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COVER NOTE

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	28 May 2015
To:	Mr Uwe CORSEPIUS, Secretary-General of the Council of the European Union

No. Cion doc.:	C(2015) 3468 final
Subject:	COMMISSION DELEGATED REGULATION (EU) No .../.. of 28.5.2015 supplementing Regulation (EU) No 575/2013 of the European Parliament and of the Council with regard to regulatory technical standards for the disclosure of information in relation to the compliance of institutions with the requirement for a countercyclical capital buffer in accordance with Article 440

Delegations will find attached document C(2015) 3468 final.

Encl.: C(2015) 3468 final



Brussels, 28.5.2015
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COMMISSION DELEGATED REGULATION (EU) No .../..

of 28.5.2015

supplementing Regulation (EU) No 575/2013 of the European Parliament and of the Council with regard to regulatory technical standards for the disclosure of information in relation to the compliance of institutions with the requirement for a countercyclical capital buffer in accordance with Article 440

(Text with EEA relevance)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

Article 440 of Regulation (EU) No 575/2013 ('the Regulation') empowers the Commission to adopt, following submission of draft standards by the European Banking Authority (EBA), and in accordance with Article 10 of Regulation No (EU) 1093/2010 establishing the EBA, delegated acts specifying the disclosure requirements relating to the compliance of institutions with the requirement for a countercyclical capital buffer.

In accordance with Articles 10 to 15 of Regulation No (EU) 1093/2010 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 No (EU) 1093/2010, the EBA has carried out a public consultation on the draft technical standards submitted to the Commission in accordance with Article 440 of the Regulation. A consultation paper was published on 27 June 2014, and the consultation closed on 27 September 2014. Moreover, the EBA's Banking Stakeholder Group set up in accordance with Article 37 of Regulation No (EU) 1093/2010 provided its advice on the consultation paper.

As specifically requested by the Commission, only the draft technical standards and explanatory memorandum are submitted to the Commission for the adoption of the RTS. All relevant background information - notably the background and rationale of the draft technical standards, the impact assessment and the feedback on the public consultation - is included in the full version of the EBA RTS, which was approved by the EBA's Board of Supervisors on 22 December 2014 and subsequently published on the EBA's public website: <https://www.eba.europa.eu/regulation-and-policy/credit-risk/regulatory-technical-standards-on-disclosure-of-information-related-to-the-countercyclical-capital-buffer>.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

All the provisions in this delegated act relate to the specification of the disclosure requirements relating to the compliance of institutions with the requirement for a countercyclical capital buffer.

The delegated act sets out two disclosure templates that will harmonise the information available to the general public on the institution-specific countercyclical capital buffer and the geographical location of the exposures determining that buffer.

The first template requires institutions to disclose the geographical distribution by country of credit exposures of an institution that are relevant for the calculation of its countercyclical capital buffer. In order to provide transparency on the computation of the countercyclical capital buffer and for this disclosure to be meaningful to users, the breakdown of credit exposures is supplemented by a breakdown of own fund requirements for all relevant credit

exposures and countercyclical capital buffer rates applied in each jurisdiction. The second template requires institutions to disclose the amount of institution-specific countercyclical capital buffer.

The use of uniform templates will ensure consistent and comparable disclosure of the amounts that enter into the calculation of the institution-specific countercyclical capital buffer rate and of the amount of the institution-specific countercyclical capital buffer itself. These disclosure requirements will also ensure transparency in the calculation of the buffer for all financial institutions across the EU.

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(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 648/2012¹, and in particular Article 440(2) thereof,

Whereas:

- (1) As set out in Article 130(1) of Directive 2013/36/EU of the European Parliament and of the Council², Member States are obliged to require institutions to maintain an institution-specific countercyclical capital buffer.
- (2) With a view to ensuring transparency and comparability across institutions, Regulation (EU) No 575/2013 requires institutions to disclose the key elements of the calculation of their countercyclical capital buffer, comprising the geographical distribution of their relevant credit exposures and the final amount of their institution-specific countercyclical capital buffer.
- (3) As set out in Article 130(1) of Directive 2013/36/EU, an institution-specific countercyclical buffer is calculated as the product of its total risk exposure amount in accordance with Article 92(3) of Regulation (EU) No 575/2013 and the institution-specific countercyclical buffer rate.
- (4) As set out in Article 140(1) of Directive 2013/36/EU, an institution-specific countercyclical capital buffer rate consists of the weighted average of the countercyclical buffer rates that apply in the countries where the relevant credit exposures of the institution are located. The distribution by country of relevant credit

¹ OJ L 176, 27.06.2013, p. 1.

² Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.06.2013, p. 338).

exposures should be disclosed in a standard format, in accordance with the provisions laid down in Commission Delegated Regulation (EU) No 1152/2014³. With a view to fulfilling the requirements of Article 440(1)(a) of Regulation (EU) No 575/2013 which does not set forth a minimum buffer rate, the geographical breakdown of relevant credit exposures should be disclosed even when the applicable countercyclical capital buffer rate for a country is zero.

- (5) For the purpose of the calculation of the institution-specific countercyclical buffer amount, the weights applied to countercyclical buffer rates should be proportionate to the total own funds requirements for credit risk that relates to the relevant credit exposures in each Member State and third country jurisdiction where the institution holds exposures. Therefore, institutions should disclose own funds requirements for all relevant credit exposures.
- (6) As set out in Article 433 of Regulation (EU) No 575/2013, institutions publish their disclosures in relation to countercyclical buffer requirements at least on an annual basis in conjunction with the date of publication of financial statements. As, in accordance with Article 136(7) of Directive 2013/36/EU, the countercyclical capital buffer rate is set by designated authorities on a quarterly basis, the disclosure of information on the compliance of institutions with the requirement for an institution-specific countercyclical capital buffer should refer to the information on the countercyclical capital buffer rate from the last available quarter. The disclosure of information in relation to the countercyclical capital buffer should be based on the countercyclical capital buffer rates that are applicable at the time of the computation of the institution-specific countercyclical capital buffer to which the disclosure relates.
- (7) Pursuant to Article 6(1) in conjunction with Article 440(1) of Regulation (EU) No 575/2013, institutions should disclose the information relating to the countercyclical capital buffer on an individual basis. However, an institution which is either a parent undertaking or a subsidiary, and an institution included in the consolidation pursuant to Article 18 of Regulation (EU) No 575/2013 should not be required to comply with the disclosure requirements laid down in Part Eight of that Regulation on an individual basis as required in Article 6(3) of that Regulation. EU parent institutions and institutions controlled by an EU parent financial holding company or EU parent mixed financial holding company should disclose this information on a consolidated basis, while significant subsidiaries of EU parent institutions or EU parent financial holding company or EU parent mixed financial holding company and subsidiaries which are of material significance for their local markets should disclose this information on individual or sub-consolidated basis, as provided for in Article 13 of Regulation (EU) No 575/2013.
- (8) The requirement to maintain an institution-specific countercyclical capital buffer set out in Article 130 of Directive 2013/36/EU will apply and be phased in from 1 January 2016 unless Member States impose a shorter transitional period pursuant to Article 160(6) of that Directive. In order to ensure that institutions have sufficient time to prepare for the disclosure of information, this Regulation should apply from 1 January 2016.

³ Commission Delegated Regulation (EU) No 1152/2014 of 4 June 2014 supplementing Directive 2013/36/EU of the European Parliament and of the Council with regard to regulatory technical standards on the identification of the geographical location of the relevant credit exposures for calculating institution-specific countercyclical capital buffer rates (OJ L 309, 30.10.2014, p. 5).

- (9) This Regulation is based on the draft regulatory technical standards submitted by the European Supervisory Authority (European Banking Authority) to the European Commission.
- (10) 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 Council⁴,

HAS ADOPTED THIS REGULATION:

Article 1

Subject matter

Pursuant to Article 440 of Regulation (EU) No 575/2013, this Regulation specifies the disclosure requirements for institutions in relation to their compliance with the requirement for a countercyclical capital buffer referred to in Chapter 4 of Title VII of Directive 2013/36/EU.

Article 2

Disclosure of the geographical distribution of credit exposures

The geographical distribution of an institution's credit exposures relevant for the calculation of countercyclical buffer referred to in Article 440(1)(a) of Regulation (EU) No 575/2013 shall be disclosed in the standard format as set out in Table 1 of Annex I in accordance with the instructions contained in Parts I and II of Annex II and with the provisions laid down in Delegated Regulation (EU) No 1152/2014.

Article 3

Disclosure of the amount of institution specific countercyclical buffer

The amount of an institution's specific countercyclical buffer referred to in Article 440(1)(b) of Regulation (EU) No 575/2013 shall be disclosed in the standard format as set out in Table 2 of Annex I in accordance with the instructions contained in Parts I and III of Annex II.

⁴ 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).

Article 4

Entry into force and application

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 1 January 2016.

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

Done at Brussels, 28.5.2015

For the Commission
The President
Jean-Claude JUNCKER