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NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee
Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 575/2013 on prudential requirements for credit institutions as regards requirements for securities financing transactions under the net stable funding ratio - <i>Mandate for negotiations with the European Parliament</i>

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Regulation (EU) No 575/2013 on prudential requirements for credit institutions as regards requirements for securities financing transactions under the net stable funding ratio

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Central Bank ⁽¹⁾,

Having regard to the opinion of the European Economic and Social Committee ⁽²⁾,

Acting in accordance with the ordinary legislative procedure,

Whereas:

¹ OJ C , , p.

² OJ C , , p.

- (1) Regulation (EU) 2019/876 of the European Parliament and of the Council³ introduced into Regulation (EU) No 575/2013 of the European Parliament and of the Council⁴ the Net Stable Funding Ratio (NSFR) requirement. That requirement reflected part of the Basel III standards, *i.e.* the international standards agreed by the Basel Committee on Banking Supervision (BCBS) which were developed to ensure that credit institutions have sufficient stable funding on a one-year horizon, and thus to prevent an excessive maturity mismatch between assets and liabilities and an overreliance on short-term wholesale funding. The NSFR requirement as laid down in Regulation (EU) No 575/2013 has been applicable to credit institutions since 28 June 2021.
- (2) Article 428r(1), point (g), Article 428s(1), point (b), and Article 428v, point (a), of Regulation (EU) No 575/2013 currently provide for the stable funding factors for monies due from financing transactions with financial customers, where those transactions have a residual maturity of less than six months. Those funding factors are, depending on the financing transaction concerned, 0%, 5% or 10%. Article 510(8) of Regulation (EU) No 575/2013, however, provides for a raise, by 28 June 2025, of those funding factors to 10%, 15% and 15%, respectively. That deferred raise aimed at giving credit institutions sufficient time to gradually adapt to a more conservative calibration and to assess whether that calibration was appropriate. In addition to that deferred raise, other adjustments were adopted to ensure that the introduction of the NSFR requirement did not disrupt the liquidity of the related collateral markets, including sovereign bonds markets.

³ Regulation (EU) 2019/876 of the European Parliament and of the Council of 20 May 2019 amending Regulation (EU) No 575/2013 as regards the leverage ratio, the net stable funding ratio, requirements for own funds and eligible liabilities, counterparty credit risk, market risk, exposures to central counterparties, exposures to collective investment undertakings, large exposures, reporting and disclosure requirements, and Regulation (EU) No 648/2012 (OJ L 150, 7.6.2019, p. 1, ELI: <http://data.europa.eu/eli/reg/2019/876/oj>).

⁴ Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (OJ L 176, 27.6.2013, p. 1, ELI: <http://data.europa.eu/eli/reg/2013/575/oj>).

- (3) Under Article 510(6), of Regulation (EU) No 575/2013, the European Banking Authority (EBA) was mandated to assess the appropriateness of the treatment of the stable funding required to cover the funding risk linked to SFTs and unsecured transactions with financial customers where those SFTs and unsecured transactions have a residual maturity of less than six months. In line with that mandate, the EBA delivered a report on specific aspects of the NSFR on 16 January 2024⁵ That report concluded that a raise of the funding factors, as provided for in Article 510(8) of Regulation (EU) No 575/2013, would have a negligible impact on the levels of NSFRs of institutions. However, the report does not assess the broader dimension and spillover effects on the liquidity of the sovereign debt and bonds markets. The considerations that led to the deferral of that raise still prevail. In particular, as the bulk of SFTs are collateralised by sovereign debt instruments, a raise in the related required stable funding could reduce the liquidity in the markets concerned. That could, in turn, risk creating additional funding costs for Member States and altering monetary policy transmission mechanisms.
- (4) In addition, other BCBS member jurisdictions have set required stable funding levels for SFTs that are identical to those that are currently applicable. In that context, given the intense international competition in the SFT market, a raise of the funding factors on 28 June 2025 would create an uneven international playing field that would be detrimental to Union financial markets.

⁵ Report of the European Banking Authority of 16 January 2024 on specific aspects of the NSFR framework under Article 510 (4), (6) and (9) of Regulation (EU) No 575/2013 (EBA/Rep/2024/01) (<https://www.eba.europa.eu/sites/default/files/2024-01/8d7c0d40-2d79-4763-bd9c-ad66c0bf4076/Report%20on%20specific%20aspects%20of%20the%20NSFR%20framework%20under%20Art%20510%20CRR.pdf>).

- (5) To avoid those unintended consequences, the current stable funding factors for SFTs and unsecured transactions with financial customers, where such transactions have a residual maturity of less than six months, as laid down in Article 428r(1), point (g), Article 428s(1), point (b), and Article 428v, point (a), of Regulation (EU) No 575/2013, should be made permanent.
- (6) To ensure sufficient monitoring of the interactions with the market liquidity of assets received as collateral in SFTs and unsecured transactions with financial customers, where such transactions have a residual maturity of less than six months, including when collateralized by sovereign debt, the funding risk for credit institutions, and possible international developments in that area, the EBA should report to the European Commission every five years on the appropriateness of those stable funding requirements.
- (7) To ensure the continuity of the prudential treatment for monies due from SFTs and for unsecured transactions, with financial customers, with a residual maturity of less than six months, as specified under Article 428r(1), point (g), Article 428s(1), point (b), and Article 428v, point (a), of Regulation (EU) No 575/2013, the proposed Regulation should apply from 29 June 2025. Temporarily discontinuing the treatment would create legal uncertainty for market participants and undue administrative and financial burden for the Union banking sector in general that could be mitigated by clearly setting the expected date of application of the provisions concerned.
- (8) Regulation (EU) No 575/2013 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Amendments to Regulation (EU) No 575/2013

Article 510 of Regulation (EU) No 575/2013 is amended as follows:

(1) paragraph 6 is amended as follows:

(a) the first subparagraph is replaced by the following:

‘The EBA shall monitor the amount of stable funding required to cover the funding risk linked to securities financing transactions, including the assets received or given in those transactions, and to unsecured transactions, with financial customers, where such transactions have a residual maturity of less than six months. The EBA shall report to the Commission by 31 January 2029, and every five years thereafter, on the appropriateness of that requirement. Taking into account international developments and the regulatory treatment of similar transactions in other jurisdictions, the reports shall assess at a minimum:’;

(b) points (d) and (e) are replaced by the following:

‘(d) the adequacy of the asymmetric treatment between liabilities with a residual maturity of less than six months provided by financial customers that are subject to a 0 % available stable funding factor in accordance with Article 428k(3), point (c), and assets resulting from transactions with a residual maturity of less than six months with financial customers that are subject to a 0 %, 5 % or 10 % required stable funding factor in accordance with Article 428r(1), point (g), Article 428s(1), point (b), and Article 428v, point (a);

(e) the impact of the introduction of higher or lower required stable funding factors for securities financing transactions, in particular with a residual maturity of less than six months, with financial customers, on:

(i) the price structure of those transactions; and

(ii) the market liquidity of assets received as collateral in those transactions, in particular of sovereign and corporate bonds;’;

(2) paragraphs 7 and 8 are deleted.

Article 2

Entry into force and application

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

This Regulation shall apply from 29 June 2025.

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.

Done at Brussels,

For the European Parliament
The President

For the Council
The President