

Consultation Paper

Draft implementing technical standards

On currencies with an extremely narrow definition of central bank eligibility under Article 416(5) of Regulation (EU) 575/2013 (Capital Requirements Regulation – CRR)



Consultation Paper on draft implementing technical standards on currencies with an extremely narrow definition of central bank eligibility under Article 416(5) of Regulation (EU) 575/2013 (Capital Requirements Regulation – CRR)

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1. Responding to this consultation

The European Banking Authority (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 22 December 2013. Please note that comments submitted after this deadline, or submitted by other means, may not be processed.

Publication of responses

Please clearly indicate in the consultation form whether 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) No 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 in the [legal notice section](#) of the EBA website.

2. Executive summary

The CRR sets out prudential requirements for liquidity which will be applicable as of 1 January 2014.

In a number of articles, the CRR contains specific mandates for the EBA to develop draft regulatory or implementing technical standards (RTS and ITS) related to liquidity requirements. These standards will be part of the single rulebook enhancing regulatory harmonisation.

Main features of the RTS

This consultation paper proposes draft ITS related to Article 416(5) CRR, which mandates the EBA to list the currencies with an extremely narrow definition of central bank eligibility. For these currencies, Article 416(3)(d) CRR shall not apply, and institutions may report as liquid assets, subject to fulfilling the remaining conditions of Article 416 and Article 417, those that are not eligible collateral for standard liquidity operations of a central bank in a Member State or those that are held to meet liquidity outflows in the currency of a third country, of the central bank of that third country. This derogation ensures that institutions will be able to meet the liquidity requirements in currencies in which extremely narrow central bank eligibility exists by holding assets that are not eligible at the relevant central bank, but are otherwise liquid, in the liquidity buffer.

In the draft ITS, the list of currencies has been specified based on the assumption that an extremely narrow definition of central bank eligibility applies if only central government debt or debt issued by the central bank is eligible as collateral for standard liquidity operations at the central bank. This reflects the EBA's view that central bank eligibility gives important support to the liquidity of assets, and that a central bank eligibility framework should be considered as extremely narrow only where the framework seems to have excluded any broader type of liquid asset class meeting the remaining requirements of Articles 416 and 417 CRR as eligible collateral. In the event that the central bank eligibility is confined to central government debt or debt issued by the central bank, the EBA deems this to be probable.

The EBA completed a data-gathering exercise among Member States to ascertain the asset classes that constitute central bank eligible assets for standard liquidity operations. The data gathered show that, generally, during the financial crisis, central bank eligibility criteria have been extended to include asset classes that were not eligible prior to the crisis. This varies widely, however, among EEA central banks. The list of central bank eligible assets in the euro zone is among the widest within the EEA, while central banks in countries such as the United Kingdom, Denmark, Norway and Sweden also allow a wide range of assets as collateral. On the other hand, other central banks, such as those of the Czech Republic and Iceland, have a quite narrow range of liquid assets that fulfil central bank eligibility criteria. In the case of Bulgaria, the Bulgarian central bank does not extend liquidity to institutions except in extreme circumstances pursuant to Article 33 of the Law on the Bulgarian National Bank.

Based on the definition of narrow central bank eligibility as that confined to central government debt or debt issued by the central bank, and the information provided by Member States, the list of currencies with extremely narrow central bank eligibility consists of just one currency: the Bulgarian leva.

Currencies outside the EEA have not been included in the evaluation, because of, inter alia, constraints to data availability. In addition, the EBA considers it preferable to consider non-EEA currencies in the light of the assessments of the definition of central bank eligibility as performed by the relevant non-EEA jurisdiction itself.

To keep the ITS updated, the EBA will repeat its analysis whenever a change (or series of changes) occurs that is likely to have a major impact on the outcome. This implies that, in the event of a decisive change in central bank eligibility, a review of the related ITS for the respective currency will be triggered.

Following the close of the consultation on 22 December 2013, the EBA will assess the responses received and consider whether or not any changes should be made to the draft ITS.

The EBA must submit the draft ITS to the Commission by 31 March 2014.

3. Background and rationale

Background and regulatory approach followed in the draft ITS

In January 2013, the Basel Committee on Banking Supervision (BCBS) published a revised text of its rules on the liquidity coverage ratio (LCR) ⁽¹⁾. The objective of the LCR is to promote the short-term resilience of the liquidity risk profile of banks. It does this by ensuring that banks have an adequate stock of unencumbered high-quality liquid assets (HQLA) that can be converted easily and immediately in private markets into cash to meet their liquidity needs for a 30-calendar-day liquidity stress scenario. It is intended that the LCR will improve the banking sector's ability to absorb shocks arising from financial and economic stress, whatever the source, thus reducing the risk of spillover from the financial sector to the real economy.

The BCBS has outlined in paragraph 26 of its revised rules text that HQLA, excluding certain level 2B assets, 'should ideally be eligible at central banks for intraday liquidity needs and overnight liquidity facilities', noting that in the past 'central banks have provided a further backstop to the supply of banking system liquidity under conditions of severe stress'. However as an exception, the BCBS notes that, 'in jurisdictions where central bank eligibility is limited to an extremely narrow list of assets, a supervisor may allow unencumbered, non-central bank eligible assets [...]'. The CRR seeks to also provide for such circumstances in that Article 416(3)(d) provides for institutions to report as liquid assets, subject to fulfilling the remaining conditions of Articles 416 and 417, those that are eligible collateral for standard liquidity operations of a central bank in a Member State or those that are held to meet liquidity outflows in the currency of a third country, of the central bank of that third country. Article 416(3) CRR, final sub-paragraph, outlines that this condition concerning central bank eligibility shall not apply in the case of liquid assets held to meet liquidity outflows in a currency in which there is an extremely narrow definition of central bank eligibility.

This consultation paper proposes draft ITS related to Article 416(5) CRR, which mandates the EBA to list the currencies in which there is an extremely narrow definition of central bank eligibility. For these currencies, Article 416(3)(d) CRR shall not apply and institutions may report as liquid assets, subject to fulfilling the remaining conditions of Articles 416 and 417, those that are not eligible collateral for standard liquidity operations of a central bank in a Member State or those that are held to meet liquidity outflows in the currency of a third country, of the central bank of that third country. This derogation ensures that institutions will be able to meet the liquidity requirements in currencies in which extremely narrow central bank eligibility exists by holding assets that are not eligible at the relevant central bank, but are otherwise liquid, in the liquidity buffer.

In the draft ITS, the list of currencies has been specified based on the assumption that an extremely narrow definition of central bank eligibility applies only if central government debt or debt issued by the central bank is eligible as collateral for standard liquidity operations at the central bank. This reflects the EBA's view that central bank eligibility gives important support to the liquidity of assets, and that central bank eligibility framework should be considered as extremely narrow only where the framework seems to have excluded any broader type of liquid asset class meeting the remaining requirements of Article 416 and 417 CRR as eligible collateral. In the event that the central bank eligibility is confined to central government debt or debt issued by the central bank, the EBA deems this to be probable.

⁽¹⁾ <http://www.bis.org/publ/bcbs238.htm>.

To develop the list of currencies with narrow central bank eligibility in the ITS, the EBA completed a data-gathering exercise among Member States to ascertain the asset classes that constitute central bank eligible assets for standard liquidity operations. Data have been collected on whether or not the eligibility for the standard central bank liquidity operations goes further than central government debt or debt issued by the central bank. For this assessment, it is not relevant whether or not institutions, according to current practice, may choose to use only a more limited set of collateral; for example, if institutions tend not to post certain assets types because of, for example, large haircuts, then for the purposes of these ITS the EBA still counts this asset class as included in the definition of central bank eligibility.

The data gathered, which are shown in Table 1, indicate that, generally, during the financial crisis, central bank eligibility criteria were extended to include asset classes that were not eligible before the crisis. This varies widely, however, among EU central banks. The list of central bank eligible assets in the euro zone is the widest within the EU, while central banks in countries such as the United Kingdom, Denmark, Norway and Sweden also allow a wide range of assets as collateral. Typically this includes covered bonds, debt instruments issued by corporate and asset-backed securities. On the other hand, other central banks, such as those of the Czech Republic and Iceland, have a quite narrow range of liquid assets that fulfil central bank eligibility criteria. In the Czech Republic it is only supranational debt instruments and in Iceland it is only securities unconditionally guaranteed by the central government that are included in the definition of central bank eligibility on top of central government debt or debt issued by the central bank. In the case of Bulgaria, the Bulgarian central bank does not extend liquidity to institutions except in extreme circumstances pursuant to Article 33 of the Law on the Bulgarian National Bank, which states: 'Upon emergence of a liquidity risk that may affect the stability of the banking system, the Bulgarian National Bank may extend to a solvent bank leva-denominated credits with maturity no longer than three months, provided they are fully collateralized by gold, foreign currency or other such high-liquid assets.'

Based on the definition of narrow central bank eligibility as that confined to central government debt or debt issued by the central bank, and the information provided by Member States, the list of currencies with extremely narrow central bank eligibility consists of just one currency: the Bulgarian leva.

Currencies outside the EEA have not been included in the evaluation, because of, inter alia, constraints to data availability. In addition, the EBA considers it preferable to consider non-EEA currencies in the light of the assessments of the definition of central bank eligibility as performed by the relevant non-EEA jurisdiction itself.

To keep the ITS updated, the EBA will repeat its analysis whenever a change (or series of changes) occurs that is likely to have a major impact on the outcome. This implies that, in the event of a decisive change in central bank eligibility, a review of the related ITS for the respective currency will be triggered.

Question for consultation

Question 1: Do you agree with the general approach and its results?

Table 1: Central bank eligible assets per country

| Central bank eligible assets | Bulgaria | Croatia | Czech Republic | Denmark | Euro area | Hungary | Iceland | Latvia | Lithuania | Norway | Poland | Romania | Sweden | United Kingdom |
|--|----------|---------|----------------|---------|-----------|---------|---------|---------|-----------|---------|--------------------|-------------------|---------|----------------|
| Debt instruments issued by central banks | no (1) | yes | yes | yes | yes | yes | yes | no | no | yes | yes | yes | yes | yes |
| Central government debt instruments | no (1) | yes | yes | yes | yes | yes | yes | yes | yes | yes | yes | yes | yes | yes |
| Supranational debt instruments | no (1) | yes | yes | no | yes | yes | no | no | no | yes | yes (only EIB) (4) | yes | yes | yes |
| Securities unconditionally guaranteed by the central government | no (1) | yes | no | yes | yes | yes | yes | yes (3) | yes (6) | yes | no | no | yes | yes |
| Local and regional government debt instruments | no (1) | no | no | yes | yes | yes (2) | no | no | no | yes | yes (4) | no | yes | no |
| Covered bonds | no (1) | no | no | yes | yes | yes (2) | no | yes (3) | no | yes | yes (4) | no | yes | yes |
| Debt instruments issued by corporate and other issuers | no (1) | no | no | no | yes | yes (2) | no | yes (3) | no | yes | yes (4) | no | yes | yes |
| Credit institutions debt instruments (other than covered bonds) | no (1) | no | no | yes (8) | yes | yes (2) | no | yes (3) | no | no | no | no | no | no |
| Asset backed securities | no (1) | no | no | no | yes | no | no | no | no | yes (4) | no | no | yes (5) | yes |
| Credit claims | no (1) | no | no | yes | yes | no | no | no | yes | no | no | no | no | yes |
| Residential mortgage backed debt instruments (rmbs) | no (1) | no | no | no | yes | no | no | no | no | no | no | no | no | yes |
| Other assets | no (1) | no | no | yes (9) | yes | no | no | no | yes (7) | no | no | By decision of CB | no | no |
| (1) Subject to currency boards arrangements | | | | | | | | | | | | | | |
| (2) Allowed in principle, but only few requirements meet the requirements | | | | | | | | | | | | | | |
| (3) Allowed in principle, but not used in practice | | | | | | | | | | | | | | |
| (4) Subject to conditions | | | | | | | | | | | | | | |
| (5) Only until 31. December 2013 | | | | | | | | | | | | | | |
| (6) State guarantees | | | | | | | | | | | | | | |
| (7) Includes credit institution warranties, and guarantees issued by procedure established by the Government and other asset by decision of the Central Bank | | | | | | | | | | | | | | |
| (8) Only debt instruments issued in connection with mortgage-credit financing. Not uncollateralised senior debt in general | | | | | | | | | | | | | | |
| (9) Only temporarily | | | | | | | | | | | | | | |

4. Draft implementing TS on currencies with an extremely narrow definition of central bank eligibility under Article 416(5) of Regulation (EU) No 575/2013 (Capital Requirements Regulation – CRR)

In between the text of the draft ITS that follows, further explanations on specific aspects of the proposed text are occasionally provided, which either offer examples or provide the rationale behind a provision, or set out specific questions for the consultation process. Where this is the case, this explanatory text appears in a framed text box.

Contents



EUROPEAN COMMISSION

Brussels, XXX
[...] (2013) XXX draft

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

of XXX

[...]

COMMISSION IMPLEMENTING CRR laying down implementing technical standards with regard to currencies in which there is an extremely narrow definition of central bank eligibility according to Regulation (EU) No 575/2013 of the European Parliament and of the Council

of **XXX**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 575/2013 of 26 June 2013 of the European Parliament and of the Council on prudential requirements for credit institutions and investment firms², and in particular Article 416(5) thereof,

Whereas:

- (1) The Basel Committee on Banking Supervision has developed international standards regarding the liquidity coverage ratio and liquidity risk monitoring tools (the BCBS standards), which in particular establish the proposition that the requirement of central bank eligibility for liquid assets does not need to hold for currencies with an extremely narrow definition of central bank eligibility.
- (2) The list of currencies with an extremely narrow definition of central bank eligibility should be limited to those currencies where central bank eligibility is confined to central government debt and debt issued by the central bank.
- (3) The assessment should be based on the best available data that can be supplied by competent authorities to the European Supervisory Authority (European Banking Authority) (EBA) on central bank eligibility in a given currency.
- (4) This Regulation is based on the draft implementing technical standards submitted by the EBA to the Commission.
- (5) The EBA has conducted open public consultations on the draft implementing 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,

² OJ. 176, 27.6.2013, p.1.

HAS ADOPTED THIS REGULATION:

Article 1 – Currencies with extremely narrow central bank eligibility

The currencies which meet the conditions referred to in the third subparagraph of Article 416(3) of Regulation (EU) No 575/2013 are listed in the Annex.

Article 2 – Final provisions

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,

For the Commission

The President

On behalf of the President

[Position]

ANNEX

- Bulgarian lev (BGN)

5. Accompanying documents

5.1 Draft cost–benefit analysis/impact assessment

5.1.1 Introduction

1. Article 15(1) of the EBA Regulation (Regulation (EU) No 1093/2010 of the European Parliament and of the Council) provides that when any draft regulatory technical standards developed by the EBA are submitted to the Commission for adoption, they shall be accompanied by an analysis of ‘the potential related costs and benefits’. This analysis should provide an overview of the findings regarding the problem to be dealt with, the solutions proposed and the potential impact of these options.
2. The analysis of the draft RTS on the method for identifying the geographical location of the relevant credit exposures is provided in this note. These draft RTS have been developed pursuant to Article 416(5) CRR.

5.1.2 Problem definition

Issues addressed by the European Commission (EC) regarding liquidity management

3. In its impact assessment of the CRD IV framework, the European Commission noted that the existing liquidity risk management approaches and supervisory regimes inadequately captured risks inherent in the underlying market practices and trends. These shortcomings contributed to the failure of several institutions and strongly undermined the financial health of many others, threatening financial stability and leading to unprecedented levels of central bank liquidity and government support.
4. To address this issue, the CRR proposes two minimum standards for funding liquidity. One of these requirements is the Liquidity Coverage Requirement, which aims to ensure that an institution has enough high-quality liquid resources to survive an acute stress scenario lasting for 30 days. This requirement will contribute to realising the general objectives of CRD IV, as well as the two following specific objectives:
 - ▶ S.1 Enhancing adequacy of capital and liquidity requirements
 - ▶ S.2 Enhancing bank risk management
5. To meet the requirements of the liquidity coverage requirement, institutions must hold a stock of HQLA to cover the total net cash outflows over a 30-day period. Such assets should be liquid in markets during a time of stress and, in most cases, be eligible for use in central bank operations. Because in some jurisdictions there may be not enough HQLA available, the CRR leaves a possibility for institutions to use derogations to meet the requirements of the liquidity coverage requirement in the line of what has been suggested in the Basel III framework.

Issues addressed by the technical standard and objectives

6. The CRR mandates the EBA to develop draft technical standards to list the currencies with an extremely narrow definition of central bank eligibility. For all the currencies listed,

Article 416(3)(d) CRR, which requires liquid assets held to meet liquidity outflows in the currency to be eligible collateral for standard central bank liquidity operations, does not have to be fulfilled.

Methodology used

7. The EBA collected data on whether the eligibility for the standard central bank liquidity operations goes further than central government debt or debt issued by the central bank. The data gathered showed that in most currencies the list of central bank eligible assets was very large and, therefore, the amount of liquid assets available did not justify an exemption from Article 416(3)(d).

5.1.3 Impact

Costs

8. These ITS list the currencies for which the EBA has identified for which the extremely narrow definition of central bank eligibility may excessively constrain the amount of liquidity asset available for meeting the requirements of the liquidity coverage requirement and justify allowing institutions operating in these currencies to meet their liquidity coverage requirements by using otherwise liquid assets that are not central bank eligible.
9. The EBA has currently identified only one currency for which this is the case. The number of institutions operating in this currency is small and the amount of total assets that they hold represents only a small share of the total assets held by the banking sector in the EEA. The risk of creating an unlevel playing field for the application of the liquidity coverage requirement is, therefore, not significant.

Benefits

10. These ITS will ensure that currencies with a shortfall of liquid assets due to a narrow definition of central bank eligibility are identified using the same methodology. It will ensure that institutions operating in these currencies may use, when appropriate, the appropriate derogation to the liquidity coverage requirement to meet their liquidity requirements without impeding the liquidity of the financial markets they operate on.

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| Question 2: Do you agree with the above analysis of the cost and benefit impact of the proposals? |
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5.2 Overview of questions for consultation

Question 1: Do you agree with the general approach and its results?

Question 2: Do you agree with the above analysis of the cost and benefit impact of the proposals?