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COVER NOTE

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	2 July 2015
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union

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Subject:	COMMISSION DELEGATED REGULATION (EU) .../... of 2.7.2015 correcting Delegated Regulation (EU) No 625/2014 supplementing Regulation (EU) No 575/2013 of the European Parliament and of the Council by way of regulatory technical standards specifying the requirements for investor, sponsor, original lenders and originator institutions relating to exposures to transferred credit risk
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Delegations will find attached document C(2015) 4422 final.

Encl.: C(2015) 4422 final



Brussels, 2.7.2015
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COMMISSION DELEGATED REGULATION (EU) .../...

of 2.7.2015

**correcting Delegated Regulation (EU) No 625/2014 supplementing
Regulation (EU) No 575/2013 of the European Parliament and of the Council by way of
regulatory technical standards specifying the requirements for investor, sponsor,
original lenders and originator institutions relating to exposures to transferred
credit risk**

(Text with EEA relevance)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

Article 410(2) of Regulation (EU) No 575/2013 (CRR) 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 acts specifying in greater detail the requirements applying to institutions becoming exposed to the risk of a securitisation, including the retention requirements and the due diligence requirements related to Articles 405 and Article 406 and the requirements applying to sponsors and originator institutions related to Article 408 and Article 409 of the Regulation.

In accordance with Article 10 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.

Making use of that empowerment the Commission, on the basis of drafts standards sent by the EBA, adopted the Regulation (EU) No 625/2014 of 13.3.2014 which provides for detailed risk retention requirements and disclosure requirements applicable to originator, sponsor or original lender institutions and detailed due diligence requirements applicable to investor institutions.

After assessing the content of the draft standards submitted by the EBA and having verified their adequacy for the fulfilment of the mandate conferred by Article 410(2), the intention of the Commission was to endorse the draft standards without modifying their substance and without introducing any change other than those aiming at improving the text from a linguistic point of view.

However following consultation with the EBA it appears that some of the changes introduced in view of the adoption of the final text, particularly those in Articles 15(1), 22(1)(b), and 23, have altered unintentionally the substance of the provisions. Therefore it is needed to correct the text of the Articles mentioned above in order to restore their original meaning in line with the text submitted by the EBA and to remove a few minor editorial mistakes.

2. LEGAL ELEMENTS OF THE DELEGATED ACT

The Regulation introduces corrections to the Title and to Articles 1(c), 15(1), 16(3), 22(1)(b), and 23 of Regulation (EU) No 625/2014 supplementing Regulation (EU) No 575/2013 of the European Parliament and of the Council by way of regulatory technical standards specifying the requirements for investor, sponsor, original lenders and originator institutions relating to exposures to transferred credit risk.

COMMISSION DELEGATED REGULATION (EU) .../...

of 2.7.2015

correcting Delegated Regulation (EU) No 625/2014 supplementing Regulation (EU) No 575/2013 of the European Parliament and of the Council by way of regulatory technical standards specifying the requirements for investor, sponsor, original lenders and originator institutions relating to exposures to transferred credit risk

(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 410(2) thereof,

Whereas:

- (1) An error appears in the Bulgarian, Estonian, English, French, Latvian, Lithuanian, Hungarian and Maltese language versions of the title of Commission Delegated Regulation (EU) No 625/2014².
- (2) An error appears in the Greek, English, French, Italian, Latvian, Hungarian and Maltese language versions of Article 1(c) of Delegated Regulation (EU) No 625/2014.
- (3) In the Estonian, Greek, English, French, Croatian, Italian, Hungarian, Polish, Romanian, Finnish and Swedish language versions of Delegated Regulation (EU) No 625/2014, in Article 15(1) the sentence structure is erroneous.
- (4) An error appears in the English, French, Latvian and Maltese language versions of Article 16(3) of Delegated Regulation (EU) No 625/2014.
- (5) In the Bulgarian, Spanish, Czech, German, Estonian, Greek, English, French, Croatian, Italian, Latvian, Lithuanian, Hungarian, Maltese, Dutch, Polish, Portuguese, Romanian, Slovak, Slovenian, Finnish and Swedish language versions of Delegated Regulation (EU) No 625/2014, in Article 22(1)(b) the sentence structure is erroneous.

¹ OJ L 176, 27.6.2013, p. 1.

² Commission Delegated Regulation (EU) No 625/2014 of 13 March 2014 supplementing Regulation (EU) No 575/2013 of the European Parliament and of the Council by way of regulatory technical standards specifying the requirements for investor, sponsor, original lenders and originator institutions relating to exposures to transferred credit risk (OJ L 174, 13.6.2014, p. 16).

- (6) In all language versions, Article 23(2) of Delegated Regulation (EU) No 625/2014 erroneously contains a point (c), which should be a separate paragraph of that Article. The text should be corrected in order to make clear that materially relevant data does not have to be provided in all circumstances at an individual loan level and that in certain circumstances it can be deemed sufficient to provide materially relevant data on an aggregate basis.
- (7) Delegated Regulation (EU) No 625/2014 should therefore be corrected accordingly.
- (8) This Regulation is based on the original draft regulatory technical standards submitted by the European Supervisory Authority (European Banking Authority)] to the Commission.
- (9) The European Supervisory Authority (European Banking Authority) has conducted open public consultations on the original 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

Delegated Regulation (EU) No 625/2014 is corrected as follows:

- (1) In the title the word ‘lenders’ is replaced by the word ‘lender’;
- (2) In Article 1(c) the words ‘letter of credits’ are replaced by the words ‘letters of credit’;
- (3) Article 15(1) is replaced by the following:
 - “1. Where there is no available information on the specific exposures to be securitised, including where exposures accumulate before their securitisation or where they may be substituted into an existing revolving securitisation, an institution is deemed to fulfil its due diligence obligations referred to in Article 406 of Regulation (EU) No 575/2013, for each of its individual securitisation positions, on the basis of the relevant eligibility criteria for such exposures.”;
- (4) In Article 16(3) the words ‘letter of credits’ are replaced by the words ‘letters of credit’;

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).

- (5) Article 22(1)(b) is replaced by the following:
- “(b) which of the modalities provided for in points (a), (b), (c), (d) or (e) of the second subparagraph of Article 405(1) of Regulation (EU) No 575/2013 has been applied to retain a net economic interest;”;
- (6) Article 23(2) is corrected as follows:
- (a) point (b) is replaced by the following:
- “(b) following a breach of the obligations included in the documentation relating to the securitisation.”;
- (b) point (c) is replaced by the following new paragraph 2a:
- “2a. Materially relevant data on the individual underlying exposures shall, in general, be provided on a loan-by-loan basis; however in certain instances the data provided on an aggregate basis may be sufficient. In assessing whether data provided on an aggregate basis is sufficient, factors to be taken into account shall include the granularity of the underlying pool and whether the management of the exposures in that pool is based on the pool itself or on a loan-by-loan basis.”.

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, 2.7.2015

For the Commission
The President
Jean-Claude JUNCKER