



Council of the
European Union

Brussels, 12 June 2015
(OR. en)

9902/15

EF 113
ECOFIN 483
DELECT 66

COVER NOTE

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	11 June 2015
To:	Mr Uwe CORSEPIUS, Secretary-General of the Council of the European Union

No. Cion doc.:	C(2015) 3797 final
Subject:	COMMISSION DELEGATED REGULATION (EU) No .../.. of 11.6.2015 supplementing Regulation (EU) No 575/2013 of the European Parliament and of the Council with regard to regulatory technical standards for the transitional treatment of equity exposures under the IRB approach

Delegations will find attached document C(2015) 3797 final.

Encl.: C(2015) 3797 final



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

of 11.6.2015

supplementing Regulation (EU) No 575/2013 of the European Parliament and of the Council with regard to regulatory technical standards for the transitional treatment of equity exposures under the IRB approach

(Text with EEA relevance)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

Article 495(3) 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 Articles 10 to 14 of Regulation (EU) No 1093/2010, delegated acts specifying the conditions for affording the exemption from the IRB treatment of certain categories of equity exposures.

In accordance with Article 10(1) 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 363(4) of the Regulation. A consultation paper was published on 7 May 2014 on the EBA internet site, and the consultation closed on 7 July 2014. 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 them.

Together with the draft technical standards, the EBA has submitted an explanation on how the outcome of these consultations has been taken into account in the development of the final draft technical standards submitted to the Commission.

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: <https://www.eba.europa.eu/regulation-and-policy/credit-risk/regulatory-technical-standards-on-the-treatment-of-equity-exposures-under-the-irb-approach>, pages 10 to 12 of the Final Draft RTS package.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

The delegated act establishes only one condition for the purpose of granting the exemption of IRB treatment for equity exposures. More specifically, it allows competent authorities to grant the exemption if it was being applied on the last day of application of CRD.

This approach is justified by the results of the impact assessment section described in the Final Draft RTS Package, which show that any proposed change on the capital requirement of equity exposures held as at December 2007 would be immaterial in most institutions. In the eventual case that the impact would be significant in a particular institution, this would be known by market participants since point (iv) in Article 438 (d) of the Regulation requires

institutions to disclose the minimum own funds requirements for the equity exposures subject to the grandfathering provision.

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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 the third subparagraph of Article 495 (3) thereof,

Whereas:

- (1) It is necessary to specify the conditions under which the competent authorities may exempt from the IRB treatment certain categories of equity exposures held by institutions and EU subsidiaries of institutions in their respective Member State as at 31 December 2007.
- (2) Those conditions should be laid down in a harmonised manner so as not to have a disproportionately negative effect on the smooth transition of the national legal orders from the regime established by the transposition of Directive 2006/48/EC of the European Parliament and of the Council² and especially of its Article 154(6), to the regime established by Regulation (EU) No 575/2013.
- (3) In setting out those conditions, due regard should be had, to the extent possible, to the legitimate expectations of the institutions which were granted the exemption under the former regime, which applied until 31 December 2013. Hence, competent authorities should be allowed to afford that exemption to those institutions. Other institutions should not be afforded that exemption.
- (4) This Regulation is based on the draft regulatory technical standards submitted by the European Banking Authority to the Commission.
- (5) The European Banking Authority has conducted open public consultations on the draft regulatory technical standards on which this Regulation is based, analysed the

¹ OJ L 176, 27.06.2013, p. 1.

² Directive 2006/48/EC of the European Parliament and of the Council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions (OJ L 177, 30.06.2006, p. 1).

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

Competent authorities may afford to institutions and EU subsidiaries of institutions the exemption from the IRB treatment referred to in Article 495(1) of Regulation (EU) No 575/2013 only with regard to those categories of their equity exposures that on 31 December 2013 were already benefiting from an exemption from the IRB treatment.

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.

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

Done at Brussels, 11.6.2015

For the Commission
The President
Jean-Claude JUNCKER

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).