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COVER NOTE

From: Secretary-General of the European Commission,
signed by Mr Jordi AYET PUIGARNAU, Director

date of receipt: 12 March 2014

To: Mr Uwe CORSEPIUS, Secretary-General of the Council of the European
Union

No. Cion doc.: C(2014) 1561 final

Subject: COMMISSION DELEGATED REGULATION (EU) No .../.. of 12.3.2014
supplementing Directive 2013/36/EU of the European Parliament and of the
Council with regard to regulatory technical standards further defining
material exposures and thresholds for internal approaches to specific risk in
the trading book

Delegations will find attached document C(2014) 1561 final.

Encl.: C(2014) 1561 final



EUROPEAN
COMMISSION

Brussels, 12.3.2014
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COMMISSION DELEGATED REGULATION (EU) No .../..

of 12.3.2014

**supplementing Directive 2013/36/EU of the European Parliament and of the Council
with regard to regulatory technical standards further defining material exposures and
thresholds for internal approaches to specific risk in the trading book**

(Text with EEA relevance)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

Article 77(4) of Directive 2013/36/EU ('the Directive') empowers the Commission to adopt, following submission of draft standards by the European Banking Authority (EBA), and in accordance with Article 10 of Regulation (EU) No 1093/2010, delegated act defining notions of materiality of exposures for the purposes of competent authorities' encouragement of institutions to develop internal approaches for calculating own funds requirements for market risk.

In accordance with Articles 10 to 15 of Regulation (EU) No 1093/2010 establishing the EBA, the Commission shall decide within three months of receipt of the draft standards whether to endorse the drafts submitted. The Commission may also endorse the draft standards in part only, or with amendments, where the Union's interests so require, having regard to the specific procedure laid down in those Articles.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

In accordance with the third subparagraph of Article 10(1) of Regulation (EU) No 1093/2010, the EBA has carried out a public consultation on the draft technical standards submitted to the Commission in accordance with Article 77(4) of the Directive. A consultation paper was published on 30 July 2013, and the consultation closed on 15 October 2013. Moreover, the EBA invited the EBA's Banking Stakeholder Group set up in accordance with Article 37 of Regulation (EU) No 1093/2010 to provide advice on the consultation paper.

Together with the draft technical standards, and in accordance with the third subparagraph of Article 10(1) of Regulation (EU) No 1093/2010, the EBA has submitted its Impact Assessment, including its analysis of the costs and benefits related to the draft technical standards submitted to the Commission. This analysis is available at <http://www.eba.europa.eu/regulation-and-policy/market-risk/draft-regulatory-technical-standards-on-the-definition-of-materiality-thresholds-for-specific-risk-in-the-trading-book>, pages [12-15] of the Final Draft RTS package.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

All the provisions in this delegated act relate to the assessment of materiality of specific risk in institutions' trading books.

The Directive sets out requirements concerning the implementation of internal approaches for calculating own funds requirements for the specific risk relating to debt instruments in the trading book.

The delegated act establishes criteria for assessing when the specific risk of debt instruments in the trading book (considered both at a solo and a consolidated level) is sufficiently material to trigger an evaluation by the competent authority under Article 77. After this evaluation, competent authorities should determine whether it is worth encouraging banks to develop internal assessment capacity and to increase the use of internal models for capital calculations.

The delegated act defines ‘exposures to specific risk which are material in absolute terms’ as those where the sum of all net long and net short positions is greater than EUR 1 000 000 000. It also establishes two additional thresholds for what is a ‘large number’, and what are ‘material positions in debt instruments of different issuers’, namely that the portfolio should include more than 100 positions, each greater than EUR 2 500 000 in absolute terms. The scope of the delegated act relates exclusively to specific risk of debt instruments in the Trading Book, excluding equity instruments in the Trading Book.

Article 77(4) also refers to thresholds for large numbers of material counterparties, which does not relate to specific risk and the trading book, but rather to credit risk in the non-trading book as referred to in Article 77(1). This threshold is not set out in this delegated act, but could rather be set out in a separate delegated act.

COMMISSION DELEGATED REGULATION (EU) No .../..

of 12.3.2014

supplementing Directive 2013/36/EU of the European Parliament and of the Council with regard to regulatory technical standards further defining material exposures and thresholds for internal approaches to specific risk in the trading book

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC¹ and in particular the third subparagraph of Article 77(4) thereof,

Whereas:

- (1) Article 77(3) of Directive 2013/36/EU refers solely to ‘debt instruments’, therefore equity instruments in the trading book should not be included in the assessment of materiality of specific risk.
- (2) The materiality in absolute terms of exposures to specific risk should be measured by applying the standardised rules for the calculation of net positions of debt instruments. That assessment should consider both long and short net positions calculated in accordance with Article 327(1) of Regulation (EU) No 575/2013 of the European Parliament and of the Council², after having given an allowance for hedges provided by credit derivatives in accordance with Articles 346 and 347 of Regulation (EU) No 575/2013.
- (3) The first subparagraph of Article 77(3) of Directive 2013/36/EU covering specific risk in the trading book refers to ‘a large number of material positions in debt instruments of different issuers’. These rules therefore set out a materiality threshold for large numbers of material positions in debt instruments of different issuers, pursuant to Article 77(4) of that Directive.
- (4) This Regulation is based on the draft regulatory technical standards submitted by the European Banking Authority to the Commission.

¹ OJ L 176, 27.6.2013, p.338.

² 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 (OJ L 176, 27.6.2013, p. 1)

- (5) The European Banking Authority has conducted open public consultations on the draft regulatory technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the opinion of the Banking Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council³,

HAS ADOPTED THIS REGULATION:

Article 1

Definition of ‘exposures to specific risk which are material in absolute terms’ according to Article 77(4) of Directive 2013/36/EU

An institution’s exposure to specific risk of debt instruments shall be considered to be material in absolute terms where the sum of all net long and net short positions, as defined in Article 327 of Regulation (EU) No 575/2013, is greater than EUR 1 000 000 000.

Article 2

Definition of ‘large number of material positions in debt instruments of different issuers’ according to Article 77(4) of Directive 2013/36/EU

An institution’s specific risk portfolio shall be considered to comprise a large number of material positions in debt instruments of different issuers where the portfolio includes more than 100 positions, each of which is greater than EUR 2 500 000 , whether those positions are net long or net short, as defined in Article 327 of Regulation (EU) No 575/2013.

Article 3

Entry into force

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

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

³ Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010, p. 12)

Done at Brussels, 12.3.2014

For the Commission
The President
José Manuel BARROSO