COMMISSION DELEGATED REGULATION (EU) 2018/1620

of 13 July 2018

amending Delegated Regulation (EU) 2015/61 to supplement Regulation (EU) No 575/2013 of the European Parliament and the Council with regard to liquidity coverage requirement for credit institutions

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 ([1]), and in particular Article 460 thereof,

Whereas:

(1) Commission Delegated Regulation (EU) 2015/61 ([2]) should be amended in order to improve alignment with international standards and facilitate more efficient liquidity management by credit institutions.

(2) In particular, in order to take adequate account of activities carried out by credit institutions active outside the Union, any requirement for a minimum issue size applying to liquid assets held by a subsidiary undertaking in a third country should be waived, so that such assets can be recognised for consolidation purposes. Otherwise, the parent institution could suffer a shortfall in liquid assets at consolidated level since the liquidity requirement arising from a subsidiary in a third country would be included in the consolidated liquidity requirement while the assets held by that subsidiary to fulfil its liquidity requirement in the third country would be excluded from the consolidated liquidity requirement. However, the assets of the subsidiary undertaking in a third country should only be recognised up to the level of the stressed net liquidity outflows incurred in the same currency as the currency in which the assets are denominated and arising from that particular subsidiary. Moreover, as for any other third-country assets, the assets should only be recognised if they qualify as liquid assets under the national law of the third country in question.

(3) It is recognised that central banks can provide liquidity in their own currency and that the credit rating of central banks is less relevant for liquidity purposes than for solvency purposes. As a result, and in order to align the rules in Delegated Regulation (EU) 2015/61 more closely with the international standard and to provide a level playing field for internationally active credit institutions, reserves held by a third country subsidiary or branch of a Union credit institution in the central bank of a third country which is not assigned a credit assessment of credit quality step 1 by a nominated external credit assessment institution should be eligible as level 1 liquid assets where certain conditions are met. Specifically, those reserves should be eligible where the credit institution is permitted to withdraw them at any time during stress periods and, in addition, the conditions for their withdrawal are specified in an agreement between the supervisory authority of the third country and the central bank in which the reserves are held or in the applicable rules of the third country. However, those reserves should only be capable of being recognised as level 1 assets to cover stressed net liquidity outflows incurred in the same currency as that in which the reserves are denominated.

(4) It is appropriate to take into account Regulation (EU) 2017/2402 of the European Parliament and of the Council ([3]). That Regulation contains criteria to determine whether a securitisation can be designated as a simple, transparent and standardised ('STS') securitisation. Since those criteria ensure that STS securitisations are of high quality, they should also be used to determine which securitisations are to count as high quality liquid assets for the calculation of the liquidity coverage requirement. Securitisations should therefore be eligible as level 2B assets

([1]) OJ L 176, 27.6.2013, p. 1.

([2]) 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).

([3]) Regulation (EU) 2017/2402 of the European Parliament and of the Council of 12 December 2017 laying down a general framework for securitisation and creating a specific framework for simple, transparent and standardised securitisation, and amending Directives 2009/65/EC, 2009/138/EC and 2011/61/EU and Regulations (EC) No 1060/2009 and (EU) No 648/2012 (OJ L 347, 28.12.2017, p. 35).

for the purposes of Delegated Regulation (EU) 2015/61 if they fulfil all the requirements laid down in Regulation (EU) 2017/2402, in addition to those criteria already specified in Delegated Regulation (EU) 2015/61 that are specific to their liquidity characteristics.

(5) The implementation of Delegated Regulation (EU) 2015/61 should not hinder the effective transmission of monetary policy to the economy. Transactions with the ECB or the central bank of a Member State can be expected to be rolled-over under conditions of severe stress. It should therefore be possible for competent authorities to waive the unwind mechanism for the calculation of the liquidity buffer in the case of secured transactions with the ECB or the central bank of a Member State where the transactions involve high quality liquid assets on at least one leg of each transaction and are due to mature within the next 30 calendar days. However, before granting the waiver, competent authorities should be required to consult with the central bank that is the counterparty to the transaction, and also with the ECB if that central bank is an Eurosystem central bank. In addition, the waiver should be subject to appropriate safeguards in order to avoid possible regulatory arbitrage opportunities or adverse incentives for credit institutions. Finally, to align the Union rules more closely with the international standard set by the BCBS, collateral received through derivatives transactions should be removed from the unwind mechanism.

(6) In addition, the treatment of outflow and inflow rates for repurchase agreements ('repos'), reverse repurchase agreements ('reverse repos') and collateral swaps should be fully aligned with the approach in the international standard for the liquidity coverage ratio set by the Basel Committee on Banking Supervision ('BCBS'). Specifically, the cash outflows calculation should be directly linked to the prolongation rate of the transaction (aligned with the haircut on the collateral provided applied to the cash liability, as in the BCBS standard) rather than to the liquidity value of the underlying collateral.

(7) Given divergent interpretations that have emerged, it is important to clarify various provisions of Delegated Regulation (EU) 2015/61, in particular regarding the fulfilment of the liquidity coverage requirement; the eligibility in the buffer of assets included in a pool available to obtain funding under uncommitted lines operated by the central bank, of CIUs and of deposits and other funding in cooperative networks and institutional protection schemes; the calculation of additional liquidity outflows for other products and services; the granting of preferential treatment to intragroup credit and liquidity facilities; the treatment of short position; and the recognition of monies due from securities maturing in the next 30 calendar days,

(8) Delegated Regulation (EU) 2015/61 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Delegated Regulation (EU) 2015/61 is amended as follows:

(1) in Article 2(3), point (a) is replaced by the following:

'(a) third country assets held by a subsidiary undertaking in a third country may be recognised as liquid assets for consolidation purposes where they qualify as liquid assets under that third country's national law setting out the liquidity coverage requirement and they satisfy one of the following conditions:

(i) the assets meet all the requirements laid down in Title II of this Regulation;

(ii) the assets fail to meet the specific requirement laid down in Title II of this Regulation with respect to their issue size but meet all the other requirements laid down therein.

The assets recognisable by virtue of point (ii) may only be recognised up to the amount of the stressed net liquidity outflows incurred in the particular currency in which they are denominated and arising from that same subsidiary undertaking;';

(2) Article 3 is amended as follows:

(a) points (8) and (9) are deleted;

(b) point (11) is replaced by the following:

'11. "stress" means a sudden or severe deterioration in the solvency or liquidity position of a credit institution due to changes in market conditions or idiosyncratic factors as a result of which there is a significant risk that the credit institution becomes unable to meet its commitments as they fall due within the next 30 calendar days;';

(3) Article 4 is amended as follows:

(a) paragraph 5 is replaced by the following:

'5. Credit institutions shall calculate and monitor their liquidity coverage ratio in the reporting currency for all items, irrespective of their actual currency denomination.

In addition, credit institutions shall separately calculate and monitor their liquidity coverage ratio for certain items as follows:

(a) for items that are subject to separate reporting in a currency other than the reporting currency in accordance with Article 415(2) of Regulation (EU) No 575/2013, credit institutions shall separately calculate and monitor their liquidity coverage ratio in that other currency;

(b) for items denominated in the reporting currency where the aggregate amount of liabilities denominated in currencies other than the reporting currency equals or exceeds 5 % of the credit institution's total liabilities, excluding regulatory capital and off-balance-sheet items, credit institutions shall separately calculate and monitor their liquidity coverage ratio in the reporting currency.

Credit institutions shall report to their competent authority the liquidity coverage ratio in accordance with Commission Implementing Regulation (EU) No 680/2014.';

(b) the following paragraph 6 is added:

'6. Credit institutions shall not double-count liquid assets, inflows and outflows.';

(4) Article 7 is amended as follows:

(a) paragraph 2 is replaced by the following:

'2. The assets shall be a property, right, entitlement, or interest, that is held by the credit institution, or included in a pool as referred to in point (a), and is free from any encumbrance. For those purposes, an asset shall be deemed to be unencumbered where it is not subject to any legal, contractual, regulatory or other restriction preventing the credit institution from liquidating, selling, transferring, assigning or, generally, disposing of the asset via an outright sale or a repurchase agreement within the following 30 calendar days. The following assets shall be deemed to be unencumbered:

(a) assets included in a pool which are available for immediate use as collateral to obtain additional funding under committed but not yet funded credit lines available to the credit institution or, if the pool is operated by a central bank, under uncommitted and not yet funded credit lines available to the credit institution. This point shall include assets placed by a credit institution with the central institution in a cooperative network or institutional protection scheme. Credit institutions shall assume that assets in the pool are encumbered in order of increasing liquidity on the basis of the liquidity classification set out in Chapter 2, starting with assets ineligible for the liquidity buffer;

(b) assets that the credit institution has received as collateral for credit risk mitigation purposes in reverse repo or securities financing transactions and that the credit institution may dispose of.';

(b) paragraph 4 is amended as follows:

(i) point (a) is replaced by the following:

'(a) another credit institution, unless one or more of the following conditions is met:

(i) the issuer is a public sector entity referred to in point (c) of Article 10(1) or in point (a) or (b) of Article 11(1);

(ii) the asset is a covered bond referred to in point (f) of Article 10(1) or in point (c) or (d) of Article 11(1) or in point (e) of Article 12(1);

(iii) the asset belongs to the category described in point (e) of Article 10(1);';

(ii) point (g) is replaced by the following:

'(g) any other entity that performs one or more of the activities listed in Annex I to Directive 2013/36/EU as its main business. For the purposes of this Article, SSPEs shall be deemed not included within the entities referred to in this point.';

(c) in paragraph 7, the following point (aa) is inserted:

'(aa) the exposures to central governments referred to in point (d) of Article 10(1);';

(5) Article 8 is amended as follows:

(a) in paragraph 1, in point (a) of the second subparagraph, point (ii) is replaced by the following:

'(ii) the exposures to central banks referred to in points (b) and (d) of Article 10(1);';

(b) in paragraph 3, point (b) is replaced by the following:

'(b) putting in place internal systems and controls to give the liquidity management function effective operational control to monetise the holdings of liquid assets at any point in the 30 calendar day stress period and to access the contingent funds without directly conflicting with any existing business or risk management strategies. In particular, an asset shall not be included in the liquidity buffer where monetisation of the asset without replacement throughout the 30 calendar day stress period would remove a hedge that would create an open risk position in excess of the internal limits of the credit institution;';

(6) Article 10 is amended as follows:

(a) in point (b) of paragraph 1, point (iii) is replaced by the following:

'(iii) reserves held by the credit institution in a central bank referred to in point (i) or (ii) provided that the credit institution is permitted to withdraw such reserves at any time during stress periods and that the conditions for such withdrawal have been specified in an agreement between the competent authority of the credit institution and the central bank in which the reserves are held, or in the applicable rules of the third country.

For the purposes of this point, the following shall apply:

— where the reserves are held by a subsidiary credit institution, the conditions for the withdrawal shall be specified in an agreement between the Member State or third country competent authority of the subsidiary credit institution and the central bank in which the reserves are held, or in the applicable rules of the third country, as applicable,

— where the reserves are held by a branch, the conditions for the withdrawal shall be specified in an agreement between the competent authority of the Member State or third country where the branch is located and the central bank in which the reserves are held, or in the applicable rules of the third country, as applicable,';

(b) point (d) of paragraph 1 is replaced by the following:

'(d) the following assets:

(i) assets representing claims on or guaranteed by the central government or central bank of a third country which is not assigned a credit assessment of credit quality step 1 by a nominated ECAI in accordance with Article 114(2) of Regulation (EU) No 575/2013;

(ii) reserves held by the credit institution in a central bank referred to in point (i), provided that the credit institution is permitted to withdraw those reserves at any time during stress periods and provided that the conditions for such withdrawal have been specified either in an agreement between the competent authorities of that third country and the central bank in which the reserves are held or in the applicable rules of that third country.

For the purposes of point (ii), the following shall apply:

— where the reserves are held by a subsidiary credit institution, the conditions for the withdrawal shall be specified either in an agreement between the third country competent authority of the subsidiary credit institution and the central bank in which the reserves are held or in the applicable rules of the third country,

— where the reserves are held by a branch, the conditions for the withdrawal shall be specified either in an agreement between the competent authority of the third country where the branch is located and the central bank in which the reserves are held or in the applicable rules of the third country.

The aggregate amount of assets falling within points (i) and (ii) of the first subparagraph and denominated in a given currency that the credit institution may recognise as level 1 assets shall not exceed the amount of the credit institution's stressed net liquidity outflows incurred in that same currency.

Moreover, where part or all of the assets falling within points (i) and (ii) of the first subparagraph are denominated in a currency which is not the domestic currency of the third country in question, the credit institution may only recognise those assets as level 1 assets up to an amount equal to the amount of the credit institution's stressed net liquidity outflows incurred in that foreign currency that corresponds to the credit institution's operations in the jurisdiction where the liquidity risk is being taken;';

(c) in point (f) of paragraph 1, point (ii) is replaced by the following:

'the exposures to institutions in the cover pool meet the conditions laid down in Article 129(1)(c) of Regulation (EU) No 575/2013 or, where the competent authority has granted the partial waiver referred to in the last subparagraph of Article 129(1) of Regulation (EU) No 575/2013, the conditions referred to in that subparagraph;';

(d) paragraph 2 is replaced by the following:

'2. The market value of extremely high quality covered bonds referred to in point (f) of paragraph 1 shall be subject to a haircut of at least 7 %. Except as specified in relation to shares and units in CIUs in points (b) and (c) of Article 15(2), no haircut shall be required on the value of the remaining level 1 assets.';

(7) Article 11 is amended as follows:

(a) in point (c) of paragraph 1, point (ii) is replaced by the following:

'(ii) the exposures to institutions in the cover pool meet the conditions laid down in Article 129(1)(c) of Regulation (EU) No 575/2013 or, where the competent authority has granted the partial waiver referred to in the last subparagraph of Article 129(1) of Regulation (EU) No 575/2013, the conditions referred to in that subparagraph;';

(b) in point (d) of paragraph 1, point (iv) is replaced by the following:

'(iv) the exposures to institutions in the cover pool meet the conditions laid down in Article 129(1)(c) of Regulation (EU) No 575/2013 or, where the competent authority has granted the partial waiver referred to in the last subparagraph of Article 129(1) of Regulation (EU) No 575/2013, the conditions referred to in that subparagraph;';

(8) Article 13 is amended as follows:

(a) paragraph 1 is replaced by the following:

'1. Exposures in the form of asset-backed securities as referred to in Article 12(1)(a) shall qualify as level 2B securitisations where the following conditions are satisfied:

(a) the designation 'STS' or 'simple, transparent and standardised', or a designation that refers directly or indirectly to those terms, is permitted to be used for the securitisation in accordance with Regulation (EU) 2017/2402 of the European Parliament and of the Council (*) and is being so used;

(b) the criteria laid down in paragraph 2 and paragraphs 10 to 13 of this Article are met.

(*) Regulation (EU) 2017/2402 of the European Parliament and of the Council of 12 December 2017 laying down a general framework for securitisation and creating a specific framework for simple, transparent and standardised securitisation, and amending Directives 2009/65/EC, 2009/138/EC and 2011/61/EU and Regulations (EC) No 1060/2009 and (EU) No 648/2012 (OJ L 347, 28.12.2017, p. 35).';

(b) paragraph 2 is amended as follows:

(i) points (a) and (b) are replaced by the following:

(a) 'the position has been assigned a credit assessment of credit quality step 1 by a nominated ECAI in accordance with Article 264 of Regulation (EU) No 575/2013 or the equivalent credit quality step in the event of a short-term credit assessment;'

(b) 'the position is in the most senior tranche or tranches of the securitisation and possesses the highest level of seniority at all times during the ongoing life of the transaction. For these purposes, a tranche shall be deemed to be the most senior where after the delivery of an enforcement notice and where applicable an acceleration notice, the tranche is not subordinated to other tranches of the same securitisation transaction or scheme in respect of receiving principal and interest payments, without taking into account amounts due under interest rate or currency derivative contracts, fees or other similar payments in accordance with Article 242(6) of Regulation (EU) No 575/2013;';

(ii) points (c) to (f) and points (h) to (k) are deleted;

(iii) point (g) is amended as follows:

(a) the introductory wording is replaced by the following:

'the securitisation position is backed by a pool of underlying exposures and those underlying exposures either all belong to only one of the following subcategories or else they consist of a combination of residential loans referred to in point (i) and residential loans referred to in point (ii):';

(b) point (iv) is replaced by the following:

'(iv) auto loans and leases to borrowers or lessees established or resident in a Member State. For these purposes, auto loans and leases shall include loans or leases for the financing of motor vehicles or trailers as defined in points (11) and (12) of Article 3 of Directive 2007/46/EC of the European Parliament and of the Council (*), agricultural or forestry tractors as referred to in Regulation (EU) No 167/2013 of the European Parliament and of the Council (**), two-wheel motorcycles or powered tricycles as referred to in Regulation (EU) No 168/2013 of the European Parliament and of the Council (***) or tracked vehicles as referred to in point (c) of Article 2(2) of Directive 2007/46/EC. Such loans or leases may include ancillary insurance and service products or additional vehicle parts, and in the case of leases, the residual value of leased vehicles. All loans and leases in the pool shall be secured with a first-ranking charge or security over the vehicle or an appropriate guarantee in favour of the SSPE, such as a retention of title provision;

(*) Directive 2007/46/EC of the European Parliament and of the Council of 5 September 2007 establishing a framework for the approval of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles (Framework Directive) (OJ L 263, 9.10.2007, p. 1).

(**) Regulation (EU) No 167/2013 of the European Parliament and of the Council of 5 February 2013 on the approval and market surveillance of agricultural and forestry vehicles (OJ L 60, 2.3.2013, p. 1).

(***) Regulation (EU) No 168/2013 of the European Parliament and of the Council of 15 January 2013 on the approval and market surveillance of two- or three-wheel vehicles and quadricycles (OJ L 60, 2.3.2013, p. 52).';

(c) paragraphs 3 to 9 are deleted;

(9) Article 15 is amended as follows:

(a) in paragraph 3, point (b) is replaced by the following:

'(b) where the credit institution is not aware of the exposures underlying the CIU, it shall assume, for the purposes of determining the liquidity level of the underlying assets and for the purposes of assigning the appropriate haircut to those assets, that the CIU invests in liquid assets, up to the maximum amount allowed under its mandate, in the same ascending order as liquid assets are classified for the purposes of paragraph 2, starting with the assets referred to in point (h) of paragraph 2 and ascending until the maximum total investment limit is reached';

(b) in paragraph 4, the following subparagraph is added:

'The correctness of the calculations made by the depository institution or by the CIU management company when determining the market value and haircuts for shares or units in CIUs shall be confirmed by an external auditor on at least an annual basis.';

(10) Article 16 is replaced by the following:

'Article 16

Deposits and other funding in cooperative networks and institutional protection schemes

1. Where a credit institution belongs to an institutional protection scheme of the type referred to in Article 113(7) of Regulation (EU) No 575/2013, to a network that would be eligible for the waiver provided for in Article 10 of that Regulation or to a cooperative network in a Member State, the sight deposits that the credit institution maintains with the central institution may be treated as liquid assets unless the central institution receiving the deposits treats them as operational deposits. Where the deposits are treated as liquid assets, they shall be treated in accordance with one of the following provisions:

(a) where, in accordance with the national law or the legally binding documents governing the scheme or network, the central institution is obliged to hold or invest the deposits in liquid assets of a specified level or category, the deposits shall be treated as liquid assets of that same level or category in accordance with this Regulation;

(b) where the central institution is not obliged to hold or invest the deposits in liquid assets of a specified level or category, the deposits shall be treated as level 2B assets in accordance with this Regulation and their outstanding amount shall be subject to a minimum haircut of 25 %.

2. Where, under the law of a Member State or the legally binding documents governing one of the networks or schemes described in paragraph 1, the credit institution has access within 30 calendar days to undrawn liquidity funding from the central institution or from another institution within the same network or scheme, such funding shall be treated as a level 2B asset to the extent that it is not collateralised by liquid assets and that it is not being dealt with in accordance with the provisions of Article 34. A minimum haircut of 25 % shall be applied to the undrawn committed principal amount of the liquidity funding.';

(11) Article 17 is amended as follows:

(a) paragraph 2 is replaced by the following:

'2. The requirements set out in paragraph 1 shall be applied after adjusting for the impact on the stock of liquid assets of secured funding, secured lending or collateral swap transactions using liquid assets on at least one leg of the transaction where the transactions mature within 30 calendar days, after deducting any applicable haircuts and provided that the credit institution complies with the operational requirements laid down in Article 8.';

(b) the following paragraph 4 is added:

'4. The competent authority may, on a case-by-case basis, waive the application of paragraphs 2 and 3 in full or in part with respect to one or more secured funding, secured lending or collateral swap transactions using liquid assets on at least one leg of the transaction and maturing within 30 calendar days, provided that all of the following conditions are met:

(a) the counterparty to the transaction or transactions is the ECB or the central bank of a Member State;

(b) exceptional circumstances exist which pose a systemic risk affecting the banking sector of one or more Member States;

(c) the competent authority has consulted with the central bank that is the counterparty to the transaction or transactions, and also with the ECB where that central bank is an Eurosystem central bank, before granting the waiver.';

(c) the following paragraph 5 is added:

'5. EBA shall, by 19 November 2020, report to the Commission on the technical suitability of the unwind mechanism set out in paragraphs 2 to 4 and on whether it is likely to have a detrimental impact on the business and risk profile of credit institutions established in the Union, on the stability and orderly functioning of financial markets, on the economy or on the transmission of monetary policy to the economy. This report shall assess the opportunity to change the unwind mechanism set out in paragraphs 2 to 4 and, where EBA finds either that the current unwind mechanism is technically not suitable or that it has a detrimental impact, it should recommend alternative solutions and evaluate their impact.

The Commission shall take into account the EBA report referred to in the preceding subparagraph when preparing any further delegated act pursuant to the empowerment in Article 460 of Regulation (EU) No 575/2013.';

(12) Article 21 is replaced by the following:

'*Article 21*

Netting of derivatives transactions

1. Credit institutions shall calculate liquidity outflows and inflows expected over a 30 calendar day period, for the contracts listed in Annex II to Regulation (EU) No 575/2013 and for credit derivatives, on a net basis by counterparty subject to the existence of bilateral netting agreements meeting the conditions laid down in Article 295 of that Regulation.

2. By way of derogation from paragraph 1, credit institutions shall calculate cash outflows and inflows arising from foreign currency derivative transactions that involve a full exchange of principal amounts on a simultaneous basis (or within the same day) on a net basis, even where those transactions are not covered by a bilateral netting agreement.

3. For the purposes of this Article, net basis shall be considered to be net of collateral to be posted or received in the next 30 calendar days. However, in the case of collateral to be received in the next 30 calendar days, net basis shall be considered to be net of that collateral only if both of the following conditions are met:

(a) the collateral, when received, will qualify as a liquid asset under Title II of this Regulation;

(b) the credit institution will be legally entitled and operationally able to reuse the collateral, when received.';

(13) Article 22 is amended as follows:

(a) in paragraph 2, points (a) and (b) are replaced by the following:

'(a) the current outstanding amount for stable retail deposits and other retail deposits determined in accordance with Articles 24 and 25;

(b) the current outstanding amounts of other liabilities that become due, can be called for pay-out by the issuer or by the provider of the funding or entail an expectation by the provider of the funding that the credit institution would repay the liability during the next 30 calendar days determined in accordance with Articles 27, 28 and 31a;';

(b) the following paragraph 3 is added:

'3. The calculation of liquidity outflows in accordance with paragraph 1 shall be subject to any netting of interdependent inflows that is approved under Article 26.';

(14) in Article 23, paragraph 1 is replaced by the following:

'1. Credit institutions shall regularly assess the likelihood and potential volume of liquidity outflows during 30 calendar days for products or services which are not referred to in Articles 27 to 31a and which they offer or sponsor or which potential purchasers would consider associated with them. Those products or services shall include, but not be limited to:

(a) other off-balance-sheet and contingent funding obligations, including uncommitted funding facilities;

(b) undrawn loans and advances to wholesale counterparties;

(c) mortgage loans that have been agreed but not yet drawn down;

(d) credit cards;

(e) overdrafts;

(f) planned outflows related to the renewal of existing retail or wholesale loans or the extension of new retail or wholesale loans;

(g) derivative payables, other than the contracts listed in Annex II to Regulation (EU) No 575/2013 and credit derivatives;

(h) trade finance off-balance-sheet related products.';

(15) in Article 25(2), point (b) is replaced by the following:

'(b) the deposit is an internet access-only account;';

(16) at the end of Article 26, the following paragraph is added:

'Competent authorities shall inform the EBA which institutions benefit from the netting of outflows with inter-dependent inflows under this article. The EBA may request supporting documentation.';

(17) Article 28 is amended as follows:

(a) paragraphs 3 and 4 are replaced by the following:

'3. Credit institutions shall multiply liabilities maturing within 30 calendar days and resulting from secured lending or capital market-driven transactions, as defined in points (2) and (3) respectively of Article 192 of Regulation (EU) No 575/2013, by:

(a) 0 % where they are collateralised by assets that, but for being used as collateral for those transactions, would qualify in accordance with Articles 7 and 10 of this Regulation as liquid assets of any of the categories of level 1 asset referred to in Article 10, with the exception of extremely high quality covered bonds referred to in point (f) of Article 10(1);

(b) 7 % where they are collateralised by assets that, but for being used as collateral for those transactions, would qualify in accordance with Articles 7 and 10 of this Regulation as liquid assets of the category referred to in point (f) of Article 10(1);

(c) 15 % where they are collateralised by assets that, but for being used as collateral for those transactions, would qualify in accordance with Articles 7 and 11 of this Regulation as liquid assets of any of the categories of level 2A asset referred to in Article 11;

(d) 25 % where they are collateralised by assets that, but for being used as collateral for those transactions, would qualify in accordance with Articles 7 and 13 of this Regulation as liquid assets of any of the categories of level 2B asset referred to in point (i), (ii) or (iv) of point (g) of Article 13(2);

(e) 30 % where they are collateralised by assets that, but for being used as collateral for those transactions, would qualify in accordance with Articles 7 and 12 of this Regulation as liquid assets of the category of level 2B asset referred to in point (e) of Article 12(1);

(f) 35 % where they are collateralised by assets that, but for being used as collateral for those transactions, would qualify in accordance with Articles 7 and 13 of this Regulation as liquid assets of any of the categories of level 2B asset referred to in point (iii) or (v) of point (g) of Article 13(2);

(g) 50 % where they are collateralised by assets that, but for being used as collateral for those transactions, would qualify in accordance with Articles 7 and 12 of this Regulation as liquid assets of any of the categories of level 2B asset referred to in point (b), (c) or (f) of Article 12(1);

(h) the percentage minimum haircut determined in accordance with paragraphs (2) and (3) of Article 15 of this Regulation where they are collateralised by shares or units in CIUs that, but for being used as collateral for those transactions, would qualify in accordance with Articles 7 and 15 as liquid assets of the same level as the underlying liquid assets;

(i) 100 % where they are collateralised by assets that do not fall within any of points (a) to (h) of this subparagraph.

By way of derogation from the first subparagraph, where the counterparty to the secured lending or capital market-driven transaction is the domestic central bank of the credit institution, the outflow rate shall be 0 %. However, in cases where the transaction is done through a branch with the central bank of the Member State or of the third country in which the branch is located, a 0 % outflow rate shall be applied only if the branch has the same access to central bank liquidity, including during stress periods, as credit institutions incorporated in that Member State or third country have.

By way of derogation from the first subparagraph, for secured lending or capital market-driven transactions that would require an outflow rate under that first subparagraph higher than 25 %, the outflow rate shall be 25 % where the counterparty to the transaction is an eligible counterparty.

4. Collateral swaps, and other transactions with a similar form, that mature within the next 30 calendar days shall lead to an outflow where the asset borrowed is subject to a lower haircut under Chapter 2 than the asset lent. The outflow shall be calculated by multiplying the market value of the asset borrowed by the difference between the outflow rate applicable to the asset lent and the outflow rate applicable to the asset borrowed determined in accordance with the rates specified in paragraph 3. For the purposes of this calculation, a 100 % haircut shall be applied to assets that do not qualify as liquid assets.

By way of derogation from the first subparagraph, where the counterparty to the collateral swap or other transaction with a similar form is the domestic central bank of the credit institution, the outflow rate to be applied to the market value of the asset borrowed shall be 0 %. However, in cases where the transaction is done through a branch with the central bank of the Member State or of the third country in which the branch is located, a 0 % outflow rate shall be applied only if the branch has the same access to central bank liquidity, including during stress periods, as credit institutions incorporated in that Member State or third country have.

By way of derogation from the first subparagraph, for collateral swaps or other transactions with a similar form that would require an outflow rate higher than 25 % under that first subparagraph, the outflow rate to be applied to the market value of the asset borrowed shall be 25 % where the counterparty is an eligible counterparty.';

(b) the following paragraphs 7, 8 and 9 are added:

'7. Assets borrowed on an unsecured basis and maturing within the next 30 calendar days shall be assumed to run off in full, leading to a 100 % outflow of liquid assets, unless the credit institution owns the assets borrowed and the assets borrowed do not form part of the credit institution's liquidity buffer.

8. For the purposes of this Article, 'domestic central bank' means any of the following:

(a) any Eurosystem central bank where the credit institution's home Member State has adopted the Euro as its currency;

(b) the national central bank of the credit institution's home Member State where that Member State has not adopted the Euro as its currency;

(c) the central bank of the third country in which the credit institution is incorporated.

9. For the purposes of this Article, 'eligible counterparty' means any of the following:

(a) the central government, a public sector entity, a regional government or a local authority of the credit institution's home Member State;

(b) the central government, a public sector entity, a regional government or a local authority of the Member State or of the third country in which the credit institution is incorporated for the transactions undertaken by that credit institution;

(c) a multilateral development bank.

However, public sector entities, regional governments and local authorities shall only count as an eligible counterparty where they are assigned a risk weight of 20 % or lower in accordance with Article 115 or Article 116 of Regulation (EU) No 575/2013, as applicable.';

(18) in Article 29, paragraph 2 is amended as follows:

(a) point (a) is replaced by the following:

'(a) the liquidity provider and receiver will present a low liquidity risk profile after the application of the lower outflow rate being proposed under paragraph 1 and the application of the inflow rate referred to in point (c) of that paragraph;';

(b) point (c) is replaced by the following:

'(c) the liquidity risk profile of the liquidity receiver is taken into account adequately in the liquidity risk management of the liquidity provider.';

(19) Article 30 is amended as follows:

(a) paragraphs 2 to 5 are replaced by the following:

'2. The credit institution shall calculate and notify to the competent authority an additional outflow for all contracts entered into, the contractual conditions of which lead, within 30 calendar days and following a material deterioration of the credit institution's credit quality, to additional liquidity outflows or collateral needs. The credit institution shall notify the competent authority of that outflow no later than the submission of the reporting in accordance with Article 415 of Regulation (EU) No 575/2013. Where the competent authority considers that outflow to be material in relation to the potential liquidity outflows of the credit institution, it shall require the credit institution to add an additional outflow for those contracts corresponding to the additional collateral needs or cash outflows resulting from a material deterioration in the credit institution's credit quality corresponding to a downgrade in its external credit assessment of at least three notches. The credit institution shall apply a 100 % outflow rate to those additional collateral or cash outflows. The credit institution shall regularly review the extent of this material deterioration in the light of what is relevant under the contracts that it has entered into and shall notify the result of its review to the competent authority.

3. The credit institution shall add an additional outflow corresponding to collateral needs that would result from the impact of an adverse market scenario on the credit institution's derivatives transactions if material. This calculation shall be made in accordance with Commission Delegated Regulation (EU) 2017/208 (*).

4. Outflows and inflows expected over 30 calendar days from the contracts listed in Annex II to Regulation (EU) No 575/2013 and from credit derivatives shall be taken into account on a net basis in accordance with Article 21 of this Regulation. In the case of a net outflow, the credit institution shall multiply the result by a 100 % outflow rate. Credit institutions shall exclude from such calculations those liquidity requirements that result from the application of paragraphs 1, 2 and 3 of this Article.

5. Where the credit institution has a short position that is covered by an unsecured security borrowing, the credit institution shall add an additional outflow corresponding to 100 % of the market value of the securities or other assets sold short, unless the terms upon which the credit institution has borrowed them require their return only after 30 calendar days. Where the short position is covered by a collateralised securities financing transaction, the credit institution shall assume the short position will be maintained throughout the 30 calendar day period and will receive a 0 % outflow.

(*) Commission Delegated Regulation (EU) 2017/208 of 31 October 2016 supplementing Regulation (EU) No 575/2013 of the European Parliament and of the Council with regard to regulatory technical standards for additional liquidity outflows corresponding to collateral needs resulting from the impact of an adverse market scenario on an institution's derivatives transactions (OJ L 33, 8.2.2017, p. 14).';

(b) paragraph 7 is replaced by the following:

'7. Deposits received as collateral shall not be considered as liabilities for the purposes of Article 24, 25, 27, 28 or 31a but shall be subject to the provisions of paragraphs 1 to 6 of this Article, where applicable. The amount of cash received exceeding the amount of cash received as collateral shall be treated as deposits in accordance with Article 24, 25, 27, 28 or 31a.';

(c) paragraph 11 is deleted;

(d) paragraph 12 is replaced by the following:

'12. In relation to the provision of prime brokerage services, where a credit institution has covered the short sales of a client by internally matching them with the assets of another client and the assets do not qualify as liquid assets, those transactions shall be subject to a 50 % outflow rate for the contingent obligation.';

(20) Article 31 is amended as follows:

(a) paragraph 6 is replaced by the following:

'6. The undrawn committed amount of a liquidity facility that has been provided to an SSPE for the purpose of enabling that SSPE to purchase assets, other than securities, from clients that are not financial customers shall be multiplied by 10 % to the extent that it exceeds the amount of assets currently purchased from clients and where the maximum amount that can be drawn down is contractually limited to the amount of assets currently purchased.';

(b) in paragraph 9, the second subparagraph is replaced by the following:

'By way of derogation from point (g) of Article 32(3), where those promotional loans are extended as pass through loans via another credit institution acting as an intermediary, a symmetric inflow and outflow may be applied by the credit institution acting as an intermediary. That inflow and outflow shall be calculated by applying to the undrawn committed credit or liquidity facility received and extended the rate that is applicable to that facility by virtue of the first subparagraph of this paragraph and respecting the conditions and requirements otherwise imposed in relation to it by this paragraph.';

(c) paragraph 10 is deleted;

(21) the following Article 31a is inserted:

'*Article 31a*

Outflows from liabilities and commitments not covered by other provisions of this Chapter

1. Credit institutions shall multiply by a 100 % outflow rate any liabilities that become due within 30 calendar days, except for the liabilities referred to in Articles 24 to 31.

2. Where the total of all contractual commitments to extend funding to non-financial customers within 30 calendar days, other than commitments referred to in Articles 24 to 31, exceeds the amount of inflows from those non-financial customers calculated in accordance with point (a) of Article 32(3), the excess shall be subject to a 100 % outflow rate. For the purposes of this paragraph, non-financial customers shall include, but not be limited to, natural persons, SMEs, corporates, sovereigns, multilateral development banks and public sector entities, and shall exclude financial customers and central banks.';

(22) Article 32 is amended as follows:

(a) paragraphs 2 and 3 are replaced by the following:

'2. Credit institutions shall apply a 100 % inflow rate to inflows referred to in paragraph 1, including in particular the following inflows:

(a) monies due from central banks and financial customers with a residual maturity of no more than 30 calendar days;

(b) monies due from trade finance transactions referred to in point (b) of the second subparagraph of Article 162(3) of Regulation (EU) No 575/2013 with a residual maturity of no more than 30 calendar days;

(c) monies due from securities maturing within 30 calendar days;

(d) monies due from positions in major indexes of equity instruments, provided there is no double counting with liquid assets. Those monies shall include monies contractually due within 30 calendar days, such as cash dividends from those major indexes and cash due from those equity instruments sold but not yet settled, if they are not recognised as liquid assets in accordance with Title II.

3. By way of derogation from paragraph 2, the inflows set out in this paragraph shall be subject to the following requirements:

(a) monies due from non-financial customers with a residual maturity of no more than 30 calendar days, with the exception of monies due from those customers from trade finance transactions or maturing securities, shall be reduced for the purposes of principal payment by 50 % of their value. For the purposes of this point, the term "non-financial customers" shall have the same meaning as in Article 31a(2). However, credit institutions acting as intermediaries that have received a commitment as referred to in the second subparagraph of Article 31(9) from a credit institution set up and sponsored by the central or regional government of at least one Member State in order for them to disburse a promotional loan to a final recipient, or have received a similar commitment from a multilateral development bank or a public sector entity, may take an inflow into account up to the amount of the outflow that they apply to the corresponding commitment to extend those promotional loans;

(b) monies due from secured lending and capital market-driven transactions, as defined in points (2) and (3) respectively of Article 192 of Regulation (EU) No 575/2013, with a residual maturity of no more than 30 calendar days shall be multiplied by:

(i) 0 % where they are collateralised by assets that, whether or not they are re-used in another transaction, would qualify in accordance with Articles 7 and 10 of this Regulation as liquid assets of any of the categories of level 1 asset referred to in Article 10, with the exception of extremely high quality covered bonds referred to in point (f) of Article 10(1);

(ii) 7 % where they are collateralised by assets that, whether or not they are re-used in another transaction, would qualify in accordance with Articles 7 and 10 of this Regulation as liquid assets of the category referred to in point (f) of Article 10(1);

(iii) 15 % where they are collateralised by assets that, whether or not they are re-used in another transaction, would qualify in accordance with Articles 7 and 11 of this Regulation as liquid assets of any of the categories of level 2A asset referred to in Article 11;

(iv) 25 % where they are collateralised by assets that, whether or not they are re-used in another transaction, would qualify in accordance with Articles 7 and 13 of this Regulation as liquid assets of any of the categories of level 2B asset referred to in point (i), (ii) or (iv) of point (g) of Article 13(2);

(v) 30 % where they are collateralised by assets that, whether or not they are re-used in another transaction, would qualify in accordance with Articles 7 and 12 of this Regulation as liquid assets of the category of level 2B asset referred to in point (e) of Article 12(1);

(vi) 35 % where they are collateralised by assets that, whether or not they are re-used in another transaction, would qualify in accordance with Articles 7 and 13 of this Regulation as liquid assets of any of the categories of level 2B asset referred to in point (iii) or (v) of point (g) of Article 13(2);

(vii) 50 % if they are collateralised by assets that, whether or not they are re-used in another transaction, would qualify in accordance with Articles 7 and 12 of this Regulation as liquid assets of any of the categories of level 2B asset referred to in point (b), (c) or (f) of Article 12(1);

(viii) the percentage minimum haircut determined in accordance with paragraphs (2) and (3) of Article 15 of this Regulation if they are collateralised by assets that, whether or not they are re-used in another transaction, would qualify in accordance with Articles 7 and 15 as shares or units in CIUs of the same level as the underlying liquid assets;

(ix) 100 % where they are collateralised by assets that do not fall within any of points (i) to (viii) of this point.

However, no inflow shall be recognised where the collateral is used by the credit institution to cover a short position in accordance with the second sentence of Article 30(5);

(c) monies due from contractual margin loans maturing in the next 30 calendar days made against non-liquid assets collateral may receive a 50 % inflow rate. Those inflows may only be considered where the credit institution is not using the collateral it originally received against the loans to cover any short positions;

(d) monies due that the credit institution owing those monies treats in accordance with Article 27, with the exception of deposits at the central institution referred to in Article 27(3), shall be multiplied by a corresponding symmetrical inflow rate. Where the corresponding rate cannot be established, a 5 % inflow rate shall be applied;

(e) collateral swaps, and other transactions with a similar form that mature within 30 calendar days shall lead to an inflow where the asset lent is subject to a lower haircut under Chapter 2 than the asset borrowed. The inflow shall be calculated by multiplying the market value of the asset lent by the difference between the inflow rate applicable to the asset borrowed and the inflow rate applicable to the asset lent in accordance with the rates specified in point (b). For the purposes of this calculation, a 100 % haircut shall apply to assets that do not qualify as liquid assets;

(f) where the collateral obtained through reverse repos, securities borrowings, collateral swaps, or other transactions with a similar form, maturing within 30 calendar days is used to cover short positions that can be extended beyond 30 calendar days, the credit institution shall assume that such reverse repos, securities borrowings, collateral swaps or other transactions with a similar form will be rolled-over and will

not give rise to any cash inflows reflecting the need to continue to cover the short position or to re-purchase the relevant securities. Short positions shall include both instances where in a matched book the credit institution sold short a security outright as part of a trading or hedging strategy and instances where in a matched book the credit institution has borrowed a security for a given period and lent the security out for a longer period;

(g) undrawn credit or liquidity facilities, including undrawn committed liquidity facilities from central banks, and other commitments received, other than those referred to in the second subparagraph of Article 31(9) and in Article 34, shall not be taken into account as an inflow;

(h) monies due from securities issued by the credit institution itself or by a SSPE with which the credit institution has close links shall be taken into account on a net basis with an inflow rate applied on the basis of the inflow rate applicable to the underlying assets in accordance with this Article;

(i) loans with an undefined contractual end date shall be taken into account with a 20 % inflow rate, provided that the contract allows the credit institution to withdraw or to request payment within 30 calendar days.';

(b) paragraph 5 is replaced by the following:

'5. Outflows and inflows expected over 30 calendar days from the contracts listed in Annex II to Regulation (EU) No 575/2013 and from credit derivatives shall be calculated on a net basis in accordance with Article 21 and shall be multiplied by a 100 % inflow rate in the event of a net inflow.';

(23) Article 34(2) is amended as follows:

(a) point (a) is replaced by the following:

'(a) the liquidity provider and receiver will present a low liquidity risk profile after the application of the higher inflow rate being proposed under paragraph 1 and the application of the outflow rate referred to in point (c) of that paragraph;';

(b) point (c) is replaced by the following:

'(c) the liquidity risk profile of the liquidity receiver is taken into account adequately in the liquidity risk management of the liquidity provider.';

(24) Annex I is amended as follows:

(a) paragraph 3 is replaced by the following:

'3. "Excess liquid assets" amount: this amount shall be comprised of the components defined herein:

(a) the adjusted non-covered bond level 1 asset amount, which shall be equal to the value post-haircuts of all level 1 liquid assets, excluding level 1 covered bonds, that would be held by the credit institution upon the unwind of any secured funding, secured lending or collateral swap transaction that matures within 30 calendar days from the calculation date and where the credit institution and the counterparty exchange liquid assets on at least one leg of the transaction;

(b) the adjusted level 1 covered bond amount, which shall be equal to the value post-haircuts of all level 1 covered bonds that would be held by the credit institution upon the unwind of any secured funding, secured lending or collateral swap transaction that matures within 30 calendar days from the calculation date and where the credit institution and the counterparty exchange liquid assets on at least one leg of the transaction;

(c) the adjusted level 2A asset amount, which shall be equal to the value post-haircuts of all level 2A assets that would be held by the credit institution upon the unwind of any secured funding, secured lending or collateral swap transaction that matures within 30 calendar days from the calculation date and where the credit institution and the counterparty exchange liquid assets on at least one leg of the transaction; and

(d) the adjusted level 2B asset amount, which shall be equal to the value post-haircuts of all level 2B assets that would be held by the credit institution upon the unwind of any secured funding, secured lending or collateral swap transaction that matures within 30 calendar days from the calculation date and where the credit institution and the counterparty exchange liquid assets on at least one leg of the transaction.';

(b) paragraph 5 is deleted.

Article 2

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 30 April 2020.

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

Done at Brussels, 13 July 2018.

For the Commission
The President
Jean-Claude JUNCKER