

COMMISSION DELEGATED REGULATION (EU) 2017/208**of 31 October 2016****supplementing Regulation (EU) No 575/2013 of the European Parliament and of the Council with regard to regulatory technical standards for additional liquidity outflows corresponding to collateral needs resulting from the impact of an adverse market scenario on an institution's derivatives transactions****(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 the fourth subparagraph of Article 423(3) thereof,

Whereas:

- (1) Pursuant to Article 423(3) of Regulation (EU) No 575/2013, institutions are to add an additional outflow corresponding to collateral needs that would result from the impact of an adverse market scenario on the institution's derivatives transactions, financing transactions and other contracts if material. Given considerations of materiality, there is an urgency to specify an additional outflow corresponding to collateral needs that would result from the impact of an adverse market scenario on the institution's derivatives transactions while the materiality of collateral needs that would result from the impact of an adverse market scenario on the institution's financing transactions and other contracts will be considered in a next step.
- (2) Given that Article 423(3) of Regulation (EU) No 575/2013 refers to collateral needs, the rules to be introduced should be restricted to derivatives transactions that are collateralised, including those that mature within 30 days.
- (3) In order to ensure a level playing field for institutions and derivative markets, the calculation of the additional collateral outflows should be based on the Historical Look Back Approach for market valuation changes developed by the Basel Committee on Banking Supervision ('BCBS') for determining those additional collateral outflows, which uses for that purpose the largest aggregated cumulative net collateral outflow or inflow realised at the end of all 30-day periods during the preceding 24 months at the portfolio level.
- (4) The European Banking Authority ('EBA') submitted to the Commission draft regulatory technical standards. However, in accordance with the procedure set out in Article 10 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council ⁽²⁾, the Commission informed the EBA about its intention not to endorse those draft regulatory technical standards, explaining the reasons for the non endorsement. The EBA resubmitted the draft regulatory technical standards in the form of a formal opinion accepting the Commission's proposed approach strictly based on the BCBS's Historical Look Back Approach.
- (5) This Regulation is based on the draft regulatory technical standards as resubmitted by the EBA to the Commission.
- (6) 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 Banking Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1093/2010,

⁽¹⁾ OJ L 176, 27.6.2013, p. 1.

⁽²⁾ Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010, p. 12).

HAS ADOPTED THIS REGULATION:

Article 1

Materiality of an institution's derivatives transactions

1. An institution's derivatives transactions shall be considered material for the purposes of the first subparagraph of Article 423(3) of Regulation (EU) No 575/2013 where the total of notional amounts of such transactions has exceeded 10 % of the net liquidity outflows as referred to in Article 412(1) of Regulation (EU) No 575/2013 at any time in the previous two years.
2. For the purposes of paragraph 1, the net liquidity outflows shall be calculated without the additional outflow component referred to in the first subparagraph of Article 423(3) of Regulation (EU) No 575/2013.

Article 2

Calculation of an additional outflow corresponding to collateral needs resulting from the impact of an adverse market scenario on an institution's derivative transactions

1. The additional outflow corresponding to collateral needs resulting from the impact of an adverse market scenario on an institution's derivatives transactions considered as material in application of Article 1 of this Regulation, shall be the largest absolute net 30-day collateral flow realised during the 24 months preceding the date of calculation of the liquidity coverage requirement referred to in Article 412(1) of Regulation (EU) No 575/2013.
2. Institutions may only treat inflows and outflows of transactions on a net basis where they are executed under the same master netting agreement. The absolute net collateral flow shall be based on both realised outflows and inflows, and the netting shall be calculated at the institution's portfolio level.

Article 3

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*.

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

Done at Brussels, 31 October 2016.

For the Commission
The President
Jean-Claude JUNCKER
