

Circular

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EBA Guidelines of 12 October 2022 amending Guidelines EBA/GL/2018/10 on disclosure of non-performing and forborne exposures (EBA/GL/2022/13)

Scope

Credit institutions governed by Belgian law

Summary/Objective

The purpose of this circular is to implement the Guidelines of the European Banking Authority (EBA) of 12 October 2022 amending Guidelines EBA/GL/2018/10 on disclosure of non-performing and forborne exposures. It replaces, as of 31 December 2022, Circular NBB_2019_11 of 21 May 2019 on the same subject. Furthermore, this circular repeals existing Circulars NBB_2015_03, NBB_2017_25 and NBB_2018_06 on the various disclosure requirements following the introduction of Commission Implementing Regulation (EU) 2021/637.

Dear Sir or Madam,

1. General aspects

Since 28 June 2021, under Part 8 of the CRR¹, various Pillar 3 disclosure requirements in the EU are imposed through Commission Implementing Regulation (EU) 2021/637². The Implementing Regulation provides inter alia for disclosure requirements as set out in the EBA Guidelines of 4 August 2017 on disclosure requirements in CRD IV (EBA/GL/2016/11), the EBA Guidelines of 21 June 2017 on disclosure of the liquidity coverage ratio (EBA/GL/2017/01) and the EBA Guidelines of 24 June 2014 on disclosure of encumbered and unencumbered assets (EBA/GL/2014/03).

Since the introduction of the Implementing Regulation, the above-mentioned EBA guidelines no longer apply³ and, as a result, the respective NBB circulars transposing these requirements in Belgium have also ceased to apply.

¹ 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.

² Commission Implementing Regulation (EU) 2021/637 of 15 March 2021 laying down implementing technical standards with regard to public disclosures by institutions of the information referred to in Titles II and III of Part Eight of Regulation (EU) No 575/2013 of the European Parliament and of the Council and repealing Commission Implementing Regulation (EU) No 1423/2013, Commission Delegated Regulation (EU) 2015/1555, Commission Implementing Regulation (EU) 2016/200 and Commission Delegated Regulation (EU) 2017/2295.

³ The EBA clarified this in a statement on 12 October 2022 on its web site: <https://www.eba.europa.eu/eba-clarifies-status-several-disclosure-guidelines-and-ensures-continuous-transparency-credit>

Therefore, this circular hereby repeals the respective existing circulars:
NBB_2017_25 of 2 October 2017, NBB_2018_06 of 28 February 2018 and
NBB_2015_03 of 12 January 2015.

The Bank expects the institutions concerned to comply with the disclosure requirements as set out in the relevant articles of the CRR and the Implementing Regulation (EU) 2021/637.

2. Disclosure requirements on non-performing and forborne exposures

The EBA Guidelines of 17 December 2018 on disclosure of non-performing and forborne exposures (EBA/GL/2018/10⁴) do however remain applicable, although with a modified scope. These Guidelines were issued by the EBA following the action plan developed by the European Council in July 2017 to address Non-Performing Exposures in Europe, and they were transposed by the NBB in Belgium through Circular NBB_2019_11 of 21 May 2019.

While the disclosure requirements under the 2018 EBA Guidelines applied to all credit institutions (governed by Belgian law), Part 8 of the CRR and Implementing Regulation (EU) 2021/637 limit the disclosure requirements on non-performing and forborne exposures to "large institutions" (listed or not) and "other listed institutions"⁵. This discrepancy in scope between the 2018 EBA Guidelines and Implementing Regulation (EU) 2021/637 threatens to create an asymmetry in the market for disclosure of non-performing and forborne exposures, in particular for disclosure by institutions that only fall within the scope of the 2018 EBA Guidelines, namely small and non-complex institutions (listed or not)⁶ and other non-listed institutions⁷.

The EBA is of the opinion that information disclosed by these institutions (small and non-complex listed institutions and other non-listed institutions) on their non-performing and forborne exposures is also important. The EBA therefore published the Guidelines of 12 October 2022 amending Guidelines EBA/GL/2018/10 on disclosure of non-performing and forborne exposures (EBA/GL/2022/13) to clarify that the disclosure requirements for NPEs under the 2018 EBA Guidelines:

- will continue to apply to listed "small and non-complex institutions" and non-listed "other institutions" [i.e. institutions that are neither "large" nor "small and non-complex"].
- will not apply to "large institutions" (listed or not) and listed "other" institutions [i.e. institutions that are neither "large" nor "small and non-complex"] (as these categories fall within the scope of the disclosure requirements under Commission Implementing Regulation (EU) 2021/637)

Let us illustrate with the following recapitulation of the scope of the various texts.

⁴ Guidelines of the European Banking Authority (EBA) of 17 December 2018 on disclosure of non-performing and forborne exposures (EBA/GL/2018/10).

⁵ As defined in the CRR:

- Large institution: as defined in Article 4 (1) 146 CRR
- "Other" institutions are not explicitly defined in the CRR, but should be interpreted as those institutions that do not meet the definition of "small and non-complex" or of "large" institutions under the CRR.

⁶ Small and non-complex institution: as defined in Article 4 (1) 145 CRR.

⁷ Non-listed institution: as defined in Article 4 (1) 148 CRR.

	EBA Guidelines on disclosure of non-performing and forborne exposures (EBA/GL/2018/10)	Implementing Regulation (EU) 2021/637	Amended EBA Guidelines of 12 October 2022 (EBA/GL/2022/13)
Listed "large" institutions	X	X	/
Non-listed "large" institutions	X	X	/
Listed "other" institutions [institutions that are neither "large" nor "small and non-complex"]	X	X	/
Non-listed "other" institutions [institutions that are neither "large" nor "small and non-complex"]	X	/	X
Listed small and non-complex institutions	X	/	X
Non-listed small and non-complex institutions	X	/	/

The amended EBA guidelines will apply as from 31 December 2022. This circular aims to incorporate the amended EBA guidelines into the national regulatory framework for the relevant credit institutions governed by Belgian law. It replaces, as of 31 December 2022, Circular NBB_2019_11 of 21 May 2019. The institutions concerned are expected to comply with the amended EBA guidelines.

A copy of this circular will be sent to your undertaking's accredited auditor(s).

Yours faithfully,



Pierre Wunsch
Governor

Annexes: 2