in the cases of significant influence and common management	Section III, Chapter 1 paragraph 3 of the ECB Guide
Article 18(7) of Regulation (EU) No 575/2013: consolidation	Section II, Chapter 1 paragraph 8 of the ECB Guide
Article 18(8) of Regulation (EU) No 575/2013: consolidation	Section III, Chapter 1 paragraph 4 of the ECB Guide
Article 19(2) of Regulation (EU) No 575/2013: exclusion of consolidation	Section II, Chapter 1 paragraph 9 of the ECB Guide
Article 24(2) of Regulation (EU) No 575/2013: valuation of assets and off-balance sheet items – use of International Financial Reporting Standards for prudential purposes	Section II, Chapter 1 paragraph 10 of the ECB Guide
<b><i>Own funds</i></b>	
Article 26(3) of Regulation (EU) No 575/2013: classification as CET1 instruments of subsequent issuances	Section II, Chapter 2 paragraph 3 of the ECB Guide
Article 49(1) of Regulation (EU) No 575/2013: deduction of insurance holdings	Section II, Chapter 2 paragraph 5 of the ECB Guide
Article 49(2) of Regulation (EU) No 575/2013: deduction of holdings of financial sector entities	Section II, Chapter 2 paragraph 6 of the ECB Guide
Article 54(1)(e) of Regulation (EU) No 575/2013: calculation of the trigger for additional Tier 1 instruments issued by subsidiary undertakings established in third countries	Section II, Chapter 2 paragraph 7 of the ECB Guide

Legal basis of the option and/or discretion	Approach recommended: consistency with the policy on options and discretions for significant institutions
Article 78(3) of Regulation (EU) No 575/2013: reduction of own funds – mutuals, savings and cooperatives	Section II, Chapter 2 paragraph 10 of the ECB Guide
Article 78(4) of Regulation (EU) No 575/2013: reduction of additional Tier 1 or Tier 2 instruments	Section II, Chapter 2 paragraph 11 of the ECB Guide
Article 79(1) of Regulation (EU) No 575/2013: reduction of additional Tier 1 or Tier 2 instruments	Section II, Chapter 2 paragraph 12 of the ECB Guide
Article 83(1) of Regulation (EU) No 575/2013: waiver for additional Tier 1 and Tier 2 instruments issued by a special purpose entity	Section II, Chapter 2 paragraph 13 of the ECB Guide
Article 84(5) of Regulation (EU) No 575/2013: minority interests included in consolidated Common Equity Tier 1 capital	Section II, Chapter 2 paragraph 14 of the ECB Guide
Article 142(1) of Directive 2013/36/EU: failure to meet combined buffer requirement or leverage ratio buffer requirement	Section II, Chapter 11 paragraph 12 of the ECB Guide

#### **Capital requirements**

Article 113(6) of Regulation (EU) No 575/2013: calculation of risk weighted exposure amounts – intra-group exposures	Section II, Chapter 3 paragraph 3 of the ECB Guide
Article 162(1) of Regulation (EU) No 575/2013: maturity of exposures	Section II, Chapter 3 paragraph 5 of the ECB Guide
Article 225(2) of Regulation (EU) No 575/2013: own estimates of volatility adjustments	Section II, Chapter 3 paragraph 6 of the ECB Guide
Article 244(2) and the second subparagraph of Article 245(2) of Regulation (EU) No 575/2013: significant risk transfer	Section II, Chapter 3 paragraph 9 of the ECB Guide
Article 283(3) of Regulation (EU) No 575/2013: implementation of the internal model method	Section II, Chapter 3 paragraph 8 of the ECB Guide
Article 284(4) and (9) of Regulation (EU) No 575/2013: calculation of the exposure value for counterparty credit risk	Section II, Chapter 3 paragraph 9 of the ECB Guide
Article 366(4) of Regulation (EU) No 575/2013: calculation of the value-at-risk number	Section II, Chapter 3 paragraph 13 of the ECB Guide

#### **Institutional protection schemes**

Article 8(4) of Regulation (EU) No 575/2013: liquidity waiver for members of institutional protection schemes	Section II, Chapter 4 paragraph 3 of the ECB Guide
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#### **Large exposures**

Article 396(1) of Regulation (EU) No 575/2013: compliance with large exposures requirements	Section II, Chapter 5 paragraph 3 of the ECB Guide
Article 400(2)(c) of Regulation (EU) No 575/2013: compliance with large exposures requirements	Section II, Chapter 5 paragraph 4 of the ECB Guide



Legal basis of the option and/or discretion	Approach recommended: consistency with the policy on options and discretions for significant institutions
<b>Liquidity</b>	
Article 414 of Regulation (EU) No 575/2013: compliance with liquidity requirements	Section II, Chapter 6 paragraph 3 of the ECB Guide
Article 422(8) of Regulation (EU) No 575/2013 and Article 29 of Delegated Regulation (EU) 2015/61: intragroup liquidity outflows	Section II, Chapter 6 paragraph 10 of the ECB Guide
Article 425(4) of Regulation (EU) No 575/2013 and Article 34 of Delegated Regulation (EU) 2015/61: intragroup liquidity inflows	Section II, Chapter 6, paragraph 14 of the ECB Guide
Article 8(1) of Delegated Regulation (EU) 2015/61: diversification of holdings of liquid assets	Section II, Chapter 6 paragraph 5 of the ECB Guide
Article 8(3)(c) of Delegated Regulation (EU) 2015/61: management of liquid assets	Section II, Chapter 6 paragraph 6 of the ECB Guide
Article 8(6) of Delegated Regulation (EU) 2015/61: currency mismatches	Section II, Chapter 6 paragraph 4 of the ECB Guide
Article 17(4) of Delegated Regulation (EU) 2015/61: waiver of the unwind mechanism	Section I, Chapter 3 paragraph 1 of the ECB Guide
Article 23(2) of Delegated Regulation (EU) 2015/61: outflows from other products and services	Section II, Chapter 6 paragraph 7 of the ECB Guide
Article 24(4) and (5) of Delegated Regulation (EU) 2015/61: outflows from stable retail deposits	Section III, Chapter 3 paragraph 1 of the ECB Guide
Article 24(6) of Delegated Regulation (EU) 2015/61: multiplier for retail deposits covered by a deposit guarantee scheme	Section III, Chapter 3 paragraph 3 of the ECB Guide
Article 25(3) of Delegated Regulation (EU) 2015/61: higher outflow rates	Section II, Chapter 6 paragraph 8 of the ECB Guide
Article 26 of Delegated Regulation (EU) 2015/61: outflows with inter-dependent inflows	Section II, Chapter 6 paragraph 9 of the ECB Guide
Article 29 of Delegated Regulation (EU) 2015/61: preferential treatment within a group or an institutional protection scheme (IPS)	Section II, Chapter 6 paragraph 10 of the ECB Guide
Article 30(2) of Delegated Regulation (EU) 2015/61: additional collateral outflows from downgrade triggers	Section II, Chapter 6 paragraph 11 of the ECB Guide
Article 33(2) of Delegated Regulation (EU) 2015/61: cap on inflows	Section II, Chapter 6 paragraph 12 of the ECB Guide
Article 33(3) to (5) of Delegated Regulation (EU) 2015/61: specialised credit institutions	Section II, Chapter 6 paragraph 13 of the ECB Guide
Article 34 of Delegated Regulation (EU) 2015/61: inflows within a group or an institutional protection scheme	Section II, Chapter 6 paragraph 14 of the ECB Guide
Article 428b(5) of Regulation (EU) No 575/2013: net stable funding requirement (NSFR) - restriction of currency mismatches	Section II, Chapter 6 paragraph 15 of the ECB Guide

Legal basis of the option and/or discretion	Approach recommended: consistency with the policy on options and discretions for significant institutions
Article 428f(1) of Regulation (EU) No 575/2013: NSFR - interdependent assets and liabilities	Section II, Chapter 6 paragraph 16 of the ECB Guide
Article 428h of Regulation (EU) No 575/2013: NSFR - Preferential treatment within a group or an IPS	Section II, Chapter 6 paragraph 17 of the ECB Guide.
Article 428p(7) of Regulation (EU) No 575/2013: NSFR - treatment of non-standard central bank operations	Section I, Chapter 3 paragraph 1 of the ECB Guide
Article 428ai of Regulation (EU) No 575/2013: NSFR - application of the simplified net stable funding requirement (sNSFR)	Section II, Chapter 6 paragraph 18 of the ECB Guide
Article 428aq(7) of Regulation (EU) No 575/2013 - NSFR - treatment of non-standard central bank operations (sNSFR)	Section I, Chapter 3 paragraph 1 of the ECB Guide
Article 8 of Regulation (EU) No 575/2013: liquidity waivers	Section II, Chapter 4 paragraph 3 of the ECB Guide
<b>Leverage</b>	
Article 429a(2) of Regulation (EU) No 575/2013: preferential treatment in favour of public development banks	Section II, Chapter 7 paragraph 3 of the ECB Guide
Article 429a(5) of Regulation (EU) No 575/2013: exemption of central bank reserves from calculation of leverage ratio	Section I, Chapter 3 paragraph 1 of the ECB Guide
Article 429b(3) of Regulation (EU) No 575/2013: preferential treatment for notional cash pooling arrangements	Section II, Chapter 7 paragraph 4 of the ECB Guide
<b>Reporting requirements</b>	
Article 430(11) of Regulation (EU) No 575/2013: reporting on prudential requirements and financial information	Section II, Chapter 8 paragraph 1 of the ECB Guide
<b>General requirements for access to the activity of credit institutions</b>	
Article 21(1) of Directive 2013/36/EU: waiver for credit institutions permanently affiliated to a central body	Section II, Chapter 9 paragraph 1 of the ECB Guide
Article 21b(2) of Directive 2013/36/EU: intermediate parent undertaking	Section II, Chapter 9 paragraph 2 of the ECB Guide
<b>Governance arrangements and prudential supervision</b>	
Article 88(1)(e) of Directive 2013/36/EU: combining the functions of the chairman and CEO	Section II, Chapter 11 paragraph 4 of the ECB Guide
Article 91(6) of Directive 2013/36/EU: additional non-executive directorship	Section II, Chapter 11 paragraph 5 of the ECB Guide
Article 108(1) of Directive 2013/36/EU: internal capital adequacy assessment process for credit institutions permanently affiliated to a central body	Section II, Chapter 11 paragraph 6 of the ECB Guide

Legal basis of the option and/or discretion	Approach recommended: consistency with the policy on options and discretions for significant institutions
Articles 117 and 118 of Directive 2013/36/EU: cooperation obligations	Section II, Chapter 11 paragraph 9 of the ECB Guide
Article 142 of Directive 2013/36/EU: capital conservation plans	Section II, Chapter 11 paragraph 12 of the ECB Guide'



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