EBA/CP/2018/12

28 August 2018

# Consultation Paper

## Draft Implementing technical standards amending Implementing Regulation (EU) 2016/322 with regard to LCR for liquidity reporting

# Contents

# 1. Responding to this consultation

The EBA invites comments on all proposals put forward in this paper and in particular on the specific questions summarised in 5.2.

Comments are most helpful if they:

- **respond to the question stated;**
- **indicate the specific point to which a comment relates;**
- **contain a clear rationale;**
- **provide evidence to support the views expressed/ rationale proposed; and**
- **describe any alternative regulatory choices the EBA should consider.**

### Submission of responses

To submit your comments, click on the 'send your comments' button on the consultation page by 26.10.2018. Please note that comments submitted after this deadline, or submitted via other means may not be processed.

### Publication of responses

Please clearly indicate in the consultation form if you wish your comments to be disclosed or to be treated as confidential. A confidential response may be requested from us in accordance with the EBA's rules on public access to documents. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by the EBA's Board of Appeal and the European Ombudsman.

### Data protection

The protection of individuals with regard to the processing of personal data by the EBA is based on Regulation (EC) N° 45/2001 of the European Parliament and of the Council of 18 December 2000 as implemented by the EBA in its implementing rules adopted by its Management Board. Further information on data protection can be found under the Legal notice section of the EBA website.

# 2. Executive Summary

The Commission Delegated Regulation (EU) …/… 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 was published on 13 July 2018 by the European Commission[1].

This LCR amending Act triggers some changes in the calculation of the LCR which necessitates a subsequent update of the ITS on LCR reporting to capture the necessary elements for its calculation and monitoring. These are mainly the cases of calculation of inflows and outflows in securities financing transactions (SFTs) and collateral swaps or the unwind waivers envisaged for some SFTs and collateral swaps with central banks.

In addition, the EBA has monitored the implementation of the LCR and has spotted some elements where there is a merit for a separate monitoring due to its materiality in the LCR. In these cases, new rows have been added to capture these elements which could not be identified separately up to now. This is mainly the case of excess operational deposits referred to in article 27 of the LCR Delegated Regulation.

Furthermore, many memo items have been deleted. It is considered that they have already served the informative purposes for which they were included after three years of application of the LCR. This deletion intends also to alleviate the burden for credit institutions in their reporting obligations.

The update of the ITS also takes on board some published Q&As (Q&A 784, Q&A 801 and Q&A 3357) which are considered of significant practical relevance.

Finally, an additional template has been added, C 77.00. This template would simply list the entities within the perimeter of consolidation of the LCR when reported at a consolidated level including liquidity subgroups. This template would ensure a proper monitoring of the LCR without prompting a big burden on credit institutions.

## Next steps

The EBA deems a consultation period of 2 months as adequate given the limited changes to the templates and instructions and the need to deliver the ITS to the EU Commission in due time for an implementation date to be aligned to the application date of the amended LCR Delegated Regulation.

[1] http://ec.europa.eu/info/law/banking-prudential-requirements-regulation-eu-no-575-2013/amending-and-supplementary-acts/implementing-and-delegated-acts_en

The EBA's submission of the final updated ITS to the EU Commission will take place once the LCR amending Act is final (ie after the non-objection period(s) of Council and Parliament according to Art 462 (5) CRR).

Finally, the EBA proposes as a first reference date the first end month date after the date of application of the final LCR amending Act.

# 3. Background and rationale

The European Commission adopted and published on 13 July 2018 the draft Delegated Act amending the Commission Delegated Regulation on the Liquidity Coverage Ratio ('LCR'). This LCR amending Act will trigger some changes in the calculation of the LCR which necessitates a subsequent update of the ITS on LCR reporting. The main amendments in the amending Act with reporting implications are described here.

The LCR amending Act introduces modifications in the calculations of inflows and outflows from secured lending, secured funding and collateral swaps transactions. Operational requirements are not required to be met any more by the underlying collateral for these purposes. The approach to calculate inflows from secured lending transactions and inflows or outflows from collateral swaps will not be based any more on comparing the liquidity value of the cash leg and the collateral leg, in the former case, or between the swapped non-cash collateral legs in the latter one. In contrast the approach will be similar to the one envisaged for outflows from secured funding transactions. The LCR amending Act also envisages the possibility to waive some secured lending, secured funding and collateral swaps transactions with central banks from the application of the adjustments set forth by Article 17(2) of LCR Delegated Regulation (the so called "unwinding").

These changes trigger most of the amendments proposed in the update of the ITS. Some few additional changes seems necessary and are suggested in the ITS after the first years of implementation. These are the cases of a necessary identification of rows for excess operational deposits, the reduction of memo items and the incorporation of some published Q&As.

### C 73.00

C 73.00, on outflows, now needs to envisage rows for secured funding transactions irrespective of whether or not the collateral exchanged would meet the operational requirements in accordance with Article 8 of LCR Delegated Regulation for the calculation of outflows. For each of these rows, in the form of an "of which" item, repos where the collateral would meet the operational requirements should be separately identified to ensure a proper unwinding as per article 17 of the LCR Delegated Regulation.

As per the LCR amending Act, secured funding from central banks will keep triggering 0% outflow rate but only if the central bank is the domestic central bank. This means that the applicable weight to be reported for repos with central banks will be an average of the rates applied in these transactions depending on which central bank acts as counterparty. Still the template will provide separate information of repos with central banks and with other counterparties. The amending Act also envisages the possibility of some secured funding, secured lending and collateral swaps transactions with any central bank to be authorised to be waived from unwinding for the purpose of the calculation of the liquidity buffer caps as per Article 17 of the LCR Delegated Regulation. Specific memo items have been included in C 73.00 to capture repos with central banks that would benefit from the unwind waiver of article 17 of the LCR amending Act.

C 73.00 separately captures now the part of operational deposits in excess of the amount necessary for the provision of operational services and which, therefore, needs to be treated as non-operational. This is for the purposes of an adequate supervisory monitoring of these elements due to the material impact they have in the calculation of the LCR as observed in the LCR implementation.

### C 74.00

C 74.00, on inflows, needs to envisage now new rows for secured lending transactions irrespective of whether or not the collateral exchanged meets the operational requirements in accordance with Article 8 of LCR Delegated Regulation for the calculation of inflows. For each of these rows, in the form of an “of which” item, reverse repos where the collateral meets the operational requirements should be separately identified to ensure a proper unwinding as per article 17 of the LCR Delegated Regulation.

Also with regard to C 74.00, the template now separately captures secured lending transactions with central banks from those with other counterparties. This is also to identify potential reverse repos with central banks which could benefit from the unwind waiver of article 17 of the LCR Delegated Regulation. Also, on C 74.00 specific memo items have been included that capture reverse repos with central banks that would benefit from the unwind waiver of article 17 of the LCR Delegated Regulation.

### C 75.00

The EBA has kept the structure of template C 75.00, on collateral swaps, in order to minimise operational burden and costs. However, the amending Act triggers some minimum granularity that is needed to be envisaged for reporting.

C 75.00 needs to envisage rows for collateral swaps irrespective of whether or not the assets exchanged meet (assets borrowed) or would meet (assets lent) the operational requirements in accordance with Article 8 of LCR Delegated Regulation for the calculation of inflows/outflows. For each of these rows, in the form of an “of which” item, collateral swaps where at least one leg is meeting (assets borrowed) or would meet (assets lent) the operational requirements should be separately identified to ensure a proper unwinding as per article 17 of LCR Delegated Regulation.

C 75.00 needs to separately capture collateral swaps with central banks from those with other counterparties to identify those which could benefit from the article 17 waiver. Specific memo items have been included that capture collateral swaps with central banks that would benefit from the unwind waiver of article 17 of the LCR Delegated Regulation.

### C 76.00

C 76.00, on the LCR calculation, has been updated in line with the changes introduced by the amending Act in its Annex I. Calculation of excess liquid assets amount for the various HQLA categories has been removed accordingly.

## C 77.00

An additional template (C 77.00), for the only purposes of the LCR at a consolidated level, is added on the perimeter of consolidation of LCR. This template would simply list the names and identify codes of the entities within the perimeter of the LCR at any level of consolidation including liquidity subgroups where LCR waivers have been granted in accordance with Articles 8 and 10 of the CRR. The information required does not imply any calculation and does not expect to entail any big burden for institutions. This information is key for supervisors to identify the entities the liquidity position of which is included in the reporting templates for a proper monitoring.

This template shall not be reported by credit institutions reporting LCR at individual level according to Article 6(4) of the CRR.

## Memo items

The EBA has tried to minimise the number of memo items to be kept in the templates in an attempt to reduce burden and operational costs. This has been addressed by deleting those elements which are not considered necessary anymore after some years of LCR implementation. The EBA understands that these elements have already served their purposes.

## Other changes

The update of the ITS also takes on board some published Q&As (Q&A 784, Q&A 801 and Q&A 3357) which are considered of significant practical relevance.

# 4. Draft implementing technical standards

**COMMISSION IMPLEMENTING REGULATION (EU) No …/..**

**of XXX**

**[…]**

**amending Implementing Regulation (EU) No 680/2014 as regards templates and instructions**

THE EUROPEAN COMMISSION,

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 ), in particular the fourth subparagraph of Article 99(5), the third subparagraph of Article 101(4), the fourth subparagraph of Article 415(3), and the third subparagraph of Article 430(2) thereof,

Whereas:

(1) Commission Implementing Regulation (EU) 2016/322([2]) specifies the modalities according to which credit institutions are required to report information relevant to their compliance with the requirements of Regulation (EU) No 575/2013 in general, and with the provisions on the liquidity coverage requirement expressed as a ratio (LCR) which takes the form of a ratio, in particular, as amended by Commission Delegated Regulation (EU) 2015/61([3]). Given that the regulatory framework established by Commission Delegated Regulation (EU) 2015/61 on the LCR was amended by Commission Delegated Regulation (EU) 2018/XX, Commission Implementing Regulation (EU) (EU) No 680/2014 should be updated accordingly to reflect these amendments in the reporting framework of the LCR for credit institutions;

(2) In this context, templates and instructions of Commission Implementing Regulation No 680/2014 should also be reviewd to reassess the convenience and appropriateness of the memo items included in the templates and instructions during the early years of implementation of that Regulation as well as to correct typos, erroneous references and

[2] Commission Delegated Regulation (EU) 2016/322 of 10 February 2016 amending Implementing Regulation (EU) No 680/2014 laying down implementing technical standards with regard to supervisory reporting of institutions of the liquidity coverage requirement (OJ L 64, 10.3.2016, p. 1).

[3] Commission Delegated Regulation (EU) 2015/61 of 10 October 2014 to supplement Regulation (EU) No 575/2013 of the European Parliament and of the Council with regard to liquidity coverage requirement for Credit Institutions (OJ L 11, 17.1.2015, p. 1).

formatting inconsistencies which were discovered in the course of the application of its application.

(3) The European Banking Authority has conducted open public consultations, has 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[4].

(4) Implementing Regulation (EU) No 2016/322 should be amended accordingly.

HAS ADOPTED THIS REGULATION:

*Article 1*

Commission Implementing Regulation (EU) No 680/2014 is amended as follows:

1. Annex XXIV is replaced by the text set out in Annex I to this Regulation;
2. Annex XXV is replaced by the text set out in Annex II to this Regulation.

*Article 2*

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

It shall apply from XXX.

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

Done at Brussels,

*For the Commission*
*The President*

*[For the Commission*
*On behalf of the President*

*[Position]*

[4] 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).

# ANNEX

ANNEX I
(contains new version of ANNEX XXIV of Commission Implementing Regulation (EU) No 680/2014)

ANNEX II
(contains new version of ANNEX XXV of Commission Implementing Regulation (EU) No 680/2014)

# 5. Accompanying documents

## 5.1 Draft cost-benefit analysis / impact assessment

1. In July 2018, the European Commission adopted and published the draft Delegated Act amending the Commission Delegated Regulation on the Liquidity Coverage Ratio ('LCR'). As a consequence the EBA is required to update the ITS on LCR supervisory reporting in accordance with the modifications that will be introduced. Therefore, this ITS is the response to the mentioned upcoming amendments and the mandate in Article 415(3) of the CRR for the EBA to develop ITS to specify uniform formats for reporting the liquidity coverage ratio (LCR), plus instructions, frequencies, dates and deadlines .

2. As per Article 15(1) of the ESAs regulation (Regulation (EU) No 1093/2010, (EU) No 1094/2010 and (EU) No 1095/2010 of the European Parliament and of the Council), any draft ITS developed by the ESAs shall be accompanied by an Impact Assessment (IA) annex which analyses 'the potential related costs and benefits' of the ITS. Such annex shall provide the reader with an overview of the findings as regards the problem identification, the options identified to remove the problem and their potential impacts.

3. The EBA prepared the IA included in this consultation paper analysing the policy options considered when developing the guidelines. Given the nature of the study, the IA is qualitative in nature.

### A. Problem identification

4. As required by Article 415(3) of the CRR, the EBA has developed ITS to specify uniform formats for reporting the liquidity coverage ratio (LCR), plus instructions, frequencies, dates and deadlines. The first final draft ITS was published on the 26 July 2013 and came into force on 29 June 2014. Nevertheless, following the publication of the LCR delegated act (DA) which specifies the EU framework of the LCR and in order to update the mentioned ITS, the EBA published EBA final draft Implementing Technical Standards on 24 June 2015.

5. The European Commission published on 24 January 2018 the draft Delegated Act amending the Commission Delegated Regulation on the Liquidity Coverage Ratio ('LCR') which will trigger some changes in the calculation of the LCR. Therefore, a subsequent update of the ITS on LCR reporting is needed.

6. Additionally, as with any other reporting requirements, while implementing the necessary amendments, the ITS shall ensure a right balance between the proportionality of the reporting burden imposed on institutions to collect and report new data and the level of data breakdown

which is appropriate to ensure effective and harmonized supervision of liquidity risks as well as a level playing field across EU jurisdictions.

## B. Policy objectives

7. The update of the ITS on LCR reporting is aimed at incorporating the necessary changes in the LCR supervisory reporting templates and instructions stemming from the amendments that will be made in the Commission Delegated Regulation (EU) 2015/61 (LCR Delegated Regulation) by the LCR amending Act.

8. As a result, the specific objectives of the guidelines are to:

   - make the adequate amendments to the current ITS on LCR reporting to properly account for the amendments included in the Commission's draft Delegated Act;
   - ensure that competent authorities receive all required information on the LCR and the components needed for its supervisory review and calculation;
   - design a clear and fit to purpose ITS that would avoid overly burdensome reporting for financial institutions and excessive operational costs for regulators and supervisors.

9. The general objectives of the guidelines are to:

   - assist institutions in fulfilling their reporting requirements under Article 415 of the CRR;
   - reduce asymmetries of information on liquidity risks between supervisory authorities and credit institutions;
   - increase the effectiveness of the monitoring and the supervising of liquidity risks;
   - ensure there is data availability and comparability across EU jurisdictions and hence facilitate a proper functioning of cross-border supervision.

## C. Baseline scenario

10. Following the implementation of the EBA FINAL draft Implementing Technical Standards on 24 June 2015, EU credit institutions have been reporting LCR data since September 2016 according to the Delegated Regulation.

11. In July 2018, the European Commission adopted and published the draft Delegated Act amending the Commission Delegated Regulation on the Liquidity Coverage Ratio ('LCR'). This LCR amending Act will trigger some changes in the calculation of the LCR which necessitates a subsequent update of the ITS on LCR reporting.

12. Both credit institutions and national competent authorities (NCAs), have developed frameworks and processes for the collection, transmission and monitoring of LCR data. As a result, the proposed new ITS on LCR are not expected to generate excessive incremental impact as most of the operational costs from the introduction of the new ITS have already been borne or planned by both NCAs and credit institutions (i.e. continuing cost (employed staff hours) and one-off costs (investment in IT equipment)).

13. The update of the ITS has also considered some additional potential updates beyond those which are a straightforward application of the upcoming regulatory LCR updates. Those are basically changes which are considered necessary after the first years of implementation of the LCR. Most of the policy options analysis is focused on the latter.

## D. Options considered

14. When drafting the present guidelines, the EBA considered several policy options under three main areas:

**1) <u>Memo items</u>**

Memo items are included in the reporting templates as a complement to the necessary information for the calculation of the LCR ratio. The information included in memo items is not used directly to calculate the LCR ratio but provides useful information and additional granularity not included in the main section of the templates for practical reasons. Nevertheless, in many cases the information reported in these memo items is considered to have already served the purposes for which they were created in terms of providing complementary information for a better understanding of a recently introduced metric in the EU Regulation, the LCR. Therefore, while developing the current ITS, the EBA has analysed two possible options:

***Option 1:*** *Reduce the number of Memo items and keeping those strictly necessary after three years of implementation of the LCR*
***Option 2:*** *Keep the current number of Memo items*

**2) <u>Information about the perimeter of consolidation for consolidated LCR</u>**

Current templates do not allow the identification of the subsidiaries whose LCR information is included and reported in consolidated level as well.

The identification of all the subsidiaries which data is reported in the perimeter of consolidation of LCR is important in order to be able to properly monitor the LCR. Therefore, the EBA has analysed two possible options:

***Option 1:*** *Include a new template showing the perimeter of consolidation for LCR (C 77.00)*

***Option 2:*** *Keep the current templates and not to include the information about the perimeter for LCR*

**3) <u>Excess operational deposits:</u>**

Current templates do not allow identifying the excess of operational deposits. This is key information for the correct calculation and monitoring of the LCR. Operational deposits have favourable outflow rates for the amount required for the provision of operational services as defined in the LCR Delegated Regulation. Nevertheless, the same operational deposit - bank account could include funding that excess the funds strictly required for the provision of operational services. These additional funds should not apply the mentioned favourable outflow rate. In this sense, the EBA has assessed two possible options:

***Option 1: I****dentification of the excess operational deposits separately*
***Option 2:*** *Keep them reported under the non-operational deposits*

## E. Assesment of the options and preferred option

15. In respect to the different options considered, the EBA has assessed their potential cost and benefits, and has selected a preferred option in the three main areas considered:

**1) <u>Memo items</u>**

As explained before, memo items provide useful information to supervisors with extra granularity not included in the main body of the templates. Nevertheless, overall, the information reported by banks on memo items has already served its purposes of providing complementary information on the LCR during its first years of implementation.

On the other hand, a significant number of memo items is burdensome for banks. Reducing the information in memo items significantly could allow banks to have additional resources available to implement and fill the new reporting requirements necessary as a consequence of the implementation of the draft Delegated Act amending the Commission Delegated Regulation on the Liquidity Coverage Ratio ('LCR').

Therefore, the preferred option is ***Option 1****: Reduce the number of Memo items to those not available anywhere else in the supervisory reporting.*

Nevertheless, some information that is currently reported as a Memo item may be considered extremely important. This information will remain.

**2) <u>Information about the perimeter of consolidation for consolidated LCR</u>**

In order to be able to properly monitor the LCR at a consolidated level, supervisors need to be able to identify the subsidiaries included in the perimeter of consolidation for LCR reporting. Therefore, the preferred option is ***Option 1:*** *Include a new template showing the perimeter of consolidation for LCR (C 77.00)*

The inclusion of this information will be done by including a new separate template (template C 77.00) to provide the information for perimeter for liquidity only. The template will include the name and information of the parent company and all the subsidiaries included in the LCR perimeter. The number of additional cells to be reported by banks is limited (4 cells per subsidiary included in the perimeter) and the information request here is easy to find as no calculations are needed. Therefore, the inclusion of the new template is not burdensome for banks.

**3) Excess operational deposits:**

As previously mentioned, the identification of the excess operational deposits is key to properly calculate the LCR ratio. Additionally, it has been proved to be a relevant item for supervisors to closely monitor the LCR ratio, due to the lack of accuracy of its definition in the LCR Delegated Regulation and the impact it may have. In addition to it, envisaging separate rows in the reporting templates for their identification is key for an appropriate supervisory review. Therefore, the preferred option is ***Option 1: I****dentification of the excess operational deposits separately*. The result is including separate rows for these deposits in template C73.00.

## 5.2 Overview of questions for consultation

Q1: Do respondents have any comment on the changes made in C 72.00?

Q2: Do respondents have any comment on the changes made in C 73.00?

Q3: Do respondents have any comment on the changes made in C 74.00?

Q4: Do respondents have any comment on the changes made in C 75.00?

Q5: Do respondents have any comment on the changes made in C 76.00?

Q6: Do respondents have any comment on the new template C 77.00?