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Commission Delegated Regulation (EU) No 1222/2014 of 8 October 2014 supplementing Directive 2013/36/EU of the European Parliament and of the Council with regard to regulatory technical standards for the specification of the methodology for the identification of global systemically important institutions and for the definition of subcategories of global systemically important institutions (Text with EEA relevance)

COMMISSION DELEGATED REGULATION (EU) No 1222/2014

of 8 October 2014

supplementing Directive 2013/36/EU of the European Parliament and of the Council with regard to regulatory technical standards for the specification of the methodology for the identification of global systemically important institutions and for the definition of subcategories of global systemically important institutions

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC[(1)], and in particular Article 131(18) thereof,

Whereas:

(1) Directive 2013/36/EU empowers competent or designated authorities of the Member States to impose higher own funds requirements on global systemically important institutions (G-SIIs) in order to compensate for the higher risk that G-SIIs represent for the financial system and the potential impact of their failure on taxpayers. That Directive outlines certain basic principles of a methodology for the identification of G-SIIs and for the allocation of G-SIIs to subcategories in accordance with their systemic relevance. In accordance with that allocation they will be assigned an additional Common Equity Tier 1 capital requirement, the G-SII buffer. That methodology of identification and allocation of G-SIIs is based on five categories measuring the systemic significance of a bank for the global financial market, and is further specified in this Regulation.

(2) In order to follow the approach of Directive 2013/36/EU, this Regulation should take into account standards for the methodology of assessing global systemically important banks and for the higher loss absorbency requirement by the Basel Committee on Banking Supervision, that are based on the framework for global systemically important financial institutions established by the Financial Stability Board following the report 'Reducing the moral hazard posed by systemically important financial institutions — FSB Recommendations and Time Lines'.

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(3) Directive 2013/36/EU makes clear that the identification and allocation methodology is harmonised in all Member States by the use of uniform and transparent parameters for determining an overall score of an entity to measure its systemic importance. In order to ensure that the sample of banks and banking groups both of the Union and authorised in third countries serving as a reference to reflect the global financial system are uniform across the Union, the European Banking Authority (EBA) should determine that sample. Exclusions and additions to that sample based on supervisory judgment should be chosen strictly to ensure its function as a term of reference and should not be based on other grounds.

(4) The G-SII identification process should be based on comparable data and should take into account that institutions need clarity as to whether and in which amount a buffer requirement will apply to them, therefore, timelines and procedures for that process should be included in the methodology. However, since the identification of G-SIIs should be based on up-to-date data relating to the sample of large global banking groups some of which are authorised in third countries, the data needed will not be available earlier than the second half of each year. In order to enable institutions to comply with the requirements resulting from their status as a G-SII, the buffer requirement should take effect as of approximately one year following their identification as a G-SII.

(5) Directive 2013/36/EU sets out five categories measuring systemic significance, which consist of quantifiable indicators. In order to minimise the administrative burden for institutions and authorities, those categories are identical to those applied by the Basel Committee on Banking Supervision. In further defining the quantifiable indicators, this Regulation should follow the same approach. The indicators should be chosen to reflect the different aspects of potential negative externalities of an entity's failure and its critical functions for the stability of the financial system. The reference system for assessing systemic significance should be the global financial markets and the global economy.

(6) In order to set out a precise methodology for identifying and classifying G-SIIs in accordance with the basic rules set out in Directive 2013/36/EU, it is important to clearly circumscribe the notions of 'relevant entity', 'indicator value', 'denominator' and 'cut-off score' by defining them for the purposes of this Regulation.

(7) The systemic significance of each banking group measured by the indicators on a consolidated basis should be expressed as an individual overall score for a certain year measuring its position relative to other entities in the sample. Banks should be identified as G-SIIs and allocated to the sub-categories to which different capital buffer requirements will apply, based on that overall score. When calculating the score as the average of the category scores, each of the five categories should receive a weighting of 20 %. A cap should be applied to the substitutability category for the purpose of calculating the overall score given that, on the basis of an analysis of data until and including the year 2013, that category proved to have a disproportionately high impact on the score for banks that are dominant in the provision of payment, underwriting and asset custody services.

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(8) Relevant authorities should have the option to use sound supervisory judgment to re-allocate a G-SII from a lower subcategory to a higher subcategory or to designate an entity as a G-SII that has an overall score that is lower than the cut-off score of the lowest subcategory. As that identification by supervisory judgment shares the same objective as the regular scoring process, the criterion upon which this judgment is to be based should also be the bank's systemic significance for the global financial market and the global economy, consistent with the methodology used by the Basel Committee on Banking Supervision. The failure risk of the bank should not be a criterion, as it is already accounted for in other prudential requirements, inter alia, in the total risk exposure amount and, where applicable, in further own fund requirements such as the systemic risk buffer.

(9) This Regulation is based on the draft regulatory technical standards submitted by the EBA to the Commission.

(10) The EBA has conducted open public consultations on the draft regulatory technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the opinion of the Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council[(2)].

(11) This Regulation should apply from 1 January 2015, as the requirement to maintain a G-SII buffer set out in Article 131(4) of Directive 2013/36/EU will apply and be phased in from 1 January 2016. Therefore and to inform institutions in a timely manner of the G-SII buffer applicable to them and to give them sufficient time to raise the required capital, G-SIIs should be identified in early 2015 at the latest.

(12) The G-SII buffer requirement should be phased in over a period of three years in accordance with Article 162(5) of Directive 2013/36/EU: the first step of the requirement referred to in Article 162(5)(a) of Directive 2013/36/EU should apply from 1 January 2016 for those G-SIIs which have been identified by relevant authorities in early 2015, on the basis of data of financial year-ends prior to July 2014. The second step referred to in Article 162(5)(b) of Directive 2013/36/EU of the G-SII buffer requirement should apply from 1 January 2017 for those G-SIIs which have been identified by relevant authorities by the end of 2015 or, at the latest, the beginning of 2016, on the basis of data of financial year-ends prior to July 2015,

HAS ADOPTED THIS REGULATION:

Article 1

Subject matter and scope

This Regulation specifies the methodology in accordance with which the authority referred to in Article 131(1) of Directive 2013/36/EU (hereinafter referred to as 'relevant authority') of a Member State shall identify, on a consolidated basis, a relevant entity as a global systemically important institution (G-SII), and the methodology for the definition of subcategories of G-SIIs and the allocation of G-SIIs to those subcategories based on

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their systemic significance and, as part of the methodology, timelines and data to be used for the identification.

Article 2

Definitions

For the purpose of this Regulation, the following definitions apply:

(1) 'Relevant entity' means an EU parent institution or EU parent financial holding company or EU parent mixed financial holding company or an institution that is not a subsidiary of an EU parent institution or EU parent financial holding company or EU parent mixed financial holding company;

(2) 'Indicator value' means for each indicator set out in Article 6 and for each relevant entity of the sample the individual value of the indicator and for each bank authorised in a third country a comparable individual value publicly disclosed in accordance with internationally agreed standards;

(3) 'Denominator' means for each indicator the total aggregate value of the indicator values of the relevant entities and banks authorised in third countries of the sample;

(4) 'Cut-off score' means a score value determining the lowest boundary and the boundaries between the five subcategories as defined in Article 131(9) of Directive 2013/36/EU.

Article 3

Common parameters for the methodology

1 The EBA shall identify a sample of institutions or groups whose indicator values are to be used as reference values representing the global banking sector for the purpose of calculating the scores, taking into account internationally agreed standards, in particular the sample used by the Basel Committee on Banking Supervision for the identification of global systemically important banks and shall notify relevant authorities of the relevant entities included in the sample by 31 July of each year.

The sample shall consist of relevant entities and banks authorised in third countries and comprise the 75 largest of them, based on the total exposure as defined in Article 6(1), as well as relevant entities that were designated as G-SIIs and banks in third countries that were designated as global systemically important in the previous year.

The EBA shall exclude or add relevant entities or banks authorised in third countries, if and to the extent necessary to ensure an adequate reference system for assessing systemic significance reflecting the global financial markets and the global economy, taking into account internationally agreed standards including the sample used by the Basel Committee on Banking Supervision.

2 The relevant authority shall report the indicator values of each relevant entity with an exposure measure above EUR 200 billion which is authorised within its jurisdiction to the EBA not later than 31 July each year. The relevant authority shall ensure that the indicator values are identical to the ones submitted to the Basel Committee on Banking Supervision and to those disclosed by that relevant entity in accordance with Commission Implementing Regulation (EU) No 1030/2014[(3)]. The relevant authority shall use the templates set out therein.

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3 The EBA shall compute the denominators, based on the indicator values reported by the relevant authority pursuant to paragraph 2, taking into account internationally agreed standards, in particular the denominators published by the Basel Committee on Banking Supervision for that year, and notify them to relevant authorities. The denominator of an indicator shall be the aggregate amount of the indicator values across all relevant entities and banks authorised in third countries in the sample, as reported for the relevant entities pursuant to paragraph 2 and disclosed by the banks authorised in third countries on 31 July of the relevant year.

Article 4

Identification procedure

1 The relevant authority shall calculate the scores of the relevant entities that are included in the sample notified by the EBA, which are authorised in its jurisdiction, not later than 15 December of each year. Where the relevant authority, in the exercise of sound supervisory judgment, designates a relevant entity as a G-SII in accordance with Article 131(10)(b) of Directive 2013/36/EU, the relevant authority shall communicate a detailed statement in written form on the reasons for its assessment to the EBA not later than 15 December of each year.

2 The identification of a relevant entity as a G-SII and the allocation to a subcategory shall take effect as of the 1 January of the second year following the calendar year when the denominators have been determined in accordance with Article 3.

Article 5

Identification as G-SII, determination of the scores and allocation to subcategories

1 The indicator values shall be based on reported data of the relevant entity of the preceding financial year-end, on a consolidated basis, and for banks authorised in third countries on data disclosed in accordance with internationally agreed standards. Relevant authorities may use indicator values of relevant entities whose financial year-end is 30 June based on their position on 31 December.

2 The relevant authority shall determine the score of each relevant entity of the sample as the simple average of the category scores subject to a maximum category score of 500 base points for the category measuring the substitutability. Each category score shall be calculated as the simple average of the values resulting from dividing each of the indicator values of that category by the denominator of the indicator notified by the EBA. The scores shall be expressed in base points and shall be rounded to the nearest whole base point.

3 The lowest cut-off score shall be 130 base points. The subcategories shall be allocated as follows:

a subcategory 1 shall encompass scores from 130 to 229 base points;

b subcategory 2 shall encompass scores from 230 to 329 base points;

c subcategory 3 shall encompass scores from 330 to 429 base points;

d subcategory 4 shall encompass scores from 430 to 529 base points;

e subcategory 5 shall encompass scores from 530 to 629 base points.

4 The relevant authority shall identify a relevant entity as a G-SII where the score of that entity is equal to or higher than the lowest cut-off score. A decision to designate a relevant entity as a G-SII in the exercise of sound supervisory judgment in accordance with Article 131(10)(b)