Commission Delegated Regulation (EU) 2018/1620 of 13 July 2018 amending Delegated Regulation (EU) 2015/61 to supplement Regulation (EU) No 575/2013 of the European Parliament and the Council with regard to liquidity coverage requirement for credit institutions (Text with EEA relevance)

COMMISSION DELEGATED REGULATION (EU) 2018/1620

of 13 July 2018

amending Delegated Regulation (EU) 2015/61 to supplement Regulation (EU) No 575/2013 of the European Parliament and the Council with regard to liquidity coverage requirement for credit institutions

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012[(1)], and in particular Article 460 thereof,

Whereas:

(1) Commission Delegated Regulation (EU) 2015/61[(2)] should be amended in order to improve alignment with international standards and facilitate more efficient liquidity management by credit institutions.

(2) In particular, in order to take adequate account of activities carried out by credit institutions active outside the Union, any requirement for a minimum issue size applying to liquid assets held by a subsidiary undertaking in a third country should be waived, so that such assets can be recognised for consolidation purposes. Otherwise, the parent institution could suffer a shortfall in liquid assets at consolidated level since the liquidity requirement arising from a subsidiary in a third country would be included in the consolidated liquidity requirement while the assets held by that subsidiary to fulfil its liquidity requirement in the third country would be excluded from the consolidated liquidity requirement. However, the assets of the subsidiary undertaking in a third country should only be recognised up to the level of the stressed net liquidity outflows incurred in the same currency as the currency in which the assets are denominated and arising from that particular subsidiary. Moreover, as for any other third-country assets, the assets should only be recognised if they qualify as liquid assets under the national law of the third country in question.

(3) It is recognised that central banks can provide liquidity in their own currency and that the credit rating of central banks is less relevant for liquidity purposes than for solvency purposes. As a result, and in order to align the rules in Delegated Regulation (EU) 2015/61 more closely with the international standard and to provide a level playing field for internationally active credit institutions, reserves held by a third country subsidiary

Changes to legislation: *There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2018/1620. (See end of Document for details)*

or branch of a Union credit institution in the central bank of a third country which is not assigned a credit assessment of credit quality step 1 by a nominated external credit assessment institution should be eligible as level 1 liquid assets where certain conditions are met. Specifically, those reserves should be eligible where the credit institution is permitted to withdraw them at any time during stress periods and, in addition, the conditions for their withdrawal are specified in an agreement between the supervisory authority of the third country and the central bank in which the reserves are held or in the applicable rules of the third country. However, those reserves should only be capable of being recognised as level 1 assets to cover stressed net liquidity outflows incurred in the same currency as that in which the reserves are denominated.

(4) It is appropriate to take into account Regulation (EU) 2017/2402 of the European Parliament and of the Council[(3)]. That Regulation contains criteria to determine whether a securitisation can be designated as a simple, transparent and standardised ('STS') securitisation. Since those criteria ensure that STS securitisations are of high quality, they should also be used to determine which securitisations are to count as high quality liquid assets for the calculation of the liquidity coverage requirement. Securitisations should therefore be eligible as level 2B assets for the purposes of Delegated Regulation (EU) 2015/61 if they fulfil all the requirements laid down in Regulation (EU) 2017/2402, in addition to those criteria already specified in Delegated Regulation (EU) 2015/61 that are specific to their liquidity characteristics.

(5) The implementation of Delegated Regulation (EU) 2015/61 should not hinder the effective transmission of monetary policy to the economy. Transactions with the ECB or the central bank of a Member State can be expected to be rolled-over under conditions of severe stress. It should therefore be possible for competent authorities to waive the unwind mechanism for the calculation of the liquidity buffer in the case of secured transactions with the ECB or the central bank of a Member State where the transactions involve high quality liquid assets on at least one leg of each transaction and are due to mature within the next 30 calendar days. However, before granting the waiver, competent authorities should be required to consult with the central bank that is the counterparty to the transaction, and also with the ECB if that central bank is an Eurosystem central bank. In addition, the waiver should be subject to appropriate safeguards in order to avoid possible regulatory arbitrage opportunities or adverse incentives for credit institutions. Finally, to align the Union rules more closely with the international standard set by the BCBS, collateral received through derivatives transactions should be removed from the unwind mechanism.

(6) In addition, the treatment of outflow and inflow rates for repurchase agreements ('repos'), reverse repurchase agreements ('reverse repos') and collateral swaps should be fully aligned with the approach in the international standard for the liquidity coverage ratio set by the Basel Committee on Banking Supervision ('BCBS'). Specifically, the cash outflows calculation should be directly linked to the prolongation rate of the transaction (aligned with the haircut on the collateral provided applied to the cash liability, as in the BCBS standard) rather than to the liquidity value of the underlying collateral.

(7) Given divergent interpretations that have emerged, it is important to clarify various provisions of Delegated Regulation (EU) 2015/61, in particular regarding the fulfilment of the liquidity coverage requirement; the eligibility in the buffer of assets included in a pool available to obtain funding under uncommitted lines operated by the central bank, of CIUs and of deposits and other funding in cooperative networks and institutional protection schemes; the calculation of additional liquidity outflows for other products and services; the granting of preferential treatment to intragroup credit and liquidity facilities; the treatment of short position; and the recognition of monies due from securities maturing in the next 30 calendar days,

(8) Delegated Regulation (EU) 2015/61 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Delegated Regulation (EU) 2015/61 is amended as follows:

(1) in Article 2(3), point (a) is replaced by the following:

(a) third country assets held by a subsidiary undertaking in a third country may be recognised as liquid assets for consolidation purposes where they qualify as liquid assets under that third country's national law setting out the liquidity coverage requirement and they satisfy one of the following conditions:

(i) the assets meet all the requirements laid down in Title II of this Regulation;

(ii) the assets fail to meet the specific requirement laid down in Title II of this Regulation with respect to their issue size but meet all the other requirements laid down therein.

The assets recognisable by virtue of point (ii) may only be recognised up to the amount of the stressed net liquidity outflows incurred in the particular currency in which they are denominated and arising from that same subsidiary undertaking;;

(2) Article 3 is amended as follows:

(a) points (8) and (9) are deleted;

(b) point (11) is replaced by the following:

11. "stress" means a sudden or severe deterioration in the solvency or liquidity position of a credit institution due to changes in market conditions or idiosyncratic factors as a result of which there is a significant risk that the credit institution becomes unable to meet its commitments as they fall due within the next 30 calendar days;;

(3) Article 4 is amended as follows:

(a) paragraph 5 is replaced by the following:

5. Credit institutions shall calculate and monitor their liquidity coverage ratio in the reporting currency for all items, irrespective of their actual currency denomination.

In addition, credit institutions shall separately calculate and monitor their liquidity coverage ratio for certain items as follows:

a for items that are subject to separate reporting in a currency other than the reporting currency in accordance with Article 415(2) of Regulation (EU) No 575/2013, credit institutions shall separately calculate and monitor their liquidity coverage ratio in that other currency;

b for items denominated in the reporting currency where the aggregate amount of liabilities denominated in currencies other than the reporting currency equals or exceeds 5 % of the credit institution's total liabilities, excluding regulatory capital and off-balance-sheet items, credit institutions shall separately calculate and monitor their liquidity coverage ratio in the reporting currency.

Credit institutions shall report to their competent authority the liquidity coverage ratio in accordance with Commission Implementing Regulation (EU) No 680/2014.;

(b) the following paragraph 6 is added:

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

(4) Article 7 is amended as follows:

(a) paragraph 2 is replaced by the following:

2. The assets shall be a property, right, entitlement, or interest, that is held by the credit institution, or included in a pool as referred to in point (a), and is free from any encumbrance. For those purposes, an asset shall be deemed to be unencumbered where it is not subject to any legal, contractual, regulatory or other restriction preventing the credit institution from liquidating, selling, transferring, assigning or, generally, disposing of the asset via an outright sale or a repurchase agreement within the following 30 calendar days. The following assets shall be deemed to be unencumbered:

a assets included in a pool which are available for immediate use as collateral to obtain additional funding under committed but not yet funded credit lines available to the credit institution or, if the pool is operated by a central bank, under uncommitted and not yet funded credit lines available to the credit institution. This point shall include assets placed by a credit institution with the central institution in a cooperative network or institutional protection scheme. Credit institutions shall assume that assets in the pool are encumbered in order of increasing liquidity on the basis of the liquidity classification set out in Chapter 2, starting with assets ineligible for the liquidity buffer;

b assets that the credit institution has received as collateral for credit risk mitigation purposes in reverse repo or securities financing transactions and that the credit institution may dispose of.;

(b) paragraph 4 is amended as follows:

(i) point (a) is replaced by the following:

(a) another credit institution, unless one or more of the following conditions is met:

(i) the issuer is a public sector entity referred to in point (c) of Article 10(1) or in point (a) or (b) of Article 11(1);

(ii) the asset is a covered bond referred to in point (f) of Article 10(1) or in point (c) or (d) of Article 11(1) or in point (e) of Article 12(1);

(iii) the asset belongs to the category described in point (e) of Article 10(1);;

(ii) point (g) is replaced by the following:

(g) any other entity that performs one or more of the activities listed in Annex I to Directive 2013/36/EU as its main business. For the purposes of this Article, SSPEs shall be deemed not included within the entities referred to in this point.;

(c) in paragraph 7, the following point (aa) is inserted:

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

(5) Article 8 is amended as follows:

(a) in paragraph 1, in point (a) of the second subparagraph, point (ii) is replaced by the following:

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

(b) in paragraph 3, point (b) is replaced by the following:

(b) putting in place internal systems and controls to give the liquidity management function effective operational control to monetise the holdings of liquid assets at any point in the 30 calendar day stress period and to access the contingent funds without directly conflicting with any existing business or risk management strategies. In particular, an asset shall not be included in the liquidity buffer where monetisation of the asset without replacement throughout the 30 calendar day stress period would remove a hedge that would create an open risk position in excess of the internal limits of the credit institution;;

(6) Article 10 is amended as follows:

(a) in point (b) of paragraph 1, point (iii) is replaced by the following:

(iii) reserves held by the credit institution in a central bank referred to in point (i) or (ii) provided that the credit institution is permitted to withdraw such reserves at any time during stress periods and that the conditions for such withdrawal have been specified in an agreement between the competent authority of the credit institution and the central bank in which the reserves are held, or in the applicable rules of the third country.

For the purposes of this point, the following shall apply: