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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

(Text with EEA relevance)

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(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 575/2013 of the European Parliament and the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012, and in particular Article 460 thereof,

Whereas:

(1) During the early ‘liquidity phase’ of the financial crisis that began in 2007, many credit institutions, despite maintaining adequate capital levels, experienced significant difficulties because they had failed to manage their liquidity risk prudently. Some credit institutions became overly dependent on short term financing which rapidly dried up at the onset of the crisis. Such credit institutions then became vulnerable to liquidity demands because they were not holding a sufficient volume of liquid assets to meet demands to withdraw funds (outflows) during the stressed period. Credit institutions were then forced to liquidate assets in a fire-sale which created a self-reinforcing downward price spiral and lack of market confidence triggering a solvency crisis. Ultimately many credit institutions became excessively dependent on liquidity provision by the central banks and had to be bailed out by the injection of massive amount of funds from the public purse. Thus it became apparent that it was necessary to develop a detailed liquidity coverage requirement whose aim should be to avoid this risk by making credit institutions less dependent on short-term financing and central bank liquidity provision and more resilient to sudden liquidity shocks.

(2) Article 412(1) of Regulation (EU) No 575/2013 imposes a liquidity coverage requirement on credit institutions formulated in general terms as an obligation to hold ‘liquid assets, the sum of the values of which covers the liquidity outflows less the liquidity inflows under stressed conditions’. Pursuant to Article 460 of Regulation (EU) No 575/2013, the Commission is empowered to specify in detail that liquidity coverage requirement and the circumstances under which competent authorities have to impose specific in- and outflow levels on credit institutions in order to capture specific risks to which they are exposed. In accordance with Recital 101 of Regulation (EU) No 575/2013, the rules should be comparable to the liquidity coverage ratio set out in the international framework for liquidity risk measurement, standards and monitoring of the Basel Committee on Banking Supervision (‘BCBS’), taking into account Union and national specificities. Until the full implementation of the liquidity coverage requirement from 1 January 2018, Member States should be able to apply a liquidity coverage requirement up to 100 % for credit institutions in accordance with national law.

(3) Consistent with BCBS liquidity standards, rules should be adopted to define the liquidity coverage requirement as a ratio of a credit institution's buffer of ‘liquid assets’ to its ‘net liquidity outflows’ over a 30 calendar day stress period. ‘Net liquidity outflows’ should be calculated by deducting the credit institution's liquidity inflows from its liquidity outflows. The liquidity coverage ratio should be expressed as a percentage and set at a minimum level of 100 %, when fully implemented, which indicates that a credit institution holds sufficient liquid assets to meet its net liquidity outflows during a 30-day stress period. During such a period, a credit institution should be able to convert quickly its liquid assets into cash without recourse to central bank liquidity or public funds, which may result in its liquidity coverage ratio falling temporarily below the 100 % level. Should that occur or be expected to occur at any time, credit institutions should comply with the specific requirements laid down in Article 414 of Regulation (EU) No 575/2013 for a timely restoration of their liquidity coverage ratio to the minimum level.

(4) Only freely transferable assets that can be converted quickly into cash in private markets within a short timeframe and without significant loss in value should be defined as ‘liquid assets’ for the purposes of credit institutions' liquidity buffers. Consistent with Part Six of Regulation (EU) No 575/2013 and the BCBS classification of liquid assets, appropriate rules should differentiate between assets of extremely high liquidity and credit quality or level 1 assets, and assets of high liquidity and credit quality or level 2 assets. The latter should be further divided into level 2A and 2B assets. Credit institutions should hold an adequately diversified buffer of liquid assets, having regard to their relative liquidity and credit quality. Accordingly, each level and sub-level should be subject to specific requirements on haircuts and limits of the overall buffer and, where appropriate, differentiated requirements should be applied between levels or sub-levels and between categories of liquid assets in the same level or sub-level,

which should be more stringent the lower their liquidity classification.

(5) Certain general and operational requirements should be applied to liquid assets to ensure they can be converted into cash within a short timeframe, subject to some exceptions for specified level 1 assets where appropriate. These requirements should specify that liquid assets should be held free from any obstacle preventing their disposal, easy to value and listed on recognised exchanges or tradable on active sale or repurchase markets. They should also ensure that the credit institution's liquidity management function has access to and control of its liquid assets at all times and that the assets comprising the liquidity buffer are appropriately diversified. Diversification is important to ensure that a credit institution's ability to rapidly liquidate liquid assets without a significant loss in value is not compromised by those assets being vulnerable to a common risk factor. Credit institutions should also be required to ensure consistency of the currency denomination of their liquid assets and their net liquidity outflows, to prevent an excessive currency mismatch from compromising their ability to use their liquidity buffer to meet liquidity outflows in a specific currency in a stress period.

(6) In accordance with the recommendations made by the European Banking Authority (EBA) in its report of 20 December 2013, prepared pursuant to Article 509(3) and (5) of Regulation (EU) No 575/2013, all types of bonds issued or guaranteed by Member States' central governments and central banks as well as those issued or guaranteed by supranational institutions should be given level 1 status. As the EBA noted, there are strong supervisory arguments for not discriminating between various Member States because the exclusion of some sovereign bonds from level 1 would create incentives to invest in other sovereign bonds within the Union, which would result in the fragmentation of the internal market and increase the risk of mutual contagion in a crisis between credit institutions and their sovereigns (the ‘bank-sovereign nexus’). As regards third countries, level 1 status should be given to exposures to central banks and sovereigns which are assigned a 0 % risk weight under the credit risk rules in Title II of Part 3 of Regulation (EU) No 575/2013, as is provided for in the BCBS standard. Exposures to regional governments, local authorities and public sector entities should be given level 1 status only where they are treated as exposures to their central government and the latter benefits from a 0 % risk weight in accordance with the same credit risk rules. The same status should apply to exposures to 0 % risk-weighted multilateral development banks and international organisations. Given the extremely high liquidity and credit quality demonstrated by those assets, credit institutions should be allowed to hold them in their buffers without limit and they should not be subject to a haircut or a diversification requirement.

(7) Assets issued by credit institutions should generally not be recognised as liquid assets, but level 1 treatment should be conferred upon bank assets supported by Member States governments, such as promotional and government-owned lenders as well as private bank assets with an explicit State guarantee. The latter constitute a legacy from the financial crisis that should be phased-out and, accordingly, only bank assets with a government guarantee granted or committed to prior to 30 June 2014 should be eligible as liquid assets. Similarly, senior bonds issued by certain specified asset management agencies of certain Member States should be treated as level 1 assets subject to the same requirements applicable to exposures to the central government of their respective Member State but only with a time-limited effect.

(8) Covered bonds are debt instruments issued by credit institutions and secured by a cover pool of assets which typically consist of mortgage loans or public sector debt to which investors have a preferential claim in the event of default. Their secured nature and certain additional safety features, such as the requirement on the issuer to replace non-performing assets in the cover pool and maintain the cover pool at a value exceeding the par value of the bonds (‘asset coverage requirement’), have contributed to make covered bonds relatively low-risk, yield-bearing instruments with a key funding role in mortgage markets of most Member States. In certain Member States outstanding covered bond issuance exceeds the pool of outstanding government bonds. Certain covered bonds of credit quality step 1, in particular, exhibited an excellent liquidity performance during the period from 1 January 2008 to 30 June 2012 analysed by the EBA in its report. Nevertheless the EBA recommended treating these covered bonds as level 2A assets to align with BCBS standards. However, in the light of the considerations made above about their credit quality, liquidity performance and role in the funding markets of the Union, it is appropriate for these credit quality step 1 covered bonds to be treated as level 1 assets. In order to avoid excessive concentration risks and unlike other level 1 assets, the holdings of credit quality step 1 covered bonds in the liquidity buffer should be subject to a 70 % cap of the overall buffer, a minimum 7 % haircut and to the diversification requirement.

(9) Covered bonds of credit quality step 2 should be recognised as level 2A assets subject to the same cap (40 %) and haircut (15 %) applicable to other liquid assets of this level. This can be justified on the basis of available market data which indicate that credit quality step 2 covered bonds exhibited greater

liquidity than other comparable level 2A and 2B assets, such as residential mortgage-backed securities (‘RMBSs’) of credit quality step 1. Furthermore, permitting these covered bonds to qualify for the purposes of the liquidity buffer would contribute to diversifying the pool of available assets within the buffer and prevent an undue discrimination or a cliff effect between them and covered bonds of credit quality step 1. It should be noted, however, that a significant proportion of these covered bonds became credit quality step 2 as a result of the downgrade in the rating of the Member State's central government where their issuer was established. This reflected the country ceiling typically included in the methodologies of rating agencies which determines that financial instruments may not be rated over a certain level relative to their respective sovereign rating. Hence, country ceilings precluded the covered bonds issued in those Member States from reaching credit quality step 1, irrespective of their credit quality, which in turn reduced their liquidity compared with covered bonds of similar quality issued in Member States that were not downgraded. Funding markets within the Union have become greatly fragmented as a result, which highlights the need to find an appropriate alternative to external ratings as one of criteria in prudential regulation to classify the liquidity and credit risk of covered bonds and other categories of assets. In accordance with Article 39b(1) of Regulation (EU) No 1060/2009 of the European Parliament and of the Council, the Commission must report by 31 December 2015 on alternative tools to credit ratings, with a view to deleting all references to credit ratings in Union law for regulatory purposes by 1 January 2020.

(10) In relation to asset-backed securities (‘ABS’), the EBA had recommended, consistent with its own empirical findings and with the BCBS standard, that only RMBSs of credit quality step 1 be recognised as level 2B assets, subject to a 25 % haircut. It is also appropriate to deviate from this recommendation and expand level 2B eligibility to certain ABSs backed by other assets. A broader range of eligible subcategories of assets would increase diversification within the liquidity buffer and facilitate the financing of the real economy. Furthermore, as available market data points to a low correlation between ABSs and other liquid assets such as government bonds, the bank-sovereign nexus would be weakened and fragmentation in the internal market would be mitigated. In addition, there is evidence that investors tend to hoard high quality ABSs with short weighted-average life and high prepayments during periods of financial instability, as these convert into cash quickly and can be relied upon as a safe source of liquidity. This is particularly the case of ABSs backed by loans and leases for the financing of motor vehicles (‘auto loan ABSs’), which exhibited price volatility and average spreads comparable to RMBSs during the 2007-2012 period. Certain sections of consumer credit ABSs, such as credit cards, also showed comparable good levels of liquidity. Lastly, allowing ABSs backed by real economy assets, such as those mentioned already and loans to SMEs, could contribute to economic growth as it would send a positive signal to investors in relation to these assets. Appropriate rules should therefore recognise ABSs backed not just by residential mortgage loans, but also by auto loans, consumer credit and SME loans as level 2B assets. However to preserve the integrity and functionality of the liquidity buffer, their eligibility should be subject to certain high quality requirements consistent with the criteria to be applied to simple, transparent and standardised securitisations in other financial sectorial legislation. For RMBSs in particular, high quality requirements should include complying with certain ratios on loan-to-value or loan-to-income, but those ratios should not apply to RMBS issued before the starting date of application of the liquidity coverage requirement. To account for the less high liquidity observed in consumer credit and SME loan ABSs relative to RMBSs and auto loan ABSs, the former should be subject to a higher haircut (35 %). All ABSs should be subject, like other level 2B assets, to the overall 15 % cap of the liquidity buffer and to the diversification requirement.

(11) The rules in relation to the classification, requirements, caps and haircuts for the remaining level 2A and 2B assets should align closely with the BCBS's and the EBA's recommendations. Shares and units in collective investment undertakings (‘CIU’), on the other hand, should be treated as liquid assets of the same level and category as the assets underlying the collective undertaking.

(12) It is also appropriate in determining the liquidity coverage ratio to take into account the centralised management of liquidity in cooperative and institutional protection scheme networks where the central institution or body plays a role akin to a central bank because the members of the network do not typically have direct access to the latter. Appropriate rules should, therefore, recognise as liquid assets the sight deposits which are made by the members of the network with the central institution and other liquidity funding available to those from the central institution. Deposits which do not qualify as liquid assets should benefit from the preferential outflow rates allowed for operational deposits.

(13) The outflow rate for stable retail deposits should be set at a default rate of 5 %, but a preferential outflow rate of 3 % should be allowed to all credit institutions affiliated to a deposit guarantee scheme in a Member State that meets certain stringent criteria. First, account should be taken of the implementation of the Deposit Guarantee Scheme Directive 2014/49/EU of the European Parliament and of the Council by Member States. Second, the scheme of a Member State should comply with

specific requirements relating to the repayment period, *ex-ante* funding and access to additional financial means in the event of a large call on its reserves. Last, the application of the preferential 3 % rate should be subject to the Commission's prior approval, which should be granted only where the Commission is satisfied that the deposit guarantee scheme of the Member State complies with the above criteria and there are no overriding concerns regarding the functioning of the internal market for retail deposits. In any event, the 3 % preferential rate for stable retail deposits should not be applicable before 1 January 2019.

(14) Credit institutions should be able to identify other retail deposits subject to higher run-off rates. Appropriate rules based on the EBA Guidelines on retail deposits subject to different outflows should set out the criteria to identify those retail deposits on the basis of their specific features, namely the size of the total deposit, the nature of the deposit, the remuneration, the probability of withdrawal and whether the depositor is resident or non-resident.

(15) It may not be assumed that credit institutions will always receive liquidity support from other undertakings belonging to the same group or to the same institutional protection scheme when they experience difficulties in meeting their payment obligations. However, where no waiver has been granted for the application of the liquidity coverage ratio at individual level in accordance with Articles 8 or 10 of Regulation (EU) No 575/2013, liquidity flows between two credit institutions belonging to the same group or to the same institutional protection scheme should in principle receive symmetrical inflow and outflow rates to avoid the loss of liquidity in the internal market, provided that all the necessary safeguards are in place and only with the prior approval of the competent authorities involved. Such preferential treatment should only be given to cross-border flows on the basis of additional objective criteria, including the low liquidity risk profile of the provider and the receiver.

(16) In order to prevent credit institutions from relying solely on anticipated inflows to meet their liquidity coverage ratio, and also to ensure a minimum level of liquid assets holdings, the amount of inflows that can offset outflows should be capped at 75 % of total expected outflows. However, taking into account the existence of specialised business models, certain exemptions to this cap, either full or partial, should be permitted to give effect to the principle of proportionality and subject to the prior approval of the competent authorities. That should include an exemption for intra-group and intra-institutional protection scheme flows and credit institutions specialised in pass-through mortgage lending or in leasing and factoring. In addition, credit institutions specialised in financing for the acquisition of motor vehicles or in consumer credit loans should be allowed to apply a higher cap of 90 %. Those exemptions should be available at both the individual and consolidated level, but only where certain criteria are fulfilled.

(17) The liquidity coverage ratio should apply to credit institutions both on an individual and consolidated basis, unless the competent authorities waive the application on an individual basis in accordance with Articles 8 or 10 of Regulation (EU) No 575/2013. The consolidation of subsidiary undertakings in third countries should take due account of the liquidity coverage requirements applicable in those countries. Accordingly, consolidation rules in the Union should not give a more favourable treatment to liquid assets, liquidity outflows or inflows in third country subsidiary undertakings than that which is available under the national law of those third countries.

(18) In accordance with Article 508(2) of Regulation (EU) No 575/2013, the Commission must report to the co-legislators by no later than 31 December 2015 on whether and how the liquidity coverage requirement laid down in Part Six should apply to investment firms. Until that provision starts to apply, investment firms should remain subject to the national law of Member States on the liquidity coverage requirement. However, investment firms should be subject to the liquidity coverage ratio laid down in this Regulation on a consolidated basis, where they form part of banking groups.

(19) Credit institutions are required to report to their competent authorities the liquidity coverage requirement as specified in detail in this Regulation in accordance with Article 415 of Regulation (EU) No 575/2013.

(20) In order to give credit institutions sufficient time to comply with the detailed liquidity coverage requirement in full, its introduction should be phased-in in accordance with the timetable laid down in Article 460(2) of Regulation (EU) No 575/2013, starting with a minimum of 60 % from 1 October 2015 rising to 100 % on 1 January 2018,

HAS ADOPTED THIS REGULATION:

TITLE I

THE LIQUIDITY COVERAGE RATIO

Article 1

Subject matter

This Regulation lays down rules to specify in detail the liquidity coverage requirement provided for in Article 412(1) of Regulation (EU) No 575/2013.

Article 2

Scope and application

1.This Regulation shall apply to credit institutions supervised under Directive 2013/36/EU of the European Parliament and of the Council.

2.Credit institutions shall comply with this Regulation on an individual basis in accordance with Article 6(4) of Regulation (EU) No 575/2013. The competent authorities may waive in full or in part the application of this Regulation on an individual basis in relation to a credit institution in accordance with Articles 8 and 10 of Regulation (EU) No 575/2013, provided that the conditions laid down therein are met.

3.Where a group comprises one or more credit institutions, the EU parent institution, the institution controlled by an EU parent financial holding company or the institution controlled by an EU parent mixed financial holding company shall apply the obligations laid down in this Regulation on a consolidated basis in accordance with Article 11(3) of Regulation (EU) No 575/2013 and all the following provisions:

(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;

(b) liquidity outflows in a subsidiary undertaking in a third country which are subject under the national law of that third country setting out the liquidity coverage requirement to higher percentages than those specified in Title III shall be subject to consolidation in accordance with the higher rates specified in the national law of the third country;

(c) liquidity inflows in a subsidiary undertaking in a third country which are subject under the national law of that third country setting out the liquidity coverage requirement to lower percentages than those specified in Title III shall be subject to consolidation in accordance with the lower rates specified in the national law of the third country;

(d) investment firms within the group shall be subject to Article 4 of this Regulation on a consolidated basis and to Article 412 of Regulation (EU) No 575/2013 in relation to the definition of liquid assets, liquidity outflows and inflows for both individual and consolidated purposes. Other than as specified in this point, investment firms shall remain subject to the detailed liquidity coverage ratio requirement for investment firms as laid down in the national law of Member States pending the specification of a liquidity coverage ratio requirement in accordance with Article 508 of Regulation (EU) No 575/2013;

(e) at a consolidated level the amount of inflows arising from a specialised credit institution referred to in Article 33 paragraphs (3) and (4) shall only be recognised up to the amount of the outflows arising from the same undertaking.

Article 3

Definitions

For the purposes of this Regulation, the following definitions shall apply:

(1) ‘level 1 assets’ means assets of extremely high liquidity and credit quality as referred to in the second subparagraph of Article 416(1) of Regulation (EU) No 575/2013;

(2) ‘level 2 assets’ means assets of high liquidity and credit quality as referred to in the second subparagraph of Article 416(1) of Regulation (EU) No 575/2013. level 2 assets are further subdivided into level 2A and 2B assets in accordance with Chapter 2 of Title II of this Regulation;

(3) ‘liquidity buffer’ means the amount of liquid assets that a credit institution holds in accordance with Title II of this Regulation;

(4) ‘reporting currency’ means the currency in which the liquidity items referred to in Titles II and III of Part Six of Regulation (EU) No 575/2013 must be reported to the competent authority in accordance with Article 415(1) of that Regulation;

(5) ‘asset covrage requirement’ means the ratio of assets to liabilities as determined for credit enhancement purposes in relation to covered bonds by the national law of a Member State or a third country;

(6) ‘SME’ means a micro, small and medium-sized enterprise as defined in Commission Recommendation 2003/361/EC;

(7) ‘net liquidity outflows’ means the amount which results from deducting a credit institution's liquidity inflows from its liquidity outflows in accordance with Title III of this Regulation;

(8) . . . . .

(9) . . . . .

(10) ‘personal investment company’ (‘PIC’) means an undertaking or a trust whose owner or beneficial owner, respectively, is a natural person or a group of closely related natural persons, which was set up with the sole purpose of managing the wealth of the owners and which does not carry out any other commercial, industrial or professional activity. The purpose of the PIC may include other ancillary activities such as segregating the owners' assets from corporate assets, facilitating the transmission of assets within a family or preventing a split of the assets after the death of a member of the family, provided these are connected to the main purpose of managing the owners' wealth;

(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;

(12) ‘margin loans’ means collateralised loans extended to customers for the purpose of taking leveraged trading positions.

Article 4

The liquidity coverage ratio

1.The detailed liquidity coverage requirement in accordance with Article 412(1) of Regulation (EU) No 575/2013 shall be equal to the ratio of a credit institution's liquidity buffer to its net liquidity outflows over a 30 calendar day stress period and shall be expressed as a percentage. Credit institutions shall calculate their liquidity coverage ratio in accordance with the following formula:

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$$\frac{\text{Liquidity Buffer}}{\text{Net Liquidity Outflows over a 30 calendar day stress period}} = \text{Liquidity Coverage Ratio (\%)}$$

2.Credit institutions shall maintain a liquidity coverage ratio of at least 100 %.

3.By derogation from paragraph 2, credit institutions may monetise their liquid assets to cover their net liquidity outflows during stress periods, even if such a use of liquid assets may result in their liquidity coverage ratio falling below 100 % during such periods.

4.Where at any time the liquidity coverage ratio of a credit institution has fallen or can be reasonably expected to fall below 100 %, the requirement laid down in Article 414 of Regulation (EU) No 575/2013 shall apply. Until the liquidity coverage ratio has been restored to the level referred to in paragraph 2, the credit institution shall report to the competent authority the liquidity coverage ratio in accordance with Commission Implementing Regulation (EU) No 680/2014.

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.

6. Credit institutions shall not double-count liquid assets, inflows and outflows.

Article 5

Stress scenarios for the purposes of the liquidity coverage ratio

The following scenarios may be regarded as indicators of circumstances in which a credit institution may be considered as being subject to stress:

(a) the run-off of a significant proportion of its retail deposits;

(b) a partial or total loss of unsecured wholesale funding capacity, including wholesale deposits and other sources of contingent funding such as received committed or uncommitted liquidity or credit lines;

(c) a partial or total loss of secured, short-term funding;

(d) additional liquidity outflows as a result of a credit rating downgrade of up to three notches;

(e) increased market volatility affecting the value of collateral or its quality or creating additional collateral needs;

(f) unscheduled draws on liquidity and credit facilities;

(g) potential obligation to buy-back debt or to honour non-contractual obligations.

TITLE II

THE LIQUIDITY BUFFER

CHAPTER 1

General provisions

Article 6

Composition of the liquidity buffer

In order to be eligible to form part of a credit institution's liquidity buffer, the liquid assets shall comply with each of the following requirements:

(a) the general requirements laid down in Article 7;

(b) the operational requirements laid down in Article 8;

(c) the respective eligibility criteria for their classification as a level 1 or level 2 asset in accordance with Chapter 2.

Article 7

General requirements for liquid assets

1.In order to qualify as liquid assets, the assets of a credit institution shall comply with paragraphs 2 to 6.

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.

3.The assets shall not have been issued by the credit institution itself, its parent undertaking, other than a public sector entity that is not a credit institution, its subsidiary or another subsidiary of its parent undertaking or by a securitisation special purpose entity with which the credit institution has close links;

4.The assets shall not have been issued by any of 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);

(b) an investment firm;

(c) an insurance undertaking;

(d) a reinsurance undertaking;

(e) a financial holding company;

(f) a mixed financial holding company;

(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.

5.The value of the assets shall be capable of being determined on the basis of widely disseminated and easily available market prices. In the absence of market-based prices, the value of the assets must be capable of being determined on the basis of an easy-to-calculate formula that uses publicly available inputs and is not significantly dependent upon strong assumptions.

6.The assets shall be listed on a recognised exchange or tradable via active outright sale or via simple repurchase transaction on generally accepted repurchase markets. These criteria shall be assessed separately for each market. An asset admitted to trading in an organised venue which is not a recognised exchange, either in a Member State or in a third country, shall be deemed liquid only where the trading venue provides for an active and sizable market for outright sales of assets. The credit institution shall take into account the following as minimum criteria to assess whether a trading venue provides for an active and sizeable market for the purposes of this paragraph:

(a) historical evidence of market breadth and depth as proven by low bid-ask spreads, high trading volume and a large and diverse number of market participants;

(b) the presence of a robust market infrastructure.

7.The requirements laid down in paragraphs 5 and 6 shall not apply to:

(a) banknotes and coins referred to in point (a) of Article 10(1);

(aa) the exposures to central governments referred to in point (d) of Article 10(1);

(b) the exposures to central banks referred to in points (b) and (d) of Article 10(1) and in point (b) of Article 11(1);

(c) the restricted-use committed liquidity facility referred to in point (d) of Article 12(1);

(d) the deposits and other funding in cooperative networks and institutional protection schemes referred to in Article 16.

Article 8

Operational requirements

1.Credit institutions shall have policies and limits in place to ensure that the holdings of liquid assets comprising their liquidity buffer remain appropriately diversified at all times. For those purposes, credit institutions shall take into account the extent of diversification between the various categories of liquid assets

and within the same category of liquid assets referred to in Chapter 2 of this Title and any other relevant diversification factors, such as types of issuers, counterparties or the geographical location of those issuers and counterparties.

Competent authorities may impose specific restrictions or requirements on a credit institution's holdings of liquid assets to ensure compliance with the requirement set out in this paragraph. Any such restriction or requirement, however, shall not apply to:

(a) the following categories of level 1 assets:
  (i) banknotes and coins referred to in Article 10(1)(a);
  (ii) the exposures to central banks referred to in points (b) and (d) of Article 10(1);
  (iii) assets representing claims on or guaranteed by the multilateral developments banks and international organisations referred to in Article 10(1)(g);

(b) the categories of level 1 assets representing claims on or guaranteed by the central or regional governments, local authorities or public sector entities referred to Article 10(1)(c) and (d), provided that the credit institution holds the relevant asset to cover stressed net liquidity outflows incurred in the currency of the Member State or third country or the asset is issued by the central or regional governments, local authorities or public sector entities of the credit institution's home Member State;

(c) the restricted-use committed liquidity facility referred to in point (d) of Article 12(1).

2.Credit institutions shall have ready access to their holdings of liquid assets and be able to monetise them at any time during the 30 calendar day stress period via outright sale or repurchase agreement on generally accepted repurchase markets. A liquid asset shall be deemed readily accessible to a credit institution where there are no legal or practical impediments to the credit institution's ability to monetise such an asset in a timely fashion.

Assets used to provide credit enhancement in structured transactions or to cover operational costs of the credit institutions shall not be deemed as readily accessible to a credit institution.

Assets held in a third country where there are restrictions to their free transferability shall be deemed readily accessible only insofar as the credit institution uses those assets to meet liquidity outflows in that third country. Assets held in a non-convertible currency shall be deemed readily accessible only insofar as the credit institution uses those assets to meet liquidity outflows in that currency.

3.Credit institutions shall ensure that their liquid assets are under the control of a specific liquidity management function within the credit institution. Compliance with this requirement shall be demonstrated to the competent authority either by:

(a) placing the liquid assets in a separate pool under the direct management of the liquidity function and with the sole intent of using them as a source of contingent funds, including during stress periods;

(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;

(c) a combination of options (a) and (b), provided that the competent authority has deemed such combination acceptable.

4.Credit institutions shall regularly, and at least once a year, monetise a sufficiently representative sample of their holdings of liquid assets by means of outright sale or simple repurchase agreement on a generally accepted repurchase market. Credit institutions shall develop strategies for disposing of samples of liquid assets which are adequate to:

(a) test the access to the market for those assets and their usability;

(b) check that the credit institution's processes for the timely monetisation of assets are effective;

(c) minimise the risk of sending a negative signal to the market as a result of the credit institution's monetising its assets during stress periods.

The requirement laid down in the first subparagraph shall not apply to level 1 assets referred to in Article 10, other than extremely high quality covered bonds, to the restricted-use committed liquidity facility referred to in subparagraph (d) of Article 12(1) or to the deposits and other liquidity funding in cooperatives networks and institutional protection schemes referred to in Article 16.

5.The requirement set out in paragraph 2 shall not prevent credit institutions from hedging the market risk associated with their liquid assets provided that the following conditions are met:

(a) the credit institution puts in place appropriate internal arrangements in accordance with paragraphs 2 and 3 to ensure that those assets continue to be readily available and under the control of the liquidity management function;

(b) the net liquidity outflows and inflows that would result in the event of an early close-out of the hedge are taken into account in the valuation of the relevant asset in accordance with Article 9.

6.Credit institutions shall ensure that the currency denomination of their liquid assets is consistent with the distribution by currency of their net liquidity outflows. However, where appropriate, competent authorities may require credit institutions to restrict currency mismatch by setting limits on the proportion of net liquidity outflows in a currency that can be met during a stress period by holding liquid assets not denominated in that currency. That restriction may only be applied for the reporting currency or a currency that may be subject to separate reporting in accordance with Article 415(2) of Regulation (EU) No 575/2013. In determining the level of any restriction on currency mismatch that may be applied in accordance with this paragraph, competent authorities shall at least have regard to:

(a) whether the credit institution has the ability to do any of the following:

  (i) use the liquid assets to generate liquidity in the currency and jurisdiction in which the net liquidity outflows arise;

  (ii) swap currencies and raise funds in foreign currency markets during stressed conditions consistent with the 30 calendar day stress period set out in Article 4;

  (iii) transfer a liquidity surplus from one currency to another and across jurisdictions and legal entities within its group during stressed conditions consistent with the 30 calendar day stress period set out in Article 4;

(b) the impact of sudden, adverse exchange rate movements on existing mismatched positions and on the effectiveness of any foreign exchange hedges in place.

Any restriction on currency mismatch imposed in accordance with this paragraph shall be deemed to constitute a specific liquidity requirement as referred to in Article 105 of Directive 2013/36/EU.

Article 9

Valuation of Liquid Assets

For the purposes of calculating its liquidity coverage ratio, a credit institution shall use the market value of its liquid assets. The market value of liquid assets shall be reduced in accordance with the haircuts set out in Chapter 2 and with Article 8(5)(b), where applicable.

CHAPTER 2

Liquid Assets

Article 10

Level 1 assets

1.Level 1 assets shall only include assets falling under one or more of the following categories and meeting in each case the eligibility criteria laid down herein:

(a) coins and banknotes;

(b) the following exposures to central banks:

(i) assets representing claims on or guaranteed by the European Central Bank (ECB) or a Member State's central bank;

(ii) assets representing claims on or guaranteed by central banks of third countries, provided that exposures to the central bank or its central government are assigned a credit assessment by a nominated external credit assessment institution (ECAI) which is at least credit quality step 1 in accordance with Article 114(2) of Regulation (EU) No 575/2013;

(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;

(c) assets representing claims on or guaranteed by the following central or regional governments, local authorities or public sector entities:

(i) the central government of a Member State;

(ii) the central government of a third country, provided that it is assigned a credit assessment by a nominated ECAI which is at least credit quality step 1 in accordance with Article 114(2) of Regulation (EU) No 575/2013;

(iii) regional governments or local authorities in a Member State, provided that they are treated as exposures to the central government of the Member State in accordance with Article 115(2) of Regulation (EU) No 575/2013;

(iv) regional governments or local authorities in a third country of the type referred to in point (ii), provided that they are treated as exposures to the central government of the third country in accordance with Article 115(4) of Regulation (EU) No 575/2013;

(v) public sector entities provided that they are treated as exposures to the central government of a Member State or to one of the regional governments or local authorities referred to in point (iii) in accordance with paragraph 4 of Article 116 of Regulation (EU) No 575/2013;

(d) the following assets:

(i)

(d)
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:

- (d)
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;

(e) assets issued by credit institutions which meet at least one of the following two requirements:

(i) the issuer is a credit institution incorporated or established by the central government of a Member State or the regional government or local authority in a Member State, the government or local authority is under the legal obligation to protect the economic basis of the credit institution and maintain its financial viability throughout its life-time and any exposure to that regional government or local authority, as applicable, is treated as an exposure to the central government of the Member State in accordance with Article 115(2) of Regulation (EU) No 575/2013;

(ii) the credit institution is a promotional lender which, for the purposes of this Article, shall be understood as any credit institution whose purpose is to advance the public policy objectives of the Union or of the central or regional government or local authority in a Member State predominantly through the provision of promotional loans on a non-competitive, not for profit basis, provided that at least 90 % of the loans that it grants are directly or indirectly guaranteed by the central or regional government or local authority and that any exposure to that regional government or local authority, as applicable, is treated as an exposure to the central government of the Member State in accordance with Article 115(2) of Regulation (EU) No 575/2013;

(f) exposures in the form of extremely high quality covered bonds, which shall comply with all of the following requirements:

(i) they are bonds as referred to in Article 52(4) of Directive 2009/65/EC or meet the requirements to be eligible for the treatment set out in Article 129(4) or (5) of Regulation (EU) No 575/2013;

(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;

(iii) the credit institution investing in the covered bonds and the issuer meet the transparency requirement referred to in Article 129(7) of Regulation (EU) No 575/2013;

(iv) their issue size is at least EUR 500 million (or the equivalent amount in domestic currency);

(v) the covered bonds are assigned a credit assessment by a nominated ECAI which is at least credit quality step 1 in accordance with Article 129(4) of Regulation (EU) No 575/2013, the equivalent credit quality step in the event of a short term credit assessment or, in the absence of a credit assessment, they are assigned a 10 % risk weight in accordance with Article 129(5) of that Regulation;

(vi) the cover pool meets at all times an asset coverage requirement of at least 2 % in excess of the amount required to meet the claims attaching to the covered bonds;

(g) assets representing claims on or guaranteed by the multilateral development banks and the international organisations referred to in Article 117(2) and Article 118, respectively, of Regulation (EU) No 575/2013.

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.

Article 11

Level 2A assets

1.Level 2A assets shall only include assets falling under one or more of the following categories and meeting in each case the eligibility criteria laid down herein:

(a) assets representing claims on or guaranteed by regional governments, local authorities or public sector entities in a Member State, where exposures to them are assigned a risk weight of 20 % in accordance with Article 115(1) and (5) and Article 116(1), (2) and (3) of Regulation (EU) No 575/2013, as applicable;

(b) assets representing claims on or guaranteed by the central government or the central bank of a third country or by a regional government, local authority or public sector entity in a third country, provided that they are assigned a 20 % risk weight in accordance with Articles 114(2), 115 or 116 of Regulation (EU) No 575/2013, as applicable;

(c) exposures in the form of high quality covered bonds, which shall comply with all of the following requirements:

(i) they are bonds as referred to in Article 52(4) of Directive 2009/65/EC or meet the requirements to be eligible for the treatment set out in Article 129(4) or (5) of Regulation (EU) No 575/2013;

(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;

(iii) the credit institution investing in the covered bonds and the issuer meet the transparency requirement laid down in Article 129(7) of Regulation (EU) No 575/2013;

(iv) their issue size is at least EUR 250 million (or the equivalent amount in domestic currency);

(v) the covered bonds are assigned a credit assessment by a nominated ECAI which is at least credit quality step 2 in accordance with Article 129(4) of Regulation (EU) No 575/2013, the equivalent credit quality step in the event of a short term credit assessment or, in the absence of a credit assessment, they are assigned a 20 % risk weight in accordance with Article 129(5) of that Regulation;

(vi) the cover pool meets at all times an asset coverage requirement of at least 7 % in excess of the amount required to meet the claims attaching to the covered bonds. However, where covered bonds with a credit quality step 1 credit assessment do not meet the minimum issue size for extremely high quality covered bonds in accordance with point (f)(iv) of Article 10(1) but meet the requirements for high quality covered bonds laid down in points (i), (ii), (iii) and (iv), they shall instead be subject to a minimum asset coverage requirement of 2 %;

(d) exposures in the form of covered bonds issued by credit institutions in third countries, which shall comply with all of the following requirements:

(i) they are covered bonds in accordance with the national law of the third country which must define them as debt securities issued by credit institutions, or by a wholly owned subsidiary of a credit institution which guarantees the issue, and secured by a cover pool of assets, in respect of which bondholders shall have direct recourse for the repayment of principal and interest on a priority basis in the event of the issuer's default;

(ii) the issuer and the covered bonds are subject by the national law in the third country to special public supervision designed to protect bondholders and the supervisory and regulatory arrangements applied in the third country must be at least equivalent to those applied in the Union;

(iii) the covered bonds are backed by a pool of assets of one or more of the types described in points (b), (d)(i), (f)(i) or (g) of Article 129(1) of Regulation (EU) No 575/2013. Where the pool comprises loans secured by immovable property, the requirements in Articles 208 and 229(1) of Regulation (EU) No 575/2013 must be met;

(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;

(v) the credit institution investing in the covered bonds and the issuer meet the transparency requirement laid down in Article 129(7) of Regulation (EU) No 575/2013;

(vi) the covered bonds are assigned a credit assessment by a nominated ECAI which is at least credit quality step 1 in accordance with Article 129(4) of Regulation (EU) No 575/2013, the equivalent credit quality step in the event of a short term credit assessment or, in the absence of a credit assessment, they are assigned a 10 % risk weight in accordance with Article 129(5) of that Regulation; and

(vii) the cover pool meets at all times an asset coverage requirement of at least 7 % in excess of the amount required to meet the claims attaching to the covered bonds. However, where the issue size of the covered bonds is EUR 500 million (or the equivalent amount in domestic currency) or higher, they shall instead be subject to a minimum asset coverage requirement of 2 %;

(e) corporate debt securities which meet all of the following requirements:

(i) they are assigned a credit assessment by a nominated ECAI which is at least credit quality step 1 in accordance with Article 122 of Regulation (EU) No 575/2013 or the equivalent credit quality step in the event of a short term credit assessment;

(ii) the securities issue size is at least EUR 250 million (or the equivalent in domestic currency);

(iii) the maximum time to maturity of the securities at the time of issuance is 10 years;

2.The market value of each of the level 2A assets shall be subject to a haircut of at least 15 %.

Article 12

Level 2B assets

1.Level 2B assets shall only include assets falling under one or more of the following categories and meeting in each case the eligibility criteria laid down herein:

(a) exposures in the form of asset-backed securities meeting the requirements laid down in Article 13;

(b) corporate debt securities which meet all of the following requirements:

  (i) they have received a credit assessment by a nominated ECAI which is at least credit quality step 3 in accordance with Article 122 of Regulation (EU) No 575/2013 or the equivalent credit quality step in the event of a short term credit assessment;

  (ii) the securities issue size is at least EUR 250 million (or the equivalent in domestic currency);

  (iii) the maximum time to maturity of the securities at the time of issuance is 10 years;

(c) shares, provided that they meet all of the following requirements:

  (i) they form part of a major stock index in a Member State or in a third country, as identified as such for the purposes of this point by the competent authority of a Member State or the relevant public authority in a third country. In the absence of any decision from the competent authority or public authority in relation to major stock indexes, credit institutions shall regard as such a stock index composed of leading companies in the relevant jurisdiction;

  (ii) they are denominated in the currency of the credit institution's home Member State or, where denominated in a different currency, they count as level 2B only up to the amount to cover stressed net liquidity outflows in that currency or in the jurisdiction where the liquidity risk is taken; and

  (iii) they have a proven record as a reliable source of liquidity at all times, including during stress periods. This requirement shall be deemed met where the level of decline in the share's stock price or increase in its haircut during a 30 day calendar day market stress period did not exceed 40 % or 40 percentage points, respectively; and

(d) restricted-use committed liquidity facilities that may be provided by the ECB, the central bank of a Member State or the central bank of a third country, provided that the requirements laid down in Article 14 are met;

(e) exposures in the form of high quality covered bonds which shall comply with all of the following requirements:

  (i) they are bonds as referred to in Article 52(4) of Directive 2009/65/EC or meet the requirements to be eligible for the treatment set out in Article 129(4) or (5) of Regulation (EU) No 575/2013;

  (ii) the credit institution investing in the covered bonds meets the transparency requirement laid down in Article 129(7) of Regulation (EU) No 575/2013;

  (iii) the issuer of the covered bonds makes the information referred to in Article 129(7)(a) of Regulation (EU) No 575/2013 available to investors on at least a quarterly basis;

  (iv) their issue size is at least EUR 250 million (or the equivalent amount in domestic currency);

  (v) the covered bonds are collateralised exclusively by the assets referred to in points (a), (d)(i) and (e) of Article 129(1) of Regulation (EU) No 575/2013.

  (vi) the pool of underlying assets consists exclusively of exposures which qualify for a 35 % or lower risk weight under Article 125 of Regulation (EU) No 575/2013 for credit risk;

  (vii) the cover pool meets at all times an asset coverage requirement of at least 10 % in excess of the amount required to meet the claims attaching to the covered bonds;

  (viii) the issuing credit institution needs to publicly disclose on a monthly basis that the cover pool meets the 10 % asset coverage requirement;

(f) for credit institutions which in accordance with their statutes of incorporation are unable for reasons of religious observance from holding interest bearing assets, non-interest bearing assets constituting a

claim on or guaranteed by central banks or by the central government or the central bank of a third country or by a regional government, local authority or public sector entity in a third country, provided that those assets have a credit assessment by a nominated ECAI of at least credit quality step 5 in accordance with Article 114 of Regulation (EU) No 575/2013, or the equivalent credit-quality step in the event of a short-term credit assessment.

2.The market value of each of the level 2B assets shall be subject to the following minimum haircuts:

(a) the applicable haircut set out in Article 13(14) for level 2B securitisations;

(b) a 50 % haircut for corporate debt securities referred to in paragraph (1)(b);

(c) a 50 % haircut for shares referred to in paragraph 1(c);

(d) a 30 % haircut for covered bond programmes or issues referred to in paragraph (1)(e);

(e) a 50 % haircut for non-interest bearing assets referred to in paragraph 1(f).

3.For credit institutions which in accordance with their statutes of incorporation are unable for reasons of religious observance to hold interest bearing assets, the competent authority may allow to derogate from points (ii) and (iii) of paragraph 1(b) of this Article, provided there is evidence of insufficient availability of non-interest bearing assets meeting these requirements and the non-interest bearing assets in question are adequately liquid in private markets.

In determining whether the non-interest bearing assets are adequately liquid for the purposes of the first subparagraph, the competent authority shall consider the following factors:

(a) the available data in respect of their market liquidity, including trading volumes, observed bid-offer spreads, price volatility and price impact; and

(b) other factors relevant to their liquidity, including the historical evidence of the breadth and depth of the market for those non-interest bearing assets, the number and diversity of market participants and the presence of a robust market infrastructure.

Article 13

Level 2B securitisations

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.

2.The securitisation position and the exposures underlying the position shall meet all the following requirements:

(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;

(c) the underlying exposures have been acquired by the SSPE within the meaning of Article 4(1)(66) of Regulation (EU) No 575/2013 in a manner that is enforceable against any third party and are beyond the reach of the seller (originator, sponsor or original lender) and its creditors including in the event of the seller's insolvency;

(d) the transfer of the underlying exposures to the SSPE may not be subject to any severe clawback provisions in the jurisdiction where the seller (originator, sponsor or original lender) is incorporated. This includes but is not limited to provisions under which the sale of the underlying exposures can be invalidated by the liquidator of the seller (originator, sponsor or original lender) solely on the basis that it was concluded within a certain period before the declaration of the seller's insolvency or provisions where the SSPE can prevent such invalidation only if it can prove that it was not aware of the insolvency of the seller at the time of sale;

(e) the underlying exposures have their administration governed by a servicing agreement which includes servicing continuity provisions that ensure, at a minimum, that a default or insolvency of the servicer does not result in a termination of servicing;

(f) the documentation governing the securitisation includes continuity provisions that ensure, at a minimum, the replacement of derivative counterparties and of liquidity providers upon their default or insolvency, where applicable;

(g) 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):

(i) residential loans secured with a first-ranking mortgage granted to individuals for the acquisition of their main residence, provided that one of the two following conditions is met:

- the loans in the pool meet on average the loan-to-value requirement laid down in point (i) of Article 129(1)(d) of Regulation (EU) No 575/2013;

- the loans were originated in Gibraltar and the law of Gibraltar provides for a loan-to-income limit on the amount that an obligor may borrow in a residential loan. The loan-to-income limit is calculated on the gross annual income of the obligor, taking into account the tax obligations and other commitments of the obligor and the risk of changes in the interest rates over the term of the loan. For each residential loan in the pool, the percentage of the obligor's gross income that may be spent to service the loan, including interest, principal and fee payments, does not exceed 45 %;

(ii) *Omitted*

(iii) commercial loans, leases and credit facilities to undertakings established in Gibraltar to finance capital expenditures or business operations other than the acquisition or development of commercial real estate, provided that at least 80 % of the borrowers in the pool in terms of portfolio balance are small and medium-sized enterprises at the time of issuance of the securitisation, and none of the borrowers is an institution as defined in Article 4(1)(3) of Regulation (EU) No 575/2013;

(iv) auto loans and leases to borrowers or lessees established or resident in Gibraltar. 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 , tractors as defined in Article 3(8) of Regulation (EU) No 167/2013 of the European Parliament and of the Council (as it had effect immediately before IP completion day), powered two-wheelers or powered tricycles as defined in Article 3(68) and (69) of Regulation (EU) No 168/2013 of the European Parliament and of the Council (as it had effect immediately before IP completion day) 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;

(v) loans and credit facilities to individuals resident in Gibraltar for personal, family or household consumption purposes.

(h) the position is not in a resecuritisation or a synthetic securitisation as referred to in Articles 4(63) and 242(11), respectively, of Regulation (EU) No 575/2013;

(i) the underlying exposures do not include transferable financial instruments or derivatives, except financial instruments issued by the SSPE itself or other parties within the securitisation structure and derivatives used to hedge currency risk and interest rate risk;

(j) at the time of issuance of the securitisation or when incorporated in the pool of underlying exposures at any time after issuance, the underlying exposures do not include exposures to credit-impaired obligors (or where applicable, credit-impaired guarantors), where a credit-impaired obligor (or credit-impaired guarantor) is a borrower (or guarantor) who:

(i) . . . . .

(ii) . . . . .

(iii) . . . . .

(k) at the time of issuance of the securitisation or when incorporated in the pool of underlying exposures at any time after issuance, the underlying exposures do not include exposures in default within the meaning of Article 178(1) of Regulation (EU) No 575/2013.

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10.The underlying exposures shall not have been originated by the credit institution holding the securitisation position in its liquidity buffer, its subsidiary, its parent undertaking, a subsidiary of its parent undertaking or any other undertaking closely linked with that credit institution.

11.The issue size of the tranche shall be at least EUR 100 million (or the equivalent amount in domestic currency).

12.The remaining weighted average life of the tranche shall be 5 years or less, which shall be calculated using the lower of either the transaction's pricing prepayment assumption or a 20 % constant prepayment rate, for which the credit institution shall assume that the call is exercised on the first permitted call date.

13.The originator of the exposures underlying the securitisation shall be an institution as defined in Article 4(3) of Regulation (EU) No 575/2013 or an undertaking whose principal activity is to pursue one or more of the activities listed in paragraphs 2 to 12 and 15 of the Schedule to the Financial Services (Credit Institutions and Capital Requirements) Regulations 2020.

14.The market value of level 2B securitisations shall be subject to the following minimum haircuts:

(a) 25 % for securitisations backed by the subcategories of assets referred to in points (g)(i) and (iv) of paragraph 2;

(b) 35 % for securitisations backed by the subcategories of assets referred to in points (g)(iii) and (v) of paragraph 2.

Article 14

Restricted-use committed liquidity facilities

In order to qualify as level 2B assets, the restricted-use committed liquidity facilities that may be provided by a central bank as referred to in paragraph (1)(d) of Article 12 shall fulfil all of the following criteria:

(a) during a non-stress period, the facility is subject to a commitment fee on the total committed amount which is at least the greater of the following:

(i) 75 basis points per annum; or

(ii) at least 25 basis points per annum above the difference in yield on the assets used to back the facility and the yield on a representative portfolio of liquid assets, after adjusting for any material differences in credit risk;

During a stress period, the central bank may reduce the commitment fee described in the first subparagraph of this point, provided that the minimum requirements applicable to liquidity facilities under the alternative liquidity approaches in accordance with Article 19 are met;

(b) the facility is backed by unencumbered assets of a type specified by the central bank. The assets provided as collateral shall fulfil all of the following criteria:

(i) they are held in a form which facilitates their prompt transfer to the central bank in the event of the facility being called;

(ii) their value post-haircut as applied by the central bank is sufficient to cover the total amount of the facility;

(iii) they are not to be counted as liquid assets for the purposes of the credit institution's liquidity buffer;

(c) the facility is compatible with the counterparty policy framework of the central bank;

(d) the commitment term of the facility exceeds the 30 calendar day stress period referred to in Article 4;

(e) the facility is not revoked by the central bank prior to its contractual maturity and no further credit decision is taken for as long as the credit institution concerned continues to be assessed as solvent;

(f) there is a formal policy published by the central bank stating its decision to grant restricted-use committed liquidity facilities, the conditions governing the facility and the types of credit institutions that are eligible to apply for those facilities.

Article 15

CIUs

1.Shares or units in CIUs shall qualify as liquid assets of the same level as the liquid assets underlying the relevant undertaking up to an absolute amount of EUR 500 million (or equivalent amount in domestic currency) for each credit institution on an individual basis, provided that:

(a) the requirements in Article 132(3) of Regulation (EU) No 575/2013 are complied with;

(b) the CIU invests only in liquid assets and derivatives, in the latter case only to the extent necessary to mitigate interest rate, currency or credit risk in the portfolio.

2.Credit institutions shall apply the following minimum haircuts to the value of their shares or units in CIUs depending on the category of underlying liquid assets:

(a) 0 % for coins and banknotes and exposures to central banks referred to in Article 10(1)(b);

(b) 5 % for level 1 assets other than extremely high quality covered bonds;

(c) 12 % for extremely high quality covered bonds referred to in Article 10(1)(f);

(d) 20 % for level 2A assets;

(e) 30 % for level 2B securitisations backed by the subcategories of assets referred to in points (i), (ii) and (iv) of Article 13(2)(g);

(f) 35 % for level 2B covered bonds referred to in Article 12(1)e;

(g) 40 % for level 2B securitisations backed by the subcategories of assets referred to in points (iii) and (v) of Article 13(2)(g); and

(h) 55 % for level 2B corporate debt securities referred to in Article 12(1)(b), shares referred to in Article 12(1)(c) and non-interest bearing assets referred to in Article 12(1)(f).

3.The approach referred to in paragraph 2 shall be applied as follows:

(a) where the credit institution is aware of the exposures underlying the CIU, it may look-through to those underlying exposures to assign them the appropriate haircut in accordance with paragraph 2;

(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.

4.Credit institutions shall develop robust methodologies and processes to calculate and report the market value and haircuts for shares or units in CIUs. Where the exposure is not sufficiently material for a credit institution to develop its own methodologies and provided that, in each case, the competent authority is satisfied that this condition has been met, a credit institution may only rely on the following third parties to calculate and report the haircuts for shares or units in CIUs:

(a) the depository institution of the CIU, provided that the CIU invests exclusively in securities and deposits all such securities at this depository institution; or

(b) for other CIUs, the CIU management company, provided that the CIU management company meets the requirements laid down in Article 132(3)(a) of Regulation (EU) No 575/2013.

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.

5.Where a credit institution fails to comply with the requirements laid down in paragraph 4 of this Article in relation to shares or units in a CIU, it shall cease to recognise them as liquid assets for the purposes of this Regulation in accordance with Article 18.

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.

Article 17

Composition of the liquidity buffer by asset level

1.Credit institutions shall comply at all times with the following requirements on the composition of their liquidity buffer:

(a) a minimum of 60 % of the liquidity buffer is to be composed of level 1 assets;

(b) a minimum of 30 % of the liquidity buffer is to be composed of level 1 assets excluding extremely high quality covered bonds referred to in Article 10(1)(f);

(c) a maximum of 15 % of the liquidity buffer may be held in level 2B assets.

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.

3.Credit institutions shall determine the composition of their liquidity buffer in accordance with the formulae laid down in Annex I to this Regulation.

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.

5. EBA shall, by 19 November 2020 , 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.

Article 18

Breach of requirements

1.Where a liquid asset ceases to comply with any applicable general requirements laid down in Article 7, the operational requirements laid down in Article 8(2) or any applicable eligibility criteria laid down in this Chapter, the credit institution shall cease to recognise it as a liquid asset no later than 30 calendar days from the date when the breach of requirements occurred.

2.Paragraph 1 shall apply to shares or units in a CIU ceasing to meet eligibility requirements only where they do not exceed 10 % of the CIU's overall assets.

Article 19

Alternative liquidity approaches

1.Where there are insufficient liquid assets in a given currency for credit institutions to meet the liquidity coverage ratio laid down in Article 4, one or more of the following provisions shall apply:

(a) the requirement on currency consistency set out in Article 8(6) shall not apply in relation to that currency;

(b) the credit institution may cover the deficit of liquid assets in a currency with credit facilities from the central bank in a Member State or third country of that currency, provided that the facility complies with all the following requirements:

  (i) it is contractually irrevocably committed for the next 30 calendar days;

  (ii) it is priced with a fee which is payable regardless of the amount, if any, drawn down against that facility;

  (iii) the fee is set in an amount such that the net yield on the assets used to secure the facility must not be higher than the net yield on a representative portfolio of liquidity assets, after adjusting for any material differences in credit risk.

(c) where there is a deficit of level 1 assets but there are sufficient level 2A assets, the credit institution may hold additional level 2A assets in the liquidity buffer and the caps by asset level set out in Article 17 shall be deemed amended accordingly. These additional level 2A assets shall be subject to a minimum haircut equal to 20 %. Any level 2B assets held by the credit institution shall remain subject to the haircuts applicable in each case in accordance with this Chapter.

2.Credit institutions shall apply the derogations provided for in paragraph 1 on an inversely proportional basis with regard to the availability of the relevant liquid assets. Credit institutions shall assess their liquidity needs for the application of this Article taking into account their ability to reduce, by sound liquidity management, the need for those liquid assets and the holdings of those assets by other market participants.

3.The currencies which may benefit from the derogations laid down in paragraph 1 and the extent to which one or more derogations may be available in total for a given currency shall be determined by the implementing regulation to be adopted by the Commission in accordance with Article 419(4) of Regulation

(EU) No 575/2013.

4.The detailed conditions applicable to the use of the derogations laid down in paragraph 1(a) and (b) shall be determined by the delegated act to be adopted by the Commission in accordance with Article 419(5) of Regulation (EU) No 575/2013.

TITLE III

LIQUIDITY OUTFLOWS AND INFLOWS

CHAPTER 1

Net Liquidity outflows

Article 20

Definition of net liquidity outflows

1.The net liquidity outflows shall be the sum of liquidity outflows in point (a) reduced by the sum of liquidity inflows in point (b), but shall not be less than zero, and shall be calculated as follows:

(a) the sum of the liquidity outflows as defined in Chapter 2;

(b) the sum of liquidity inflows as defined in Chapter 3, calculated as follows:

  (i) the inflows exempted from the cap as referred to in Article 33(2) and (3);

  (ii) the lower of the inflows referred to in Article 33(4) and 90 % of the outflows referred to in (a) reduced by the exempt inflows in Article 33(2) and (3), but not less than zero;

  (iii) the lower of the inflows other than those referred to in Article 33(2), (3) and (4) and 75 % of the outflows referred to in (a) reduced by the exempt inflows in Article 33(2) and (3) and the inflows in Article 33(4) divided by 0,9 to allow for the effect of the 90 % cap, but not less than zero.

2.Liquidity inflows and liquidity outflows shall be assessed over a 30 calendar day stress period, under the assumption of a combined idiosyncratic and market-wide stress scenario as referred to in Article 5.

3.The calculation laid down in paragraph 1 shall be performed in accordance with the formula set out in Annex II.

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.

CHAPTER 2

Liquidity outflows

Article 22

Definition of liquidity outflows

1.Liquidity outflows shall be calculated by multiplying the outstanding balances of various categories or types of liabilities and off-balance sheet commitments by the rates at which they are expected to run off or be drawn down as indicated in this Chapter.

2.Liquidity outflows referred to in paragraph 1 shall include, in each case multiplied by the applicable outflow rate:

(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;

(c) the additional outflows determined in accordance with Article 30;

(d) the maximum amount that can be drawn down during the next 30 calendar days from undrawn committed credit and liquidity facilities determined in accordance with Article 31;

(e) the additional outflows identified in the assessment in accordance with Article 23.

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.

Article 23

Additional liquidity outflows for other products and services

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.

2.The outflows referred to in paragraph 1 shall be assessed under the assumption of a combined idiosyncratic and market-wide stress as referred to in Article 5. For that assessment, credit institutions shall particularly take into account material reputational damage that could result from not providing liquidity support to such products or services. Credit institutions shall report at least once a year to the competent authorities those products and services for which the likelihood and potential volume of the liquidity outflows referred to in paragraph 1 are material and the competent authorities shall determine the outflows to be assigned. The competent authorities may apply an outflow rate of up to 5 % for trade finance off-balance sheet related products as referred to in Article 429 and Annex I of Regulation (EU) No 575/2013.

3.The competent authorities shall at least once a year report to the EBA the types of products or services for which they have determined outflows on the basis of the reports from credit institutions, and shall include in that report an explanation of the methodology applied to determine the outflows.

Article 24

Outflows from stable retail deposits

1.Unless the criteria for a higher outflow rate under Article 25(2), (3) or (5) are fulfilled, the amount of retail deposits covered by a deposit guarantee scheme in accordance with Directive 94/19/EC of the European Parliament and of the Council or Directive 2014/49/EU or an equivalent deposit guarantee scheme in a third country shall be considered as stable and multiplied by 5 % where the deposit is either:

(a) part of an established relationship making withdrawal highly unlikely; or

(b) held in a transactional account.

2.For the purpose of paragraph 1(a) a retail deposit shall be considered to be part of an established relationship where the depositor meets at least one of the following criteria:

(a) has an active contractual relationship with the credit institution of at least 12 months duration;

(b) has a borrowing relationship with the credit institution for residential loans or other long term loans;

(c) has at least one other active product, other than a loan, with the credit institution.

3.For the purposes of paragraph 1(b) a retail deposit shall be considered as being held in a transactional account where salaries, income or transactions are regularly credited and debited respectively against that account.

4.By way of derogation from paragraph 1, from 1 January 2019 competent authorities may authorise credit institutions to multiply by 3 % the amount of the stable retail deposits referred to in paragraph 1 covered by a deposit guarantee scheme in accordance with Directive 2014/49/EU up to a maximum level of EUR 100 000 as specified in Article 6(1) of that Directive, provided that the Commission has confirmed that the officially recognised deposit guarantee scheme meets all of the following criteria:

(a) the deposit guarantee scheme has available financial means, as referred to in Article 10 of Directive 2014/49/EU, raised *ex ante* by contributions made by members at least annually;

(b) the deposit guarantee scheme has adequate means of ensuring ready access to additional funding in the event of a large call on its reserves, including access to extraordinary contributions from member credit institutions and adequate alternative funding arrangements to obtain short-term funding from public or private third parties;

(c) the deposit guarantee scheme ensures a seven working day repayment period as referred to in Article 8(1) of Directive 2014/49/EU from the date of application of the 3 % outflow rate.

5.Competent authorities shall only grant the authorisation referred to in paragraph 4 after having obtained prior approval from the Commission. Such approval shall be requested by means of a reasoned notification, which shall include evidence that the run-off rates for stable retail deposits would be below 3 % during any stress period experienced consistent with the scenarios referred to in Article 5. The reasoned notification shall be submitted to the Commission at least three months prior to the date from which authorisation is requested. The Commission shall assess the compliance of the relevant deposit guarantee scheme with the conditions set out in paragraph 4(a), (b) and (c). Where those conditions are fulfilled, the Commission shall approve the competent authority's request to grant authorisation unless there exist overriding grounds for withholding approval having regard to the functioning of the internal market for retail deposits. All credit institutions affiliated to such an approved deposit guarantee scheme shall be entitled to apply the 3 % outflow rate. The Commission shall seek the opinion of the EBA on the conformity of the relevant deposit guarantee scheme with the conditions set out in paragraph 4(a), (b) and (c).

6.Credit institutions may be authorised by their competent authority to multiply by 3 % the amount of the retail deposits covered by a deposit guarantee scheme in a third country equivalent to the scheme referred to in paragraph 1 if the third country allows this treatment.

Article 25

Outflows from other retail deposits

1.Credit institutions shall multiply by 10 % other retail deposits, including that part of retail deposits not covered by Article 24, unless the conditions laid down in paragraph 2 apply.

2.Other retail deposits shall be subject to higher outflow rates, as determined by the credit institution, in accordance with paragraph 3, where the following conditions are met:

(a) the total deposit balance, including all the client's deposit accounts at that credit institution or group, exceeds EUR 500 000;

(b) the deposit is an internet access-only account;

(c) the deposit offers an interest rate that fulfils any of the following conditions:

  (i) the rate significantly exceeds the average rate for similar retail products;

  (ii) its return is derived from the return on a market index or set of indices;

  (iii) its return is derived from any market variable other than a floating interest rate;

(d) the deposit was originally placed as fixed-term with an expiry date maturing within the 30 calendar day period or the deposit presents a fixed notice period shorter than 30 calendar days, in accordance with contractual arrangements, other than those deposits that qualify for the treatment provided for in paragraph 4;

(e) for credit institutions established in the Union, the depositor is resident in a third country or the deposit is denominated in a currency other than the euro or the domestic currency of a Member State. For credit institutions or branches in third countries, the depositor is a non-resident in the third country or the deposit is denominated in another currency than the domestic currency of the third country;

3.Credit institutions shall apply a higher outflow rate determined as follows:

(a) where the retail deposits fulfil the criterion in point (a) or two of the criteria in points (b) to (e) of paragraph 2, an outflow rate of between 10 % and 15 % shall be applied;

(b) where the retail deposits fulfil point (a) of paragraph 2 and at least another criterion referred to in paragraph 2, or three or more criteria of paragraph 2, an outflow rate of between 15 % and 20 % shall be applied.

On a case by case basis, competent authorities may apply a higher outflow rate where justified by the specific circumstances of the credit institution. Credit institutions shall apply the outflow rate referred to in paragraph 3(b) to retail deposits where the assessment referred to paragraph 2 has not been carried out or is not completed.

4.Credit institutions may exclude from the calculation of outflows certain clearly circumscribed categories of retail deposits as long as in each and every instance the credit institution rigorously applies the following provisions for the whole category of those deposits, unless an exception can be justified on the basis of circumstances of hardship for the depositor:

(a) within 30 calendar days, the depositor is not allowed to withdraw the deposit; or

(b) for early withdrawals within 30 calendar days, the depositor has to pay a penalty that includes the loss of interest between the date of withdrawal and the contractual maturity date plus a material penalty that does not have to exceed the interest due for the time that elapsed between the date of deposit and the date of withdrawal.

If a portion of the deposit referred to in the first subparagraph can be withdrawn without incurring such a penalty, only that portion shall be treated as a demand deposit and the remaining balance shall be treated as a term deposit as referred to in this paragraph. An outflow rate of 100 % shall be applied to cancelled deposits with a residual maturity of less than 30 calendar days and where pay-out has been agreed to another credit institution.

5.By derogation from paragraphs 1 to 4 and Article 24, credit institutions shall multiply retail deposits that they have taken in third countries by a higher percentage outflow rate if such a percentage is provided for by the national law establishing liquidity requirements in that third country.

Article 26

Outflows with inter-dependent inflows

Subject to prior approval of the competent authority, credit institutions may calculate the liquidity outflow net of an interdependent inflow which meets all the following conditions:

(a) the interdependent inflow is directly linked to the outflow and is not considered in the calculation of liquidity inflows in Chapter 3;

(b) the interdependent inflow is required pursuant to a legal, regulatory or contractual commitment;

(c) the interdependent inflow meets one of the following conditions:

  (i) it arises compulsorily before the outflow;

  (ii) it is received within 10 days and is guaranteed by the central government of a Member State.

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.

Article 27

Outflows from operational deposits

1.Credit institutions shall multiply by 25 % liabilities resulting from deposits that are maintained as follows:

(a) by the depositor in order to obtain clearing, custody, cash management or other comparable services in the context of an established operational relationship from the credit institution;

(b) in the context of common task sharing within an institutional protection scheme meeting the requirements of Article 113(7) of Regulation (EU) No 575/2013 or within a group of cooperative credit institutions permanently affiliated to a central body meeting the requirements of Article 113(6) of that Regulation, or as a legal or contractually established deposit by another credit institution that is a Member of the same institutional protection scheme or cooperative network, provided those deposits are not recognised as liquid assets for the depositing credit institution as referred to in paragraph 3 and Article 16;

(c) by the depositor in the context of an established operational relationship other than that mentioned in point (a);

(d) by the depositor to obtain cash clearing and central institution services and where the credit institution belongs to one of the networks or schemes referred to in Article 16.

2.By derogation from paragraph 1, credit institutions shall multiply by 5 % the portion of liabilities resulting from deposits referred to in paragraph 1(a) which is covered by a deposit guarantee scheme in accordance with Directive 94/19/EC or Directive 2014/49/EU or an equivalent deposit guarantee scheme in a third country.

3.Deposits from credit institutions placed at the central institution that are considered as liquid assets for the depositing credit institution in accordance with Article 16 shall be multiplied by a 100 % outflow rate for the central institution on the amount of these liquid assets after haircut. These liquid assets shall not be counted to cover outflows other than the outflow referred to in the first sentence of this paragraph and shall be disregarded for the purposes of the calculations of the composition of the remaining liquidity buffer under Article 17 for the central institution at individual level.

4.Clearing, custody, cash management or other comparable services referred to in points (a) and (d) of paragraph 1 only cover such services to the extent that they are rendered in the context of an established relationship which is critically important to the depositor. Deposits referred to in points (a), (c) and (d) of paragraph 1 shall have significant legal or operational limitations that make significant withdrawals within 30 calendar days unlikely. Funds in excess of those required for the provision of operational services shall be treated as non-operational deposits.

5.Deposits arising out of a correspondent banking relationship or from the provision of prime brokerage services shall not be treated as an operational deposit and shall receive a 100 % outflow rate.

6.In order to identify the deposits referred to in point (c) of paragraph 1, a credit institution shall consider that there is an established operational relationship with a non-financial customer, excluding term deposits, savings deposits and brokered deposits, where all of the following criteria are met:

(a) the remuneration of the account is priced at least 5 basis points below the prevailing rate for wholesale deposits with comparable characteristics, but need not be negative;

(b) the deposit is held in specifically designated accounts and priced without creating economic incentives for the depositor to maintain funds in the deposit in excess of what is needed for the operational relationship;

(c) material transactions are credited and debited on a frequent basis on the account considered;

(d) one of the following criteria is met:

(i) the relationship with the depositor has existed for at least 24 months;

(ii) the deposit is used for a minimum of 2 active services. These services may include direct or indirect access to national or international payment services, security trading or depository services.

Only that part of the deposit which is necessary to make use of the service of which the deposit is a by-product shall be treated as an operational deposit. The excess shall be treated as non-operational.

Article 28

Outflows from other liabilities

1.Credit institutions shall multiply liabilities resulting from deposits by clients that are non-financial customers, sovereigns, central banks, multilateral development banks, public sector entities, credit unions authorised by a competent authority, personal investment companies or by clients that are deposit brokers, to the extent they do not fall under Article 27 by 40 %.

By derogation from the first subparagraph, where the liabilities referred to in that subparagraph are covered by a deposit guarantee scheme in accordance with Directive 94/19/EC or Directive 2014/49/EU or an equivalent deposit guarantee scheme in a third country they shall be multiplied by 20 %.

2.Credit institutions shall multiply liabilities resulting from the institution's own operating expenses by 0 %.

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.

5.The offsetting balances held in segregated accounts related to client protection regimes imposed by national regulations shall be treated as inflows in accordance with Article 32 and shall be excluded from the stock of liquid assets.

6.Credit institutions shall apply a 100 % outflow rate to all notes, bonds and other debt securities issued by the credit institution, unless the bond is sold exclusively in the retail market and held in a retail account, in which case those instruments can be treated as the appropriate retail deposit category. Limitations shall be placed such that those instruments cannot be bought and held by parties other than retail customers.

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.

Article 29

Outflows within a group or an institutional protection scheme

1.By way of derogation from Article 31 competent authorities may authorise the application of a lower outflow rate on a case by case basis for undrawn credit or liquidity facilities when all of the following conditions are fulfilled:

(a) there are reasons to expect a lower outflow even under a combined market and idiosyncratic stress of the provider;

(b) the counterparty is the parent or subsidiary institution of the credit institution or another subsidiary of the same parent institution or linked to the institution by a relationship within the meaning of Article 12(1) of Directive 83/349/EEC or a member of the same institutional protection scheme referred to in Article 113(7) of Regulation (EU) No 575/2013 or the central institution or an affiliate of a network or cooperative group as referred to in Article 10 of that Regulation;

(c) the lower outflow rate does not fall below the inflow rate applied by the counterparty;

(d) the credit institution and the counterparty are established in the same Member State.

2.Competent authorities may waive the condition set out in point (d) of paragraph 1 where Article 20(1)(b) of Regulation (EU) No 575/2013 is applied. In that case, the following additional objective criteria have to be met:

(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) there are legally binding agreements and commitments between the group entities regarding the undrawn credit or liquidity line;

(c) the liquidity risk profile of the liquidity receiver is taken into account adequately in the liquidity risk management of the liquidity provider.

Where such a lower outflow rate is permitted to be applied, the competent authority shall inform EBA about the result of the process referred to in Article 20(1)(b) of Regulation (EU) No 575/2013. Fulfilment of the conditions for such lower outflows shall be regularly reviewed by the competent authority.

Article 30

Additional outflows

1.Collateral other than cash and assets referred to in Article 10 which is posted by the credit institution for contracts listed in Annex II of Regulation (EU) No 575/2013 and credit derivatives, shall be subject to an

additional outflow of 20 %.

Collateral in assets referred to in Article 10(1)(f) which is posted by the credit institution for contracts listed in Annex II of Regulation (EU) No 575/2013 and credit derivatives shall be subject to an additional outflow of 10 %.

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.

6.The credit institution shall add an additional outflow corresponding to 100 % of:

(a) the excess collateral the credit institution holds that can be contractually called at any times by the counterparty;

(b) collateral that is due to be posted to a counterparty within 30 calendar days;

(c) collateral that corresponds to assets that would qualify as liquid assets for the purposes of Title II that can be substituted for assets corresponding to assets that would not qualify as liquid assets for the purposes of Title II without the consent of the credit institution.

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.

8.Credit institutions shall assume a 100 % outflow for loss of funding on asset-backed securities, covered bonds and other structured financing instruments maturing within 30 calendar days, when these instruments are issued by the credit institution itself or by conduits or SPVs sponsored by the credit institution.

9.Credit institutions shall assume a 100 % outflow for loss of funding on asset-backed commercial papers, conduits, securities investment vehicles and other such financing facilities. This 100 % outflow rate shall apply to the maturing amount or to the amount of assets that could potentially be returned or the liquidity required.

10.For that portion of financing programs under paragraphs 8 and 9, credit institutions that are providers of associated liquidity facilities do not need to double count the maturing financing instrument and the liquidity facility for consolidated programs.

11.. . . . . .

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.

Article 31

Outflows from credit and liquidity facilities

1.For the purpose of this Article, a liquidity facility shall be understood to mean any committed, undrawn back-up facility that would be utilised to refinance the debt obligations of a customer in situations where such a customer is unable to rollover that debt in financial markets. Its amount shall be calculated as the amount of the debt issued by the customer currently outstanding and maturing within 30 calendar days that is backstopped by the facility. The portion of the liquidity facility that is backing a debt that does not mature within 30 calendar days shall be excluded from the scope of the definition of the facility. Any additional capacity of the facility shall be treated as a committed credit facility with the associated drawdown rate as specified in this Article. General working capital facilities for corporate entities will not be classified as liquidity facilities, but as credit facilities.

2.Credit institutions shall calculate outflows for credit and liquidity facilities by multiplying the amount of the credit and liquidity facilities by the corresponding outflow rates set out in paragraphs 3 to 5. Outflows from committed credit and liquidity facilities shall be determined as a percentage of the maximum amount that can be drawn down within 30 calendar days, net of any liquidity requirement that would be applicable under Article 23 for the trade finance off-balance sheet items and net of any collateral made available to the credit institution and valued in accordance with Article 9, provided that the collateral fulfils all of the following conditions:

(a) it may be reused or hypothecated by the credit institution;

(b) it is held in the form of liquid assets, but is not recognised as part of the liquidity buffer; and

(c) it does not consist in assets issued by the counterparty of the facility or one of its affiliated entities.

If the necessary information is available to the credit institution, the maximum amount that can be drawn down for credit and liquidity facilities shall be determined as the maximum amount that could be drawn down given the counterparty's own obligations or given the pre-defined contractual drawdown schedule coming due over 30 calendar days.

3.The maximum amount that can be drawn down from undrawn committed credit facilities and undrawn committed liquidity facilities within the next 30 calendar days shall be multiplied by 5 % if they qualify for the retail deposit exposure class.

4.The maximum amount that can be drawn down from undrawn committed credit facilities within 30 calendar days shall be multiplied by 10 % where they meet the following conditions:

(a) they do not qualify for the retail deposit exposure class;

(b) they have been provided to clients that are not financial customers, including non-financial corporates, sovereigns, central banks, multilateral development banks and public sector entities;

(c) they have not been provided for the purpose of replacing funding of the client in situations where the client is unable to obtain funding requirements in the financial markets.

5.The maximum amount that can be drawn down from undrawn committed liquidity facilities within the next 30 calendar days shall be multiplied by 30 % where they meet the conditions referred to in paragraph 4 points (a) and (b), and by 40 % when they are provided to personal investment companies.

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.

7.The central institution of a scheme or network referred to in Article 16 shall multiply by a 75 % outflow rate the liquidity funding committed to a member credit institution where such member credit institution may treat the liquidity funding as a liquid asset in accordance with Article 16(2). The 75 % outflow rate shall be applied on the committed principal amount of the liquidity funding.

8.The credit institution shall multiply the maximum amount that can be drawn down from other undrawn committed credit and undrawn committed liquidity facilities within 30 calendar days by the corresponding outflow rate as follows:

(a) 40 % for credit and liquidity facilities extended to credit institutions and for credit facilities extended to other regulated financial institutions, including insurance undertakings and investment firms, CIUs or non-open ended investment scheme;

(b) 100 % for liquidity facilities that the credit institution has granted to SSPEs other than those referred to in paragraph 6 and for arrangements under which the institution is required to buy or swap assets from an SSPE;

(c) 100 % for credit and liquidity facilities to financial customers not referred to in points (a) and (b) and paragraphs 1 to 7.

9.By way of derogation from paragraphs 1 to 8, credit institutions which have been set up and are sponsored by the central or regional government of at least one Member State may apply the treatments set out in paragraphs 3 and 4 to credit and liquidity facilities that are extended to promotional lenders for the sole purpose of directly or indirectly funding promotional loans, provided that those loans meet the requirements for the outflow rates referred to in paragraphs 3 and 4.

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.

The promotional loans referred to in this paragraph shall be available only to persons who are not financial customers on a non-competitive, not for profit basis in order to promote public policy objectives of the Union or that Member State's central or regional government. It shall only be possible to draw on such facilities following the reasonably expected demand for a promotional loan and up to the amount of such demand provided there is a subsequent reporting on the use of the funds distributed.

10.. . . . . .

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.

CHAPTER 3

Liquidity inflows

Article 32

Inflows

1.Liquidity inflows shall be assessed over a period of 30 calendar days. They shall comprise only contractual inflows from exposures that are not past due and for which the credit institution has no reason to expect non-performance within 30 calendar days.

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.

4.Point (a) of paragraph 3 shall not apply to monies due from secured lending and capital market-driven transactions as defined in points (2) and (3) of Article 192 of Regulation (EU) No 575/2013 that are collateralised by liquid assets in accordance with Title II as referred to in point (b) of paragraph 3. Inflows from the release of balances held in segregated accounts in accordance with regulatory requirements for the protection of customer trading assets shall be taken into account in full, provided that those segregated balances are maintained in liquid assets as defined in Title II.

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.

6.Credit institutions shall not take into account any inflows from any of the liquid assets referred to in Title II other than payments due on the assets that are not reflected in the market value of the asset.

7.Credit institutions shall not take into account inflows from any new obligations entered into.

8.Credit institutions shall take liquidity inflows which are to be received in third countries where there are transfer restrictions or which are denominated in non-convertible currencies into account only to the extent that they correspond to outflows respectively in the third country or currency in question.

Article 33

Cap on Inflows

1.Credit institutions shall limit the recognition of liquidity inflows to 75 % of total liquidity outflows as defined in Chapter 2 unless a specific inflow is exempted as referred to in paragraphs 2, 3 or 4.

2.Subject to the prior approval of the competent authority, the credit institution may fully or partially exempt from the cap referred to in paragraph 1 the following liquidity inflows:

(a) inflows where the provider is a parent or a subsidiary of the credit institution or another subsidiary of the same parent or linked to the credit institution by a relationship within the meaning of Article 12(1) of Directive 83/349/EEC;

(b) inflows from deposits placed with other credit institutions within a group of entities qualifying for the treatment set out in Article 113(6) or (7) of Regulation (EU) No 575/2013;

(c) inflows referred to in Article 26, including inflows from loans related to mortgage lending, or promotional loans referred to in Article 31(9) or from a multilateral development bank or a public sector entity that the credit institution has passed-through.

3.Subject to the prior approval of the competent authority, specialised credit institutions may be exempted from the cap on inflows when their main activities are leasing and factoring business, excluding the activities described in paragraph 4, and the conditions laid down in paragraph 5 are met.

4.Subject to the prior approval of the competent authority, specialised credit institutions may be subject to a cap on inflows of 90 % when the conditions laid down in paragraph 5 are met and their main activities are the following:

(a) financing for the acquisition of motor vehicles;

(b) consumer credit as defined in Directive 2008/48/EC of the European Parliament and of the Council.

5.Credit institutions referred to in paragraph 3 may be exempted from the cap on inflows and credit institutions referred to in paragraph 4 may apply a higher cap of 90 % provided they meet the following conditions:

(a) the business activities exhibit a low liquidity risk profile, taking into account the following factors:

  (i) the timing of inflows matches the timing of outflows;

  (ii) at individual level the credit institution is not significantly financed by retail deposits;

(b) at individual level, the ratio of their main activities as referred to in paragraph 3 or 4 exceeds 80 % of the total balance sheet;

(c) the derogations are disclosed in annual reports.

Competent authorities shall inform the EBA which specialised credit institutions have been exempted or are subject to a higher cap along with a justification. The EBA shall publish and maintain a list of the specialised credit institutions exempted or subject to a higher cap. The EBA may request supporting documentation.

6.The exemptions laid down in paragraphs 2, 3 4, when approved by the competent authority, may be applied at both the individual and consolidated levels subject to Article 2(3)(e).

7.Credit institutions shall determine the amount of the net liquidity outflows under the application of the inflow cap in accordance with the formula laid down in Annex II to this Regulation

Article 34

Inflows within a group or an institutional protection scheme

1.By way of derogation from Article 32(3)(g), competent authorities may authorise the application of a higher inflow rate on a case by case basis for undrawn credit and liquidity facilities when all of the following conditions are fulfilled:

(a) there are reasons to expect a higher inflow even under a combined market and idiosyncratic stress of the provider;

(b) the counterparty is the parent or a subsidiary of the credit institution or another subsidiary of the same parent or linked to the credit institution by a relationship within the meaning of Article 12(1) of Directive 83/349/EEC or a member of the same institutional protection scheme referred to in Article 113(7) of Regulation (EU) No 575/2013 or the central institution or an affiliate of a network or cooperative group as referred to in Article 10 of Regulation (EU) No 575/2013;

(c) where the inflow rate exceeds 40 %, a corresponding symmetric outflow rate is applied by the counterparty by way of derogation from Article 31;

(d) the credit institution and the counterparty are established in the same Member State.

2.Where the credit institution and the counterparty credit institution are established in different Member States, competent authorities may waive the condition set out in point (d) of paragraph 1 where, in addition to the criteria in paragraph 1, the following additional objective criteria (a) to (c) are fulfilled:

(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) there are legally binding agreements and commitments between group entities regarding the credit or liquidity line;

(c) the liquidity risk profile of the liquidity receiver is taken into account adequately in the liquidity risk management of the liquidity provider.

The competent authorities shall work together in full consultation in accordance with Article 20(1)(b) of Regulation (EU) No 575/2013 to determine whether the additional criteria set out in this paragraph are met.

3.Where the additional criteria laid down in paragraph 2 are met, the competent authority of the liquidity receiver shall be allowed to apply a preferential inflow rate of up to 40 %. However, the approval of both competent authorities shall be required for any preferential rate higher than 40 %, which shall be applied on a symmetric basis.

Where the application of a preferential inflow rate above 40 % is authorised, the competent authorities shall inform EBA about the result of the process referred to in paragraph 2. The competent authorities shall review regularly that the conditions for such higher inflows continue to be fulfilled.

TITLE IV

FINAL PROVISIONS

Article 35

Grandfathering of Member State-guaranteed bank assets

1.Assets issued by credit institutions which benefit from a guarantee from the central government of a Member State shall qualify as level 1 assets only where the guarantee:

(a) was granted or committed to for a maximum amount prior to 30 June 2014;

(b) is a direct, explicit, irrevocable and unconditional guarantee and covers the failure to pay principal and interest when due.

2.Where the guarantor is a regional government or local authority in a Member State, the guaranteed asset shall qualify as level 1 only where exposures to such regional government or local authority are treated as exposures to their central government in accordance with Article 115(2) of Regulation (EU) No 575/2013 and the guarantee complies with the requirements laid down in paragraph 1.

3.The assets referred to in paragraphs 1 and 2 shall continue to qualify as level 1 assets for as long as the guarantee remains in force in relation to the relevant issuer or its assets, as applicable, as amended or replaced from time to time. Where the amount of a guarantee in favour of an issuer or its assets is increased at any time after 30 June 2014, the assets shall only qualify as liquid assets up to the maximum amount of the guarantee that was committed prior to that date.

4.The assets referred to in this Article shall be subject to the same requirements applicable under this Regulation to level 1 assets representing claims on or guaranteed by the central or regional governments, local authorities or public sector entities referred to in Article 10(1)(c).

5.Where a credit institution or its assets benefit from a guarantee scheme, the scheme as a whole shall be regarded as a guarantee for the purposes of this Article.

Article 36

Transitional provision for Member State-sponsored impaired asset management agencies

1.The senior bonds issued by the following Member State-sponsored impaired assets management agencies shall qualify as level 1 assets until 31 December 2023:

(a) in Ireland, the National Asset Management Agency (NAMA);

(b) in Spain, the Sociedad de Gestión de Activos Procedentes de la Reestructuración Bancaria, S.A. (SAREB);

(c) in Slovenia, the Bank Asset Management Company as established under the Measures of the Republic of Slovenia to Strengthen the Stability of Banks Act (MSSBA);

2.The assets referred to in paragraph 1 shall be subject to the same requirements applicable under this Regulation to level 1 assets representing claims on or guaranteed by the central or regional governments, local authorities or public sector entities referred to in Article 10(1)(c).

Article 37

Transitional provision for securitisations backed by residential loans

1.By derogation from Article 13, securitisations issued before 1 October 2015, where the underlying exposures are residential loans as referred to in point (g)(i) of Article 13(2), shall qualify as Level 2B assets if they meet all the requirements set out in Article 13 other than the loan-to-value or loan-to-income requirements set out in that point (g)(i) of Article 13(2).

2.By derogation from Article 13, securitisations issued after 1 October 2015, where the underlying exposures are residential loans as referred to in point (g)(i) of Article 13(2) that do not meet the average loan-to-value or the loan-to-income requirements set out in that point, shall qualify as Level 2B assets until 1 October 2025, provided that the underlying exposures include residential loans that were not subject to a national law regulating loan-to-income limits at the time they were granted and such residential loans were granted at any time prior to 1 October 2015.

Article 38

Transitional provision for the introduction of the liquidity coverage ratio

1.In accordance with Article 460(2) of Regulation (EU) No 575/2013, the liquidity coverage ratio laid down in Article 4 shall be introduced as follows:

(a) 60 % of the liquidity coverage requirement as from 1 October 2015;

(b) 70 % as from1 January 2016;

(c) 80 % as from 1 January 2017;

(d) 100 % as from 1 January 2018.

2.In accordance with Article 412(5) of Regulation (EU) No 575/2013, Member States or competent authorities may require domestically authorised credit institutions or a subset of such credit institutions to maintain a higher liquidity coverage requirement up to 100 % until the binding minimum standard is fully introduced at a rate of 100 % in accordance with this Regulation.

Article 39

Entry into force

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

It shall apply from 1 October 2015.

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

ANNEX I Formulae for the determination of the liquidity buffer composition

1.Credit institution shall use the formulae laid down in this Annex to determine the composition of their liquidity buffer in accordance with Article 17.

2.Calculation of the liquidity buffer: as of the calculation date, the liquidity buffer of the credit institution shall be equal to:

(a) the level 1 asset amount; plus

(b) the level 2A asset amount; plus

(c) the level 2B asset amount;

minus the lesser of:

(d) the sum of (a), (b), and (c); or

(e) the ‘excess liquid assets amount’ as calculated in accordance with paragraphs 3 and 4 of this Annex.

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.

4.Calculation of the ‘excess liquid assets amount’: this amount shall be equal to:

(a) the adjusted non-covered bond level 1 asset amount; plus

(b) the adjusted level 1 covered bond amount; plus

(c) the adjusted level 2A asset amount; plus

(d) the adjusted level 2B asset amount;

minus the lesser of:

(e) the sum of (a),(b),(c) and (d);

(f) 100/30 times (a);

(g) 100/60 times the sum of (a) and (b);

(h) 100/85 times the sum of (a), (b) and (c).

5.The composition of the liquidity buffer after taking into account the unwind of any secured funding transaction, secured lending transaction, asset exchange or collateralised derivatives transaction and the application of the above caps in accordance with Article 17 shall be determined as follows:

. . . . . .

ANNEX II Formula for the calculation of the net liquidity outflow

NLO = Net liquidity outflow

TO = Total outflows

TI = Total inflows

FEI = Fully exempted inflows

IHC = Inflows subject to higher cap of 90 % outflows

IC = Inflows subject to cap of 75 % of outflows

Net liquidity outflows equals total outflows less the reduction for fully exempt inflows less the reduction for inflows subject to the 90 % cap less the reduction for inflows subject to the 75 % cap

NLO = TO – MIN(FEI, TO) – MIN(IHC, 0,9*MAX(TO – FEI, 0)) – MIN(IC, 0,75*MAX(TO – FEI – IHC/0,9, 0))