### Question ID
2017_3376

### Status
Final Q&A

### Legal act
Regulation (EU) No 575/2013 (CRR) as amended

### Topic
Credit risk

### Article
99

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### COM Delegated or Implementing Acts/RTS/ITS/GLs/Recommendations
Regulation (EU) No 680/2014 - ITS on supervisory reporting of institutions (as amended)

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<th>Article/Paragraph</th>
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03/07/2017

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### Disclose name of institution / entity
No

### Type of submitter
Competent authority

### Subject matter
Proposals for mortgage credit extension described in Article 14 of the Directive 2014/17/EU as off-balance sheet exposures

### Question
Are the binding proposals for mortgage credit extension described in Article 14 of the Directive 2014/17/EU as off-balance sheet exposures according to Annex I CRR?

Should FINREP, COREP reporting include such binding proposals for mortgage credit extension?

### Background on the question
The question seeks to clarify whether binding offers pursuant to Article 14 of Directive 2014/17/EU should be considered, during the reflection period, as items covered under Annex I CRR, and as a result to be reported as “off-balance sheet items” and “loan commitments” in COREP and FINREP, following paragraph 55-57 of the FINREP instructions. The proposals in question are described by Article 14 of Directive 2014/17/EU (Mortgage Credit Directive), which deals with the pre-contractual arrangements occurring before the conclusion of a consumer lending agreement relating to residential immovable property. In particular, Article 14(1) states that Member States shall ensure that the creditor and, where applicable, the credit intermediary or appointed representative, provides
the consumer with the personalised information needed to compare the credits available on the market, assess their implications and make an informed decision on whether to conclude a credit agreement: (a) without undue delay after the consumer has given the necessary information on his needs, financial situation and preferences in accordance with Article 20; and (b) in good time before the consumer is bound by any credit agreement or offer. Additionally, Article 14(6) states that Member States shall specify a time period of at least seven days during which the consumer will have sufficient time to compare offers, assess their implications and make an informed decision. Member States shall specify that the time period referred to in the first subparagraph shall be either a reflection period before the conclusion of the credit agreement or a period for exercising a right of withdrawal after the conclusion of the credit agreement or a combination of the two. Where a Member State specifies a reflection period before the conclusion of a credit agreement: (a) the offer shall be binding on the creditor for the duration of the reflection period; and (b) the consumer may accept the offer at any time during the reflection period. Annex I of the CRR (Regulation (EU) No 575/2013) provides a classification of off-balance sheet items for credit risk purposes, including "undrawn credit facilities (agreements to lend, [...]""). The FINREP instructions (Regulation (EU) No 680/2014 on supervisory reporting, Annex V, part 2) state: 55: Off-balance sheet exposures include the off-balance sheet items listed in Annex I of CRR. [...] 57: 'Loan commitments' are firm commitments to provide credit under pre-specified terms and conditions, except those that are derivatives because they can be settled net in cash or by delivering or issuing another financial instrument. The following items of Annex I of CRR shall be classified as 'Loan commitments': (a) 'Forward deposits'. (b) 'Undrawn credit facilities' which comprise agreements to 'lend' or provide 'acceptance facilities' under pre-specified terms and conditions. Similar language is also used in the COREP instructions for template C 28.00 row 090, 150, 270. For accounting purposes, loan commitments (unless accounted for as derivatives according to IAS 39.4) are excluded from the scope of IAS 39 (IAS 39.2(h)) and treated according to IAS 37, with disclosure requirements as per IAS 37.86.

**EBA answer**

In line with Q&A 3366, loan commitments shall be considered either as assets or as off-balance sheet items according to Annex I (1) CRR depending on their recognition in the institution’s applicable accounting framework.

With particular regard to the binding proposals pursuant to Article 14(6) of Directive 2014/17/EU, during the period where the consumer can exercise a right of withdrawal ('after the conclusion of the credit agreement' but before funds have been released) or during the reflection period ('before the conclusion of the credit agreement', although the offer is binding on...
the creditor), these commitments qualify for the creditor as an agreement to lend which, as an off-balance sheet item, is a medium/low risk item under point (3)(b)(i) of Annex I CRR, provided that the maturity is less than one year.

The categorisation of said proposals shall be accordingly taken into account for the purposes of COREP and FINREP reporting.

This is without prejudice to the general clarification on the treatment of forward starting loans provided in Q&A 3279.


European Banking Authority, 07/08/2020

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