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Delegations will find attached document C(2018) 4404 final.

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COMMISSION DELEGATED REGULATION (EU) …/...

of 13.7.2018

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)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

1.1. General Background to Liquidity Regulation and the LCR Delegated Regulation

A painful lesson learned at global level during the financial crisis was the need for stringent liquidity rules. In their absence, some credit institutions became overly dependent on short term financing and liquidity provision by central banks and ultimately had to be bailed out by the injection of massive funds from the public purse.

The need for more stringent liquidity rules has been recognised at international level and standards to this end were included in the so-called Basel III-framework, developed by the Basel Committee on Banking Supervision ('BCBS'). The aim of the liquidity coverage ratio ('LCR') is to avoid the risk of over-reliance on short term financing and on liquidity provision by central banks by requiring credit institutions to hold sufficient liquid assets (i.e. assets which can be liquidated at little or no loss of value) to withstand the excess of liquidity outflows over inflows that could be expected over a 30 calendar day stressed period.

In adopting Regulation (EU) No 575/2013[1] (Capital Requirements Regulation or 'CRR') in June 2013, the co-legislators introduced a general liquidity coverage requirement (Article 412(1) of the CRR) and a reporting requirement (Articles 415 to 425 of the CRR) for all institutions (credit institutions and investment firms). In addition, they delegated, via Article 460 of the CRR, the power to the Commission to specify in detail the general liquidity coverage requirement for credit institutions. The Commission adopted Commission Delegated Regulation (EU) 2015/61 of 10 October 2014[2] ('LCR Delegated Regulation'), which entered into force on 1 October 2015. The LCR Delegated Regulation specifies which assets are to be considered as liquid (so called high quality liquid assets - 'HQLA') and how credit institutions must calculate the expected cash outflows and inflows over a 30 calendar day stressed period. The LCR represents one of the most significant innovations of the CRR as compared to previous EU prudential legislation. Whilst the latter also contained general rules on liquidity, there were no detailed rules as to what constituted liquid assets and as to how potential net cash outflows should be calculated.

1.2. Background to amendments to the LCR Delegated Regulation

Based on initial experience with the application of the LCR and based on discussions with Member States, the Commission considers it appropriate to make certain limited amendments to the LCR Delegated Regulation to improve its practical application and enable to achieve its objectives.

The first, and most important, amendment is the full alignment of the calculation of the expected liquidity outflows[3] and inflows[4] on repurchase agreements ('repos'[5]), reverse repurchase agreements ('reverse repos') and collateral swaps transactions[6] with the

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1 Regulation (EU) No 575/2013, OJ L176, 27.6.2013, p.1.

2 OJ L11, 17.1.2015, p.1.

3 Article 28(3) of the LCR Delegated Regulation.

4 Point (b) of Article 32(3) of the LCR Delegated Regulation.

5 A repo transaction is where cash is borrowed against a security provided as collateral, often a government bond. A reverse repo is the same transaction but seen from the perspective of the party lending the cash. A collateral swap is where one security is temporarily swapped against another.

6 Collateral swap outflows/inflows in accordance with Article 28(4)/ point (e) of Article 32(3) of the LCR Delegated Regulation respectively.

international liquidity standard developed by the BCBS. Although the treatment of those transactions in the LCR Delegated Regulation is in line with the treatment contained in the CRR and had not been challenged during the many discussions preceding the adoption of the LCR Delegated Regulation, several stakeholders subsequently asked for the cash outflows calculation to 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. This approach should also be followed for collateral swaps. This change would ensure that outflows and inflows on the same transactions are symmetrical and would thereby facilitate efficient liquidity management, particularly by internationally active credit institutions.

The second substantive amendment concerns the treatment of certain reserves[7] held with third-country central banks. Under the existing LCR Delegated Regulation, reserves held by a credit institution in the central bank of a third country which is assigned a credit assessment of credit quality step 1 ('CQS 1') by a nominated external credit assessment institution ('ECAI') may be treated as a Level 1 liquid asset[8], where the credit institution is permitted to withdraw such reserves at any time during stress periods and the conditions for such withdrawal have been specified in an agreement between the central bank in which the reserves are held and the supervisory authority of that third country. It would be appropriate to extend the same treatment to such reserves with central banks that are not assigned a credit assessment of CQS 1 by a nominated ECAI[9], provided the reserves can be used to cover stressed net liquidity outflows incurred in the same currency as that in which the reserves are denominated. After all, a central bank can provide liquidity in its own currency and the credit rating of the central bank is less relevant for liquidity purposes than for solvency purposes. Furthermore, it would be appropriate to recognise the various legal instruments used in third countries to specify reserves withdrawals' conditions, including agreements between central banks and supervisory authorities but also local LCR rules. Finally, it would be appropriate that reserves held by third country branches of EU credit institutions would also be recognised as Level 1 liquid assets, provided that the necessary conditions would be met. Without these changes, reserves held in central banks without a credit assessment of CQS 1 by a nominated ECAI would be excluded from the liquidity buffer even if they were recognised in the local implementation of the LCR. Making these changes would therefore provide a more equitable treatment for such reserves. It would also improve alignment with the BCBS standard.

The third substantive amendment relates to the waiver[10] of the minimum issue size for certain non-EU liquid assets. Minimum issue size requirements apply for many EU liquid assets[11]. By extension such rules apply at a consolidated level in respect of liquid assets held by non-EU subsidiaries of an EU parent credit institution. This leads to the exclusion of liquid assets held by the subsidiary to meet local liquidity requirements using liquid assets that are otherwise eligible and acceptable under local liquidity rules but that do not meet EU minimum issue size requirements. This could create a shortfall of liquid assets for the EU

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7 Point (d) of Article 10(1) of the LCR Delegated Regulation.

8 In general Level 1 liquid assets (excluding certain covered bonds) may be used without limit in the liquidity buffer, whereas the use of Level 2A assets and Level 2B assets is subject to a limit of 15% and 40% of the liquidity buffer, respectively.

9 This would for example potentially affect reserves held in central banks of countries such as Turkey, Brazil, China, India, Morocco, Algeria, Ukraine and Vietnam.

10 Point (aa) of Article 2(3) of the LCR Delegated Regulation.

11 Minimum issue size requirements apply for covered bonds, corporate bonds and securitisations but not for cash, government securities and central bank assets. The BCBS standard does not prescribe such a requirement.

parent credit institution at consolidated level since the liquidity requirement arising from the non-EU subsidiary would be included in the consolidated liquidity requirement whilst the corresponding eligible liquid assets held by the non-EU subsidiary would be excluded by the application of EU minimum issue size criteria. Consequently, for the purpose of consolidation, it is proposed to waive any applicable minimum issue size requirements for third-country liquid assets held by a non-EU subsidiary. The scope of the proposed waiver would be limited to third-country assets covering stressed net liquidity outflows incurred in the same currency where the assets qualify as liquid assets under the national law of the third country.

The fourth substantive amendment relates to the application of the unwind mechanism[12] for the calculation of the liquidity buffer. To ensure that the implementation of the LCR does not hinder the effective transmission of monetary policy to the economy and given that secured transactions with the ECB or the central bank of a Member State can be expected to be rolled-over under severe stress circumstances, it is proposed to introduce a waiver to the unwind mechanism for secured transactions with the ECB or the central bank of a Member State where the transactions i) involve HQLA on at least one leg and ii) mature in the next 30 calendar days. The waiver would be subject to appropriate safeguards and to prior approval of the competent authority, after consulting the central bank that is the counterparty to the transaction, as well as the ECB where the central bank is a Eurosystem central bank, to avoid possible arbitrage opportunities or adverse incentives for credit institutions. Furthermore, to align the LCR Delegated Regulation more closely with the BCBS standard, it is proposed to remove the collateral received through derivatives transactions from the unwind mechanism.

The last substantive amendment concerns the integration in the LCR Delegated Regulation of the new criteria for simple, transparent and standardised ('STS') securitisations. Specifically, it is proposed to count STS securitisations as Level 2B HQLAs if they fulfil the conditions laid down in Article 13 of the LCR Delegated Regulation. The STS Regulation[13] sets a list of criteria which define STS securitisations. Based on the proposal, most of the criteria laid down in the LCR Delegated Regulation would be replaced by a reference to the STS Regulation. Criteria specific to liquidity (such as the criteria regarding the issue size, the types of underlying exposures or the rating) would be kept.

Finally, it is proposed to clarify some of the existing rules.

1.3. Impact Assessment

Given the limited scope of the substantive amendments, it is not proposed to carry out a detailed Impact Assessment. A high-level analysis of the impact of the proposed changes is provided below.

The impact of the proposed change to outflows and inflows on repos, reverse repos and collateral swaps transactions should be relatively neutral or negligible[14].

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12 The unwind mechanism aims at calculating the caps on Level 2A and 2B HQLAs in the liquidity buffer. To calculate the amount of HQLAs that an institution has, the LCR Delegated Regulation requires to unwind transactions maturing in the next 30 calendar days where HQLA are exchanged on at least one leg of the transaction.

13 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. 35-80).

14 On the repo side, the change is primarily drafting. On the reverse repo side, leaving aside over-collateralisation and assuming the market value of the security matches the cash lent, the liquidity value of the security equals the cash lent less the corresponding haircut. Collateral swaps are less common.

As regards the impact of the treatment of certain reserves with central banks, it should be contained as well since the amount of those reserves is limited. Moreover, the impact would be further limited by the safeguard provided in the proposal, namely that the treatment would be limited to liquid assets used to cover the stressed net liquidity outflows incurred in the corresponding currency.

The proposed waiver of the minimum issue size for certain non-EU liquid assets would somewhat improve the liquidity position in respect of non-EU business at consolidated level. The size of the improvement would most likely be limited because i) the proposed waiver would, in principle[15], only affect non-Level 1 liquid assets which are limited to a maximum of 40% of the liquidity buffer, ii) the amount of non-EU liquid assets that could be recognised could not exceed the stressed net liquidity outflows incurred in the corresponding currency and arising from the subsidiary holding those assets, and iii) the assets subject to the waiver would need to be liquid according to EU requirements and would need to meet local liquidity requirements.

Removing collateral received through derivatives transactions from the unwind mechanism is not expected to have a significant impact on the level of the LCR and the waiver introduced for secured transactions with the ECB or the central bank of a Member State is subject to competent authorities' decisions. This unwind is only considered for the application of the caps on HQLA in the liquidity buffer.

As regards the alignment with the definition of STS securitisations, the impact is expected to be quite marginal as the total amount of securitisations held as liquid assets is limited due to the cap on Level 2B assets in the liquidity buffer and to diversification requirements.

Finally, the impact of the proposed clarifications can be considered to be nil or negligible.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE DELEGATED ACT AMENDING THE LCR DELEGATED REGULATION

A series of meetings with Member States' experts has been organised to discuss the technical implications of the envisaged drafting. These exchanges were attended by officials of the European Parliament as observers and have proved very valuable in ensuring the technical soundness of the drafting.

In addition, even if a) most drafting changes are non-substantive (i.e. they only clarify existing rules) and b) the substantive changes are relatively minor, the Commission has organised a formal stakeholders consultation through the Better Regulation Portal and has consulted the Expert Group on Banking, Payments and Insurance. Through both consultations the Commission received a total of more than 30 replies that proved to be highly valuable in terms of improving the proposed draft Delegated Regulation.

As a result of the feedbacks received, some proposed changes were removed to revert to the existing provisions of the LCR Delegated Regulation. One such case is the definition of retail deposits for which a major part of comments received criticised the introduction of the concept of “connected clients” as not being adequate from a liquidity risk perspective and very challenging to implement due in particular to data availability. This definition was then removed from the text not to duplicate the definitions of the CRR. Similarly, the power of competent authorities to refuse the inclusion in the liquidity buffer of eligible third-country

[15] There is no applicable minimum issue size for Level 1 assets, excluding covered bonds. While there is a minimum issue size for Level 1 covered bonds, the eligibility of covered bonds as Level 1 assets is not available for non-EU covered bonds.

assets has been removed following comments that this would ensure a harmonised application of the LCR requirement in EU level and that the safeguards regarding the inclusion of third-country assets in the liquidity buffer were already sufficient. In addition, the proposal to recognise assets issued by third-country public sector entities as Level 1 assets under certain conditions was removed as some commenters pointed out that the proposed treatment was not in line with the BCBS standard and hence contrary to the stated intention to increase the alignment of the LCR Delegated Act with that standard. Furthermore, some replies pointed out that the proposed changes to the inflow treatment of promotional loans extended through an intermediary credit institution would significantly extend the scope of application of the existing treatment and that the extension was being provided without proper justification. Given that the intention of the proposed changes was not to extend the scope of the treatment, they were removed as well. In the same vein, the reference to Article 26 of the LCR Delegated Regulation related to the interdependent flows in the context of the exemption from the cap on inflows was not deleted as initially proposed, as commenters pointed out that this would unjustifiably extend the scope of the treatment. Finally, the specification of the outflow calculation in case of possible double counting was deleted as several respondents pointed out that it was unclear and that there was no real justification to introduce it for outflows without a similar provision for inflows and liquid assets.

The feedbacks received also led to several changes aimed at clarifying the proposal, such as on the treatment of reserves held in a third-country central bank, of shares and units of collective investment undertakings (CIUs), and of secured transactions and collateral swaps.

Not all of the comments received were taken on board. A number of them proposed changes that would have not been in line with the aim of the proposal, namely to adopt only a limited number of substantial changes to the LCR Delegated Regulation, mainly to align it further with the Basel standard and to correct some technical issues.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

Given the limited amount of changes to the existing LCR Delegated Regulation, it is proposed to adopt the amendments to that Regulation rather than a new whole text. This would maintain the structure of the original LCR Delegated Regulation. In accordance with Article 462 of the CRR, the Commission remains empowered to review the Delegated Regulation for an indeterminate period of time.

4. TIME-TABLE AND PROCEDURE

Following adoption, the Delegated Regulation will be subject to scrutiny by the European Parliament and the Council.

COMMISSION DELEGATED REGULATION (EU) …/...

of 13.7.2018

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

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

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).

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[16]. 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 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

[16] 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).

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

Commission 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.';

(c) 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.

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* 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 [2 years after the entry into force of this Delegated Regulation], 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 interdependent 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 [*18 months after the date of publication of the amending Regulation*].

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

Done at Brussels, 13.7.2018

For the Commission
The President
Jean-Claude JUNCKER