



The Voice of Leasing and Automotive Rental in Europe

Brussels, 14 August 2024

### **Leaseurope comments to the EBA consultation on ADC exposures to residential property under CRR 3**

Leaseurope, the voice of leasing and automotive rental at European level, welcomes the opportunity to comment on the EBA consultation on its draft Guidelines on Acquisition, Development, and Construction (ADC) exposures to residential property under CRR 3.

It should be noted that Leaseurope's members' concerns do not in fact extend to ADC exposures to residential property. Our concerns relate to an interpretation issue regarding the new definition of ADC exposures.

#### **Leaseurope seeks clarification on the new ADC exposures when financing the acquisition of land and/or the construction of real estate which is intended for own use**

Leaseurope would like to raise an interpretation issue regarding the new definition of Acquisition Development and Construction (ADC). It is our assessment that ADC does not apply to exposures to entities for financing the acquisition of land and/or the construction of real estate which is intended for own use, where the repayment of the loan/lease does not materially depend on the cashflow generated by the property either by sale or rent to third unrelated entities. This interpretation is based on the Explanatory Memorandum which defines that the heightened risk of ADC exposures is caused by uncertainty of the sale of the property or substantially uncertain cash flows. The addition of the uncertain cashflows is presented as a refinement of the CRR II, replacing the exposure class of speculative immovable property financing, which is limited to the intention to sell. Please refer to the wordings of the Memorandum below.

However, the definition of ADC in article 4 (79) does not reference the uncertainty of the cash flows;

*“(79) ‘ADC exposures’ or ‘land acquisition, development and construction exposures’ means exposures to corporates or special purpose entities financing any land acquisition for development and construction purposes, or financing development and construction of any residential or commercial immovable property;”*

Based on this, Leaseurope assumes that the uncertainty of the cashflow is mirrored in the ADC definition by the word 'development' which is always linked to land acquisition or construction. Consequently, financing the construction of a real estate property where there is no 'development' involved, i.e., where the property after completion will be used by the borrower, does not qualify for ADC. Moreover, if financing a construction of a property intended for own use of the borrower (meaning

not an “IPRE activity”) would be marked as ADC exposure, this would allow for the possibility to engage in arbitrage with generic (corporate) facilities with a corporate risk weight < 150, creating a not intended situation.

Following the Explanatory Memorandum that accompanied the EC proposal for CRR III introduces ADC as follows on page 16:

*“Loans financing land acquisition, development or construction (ADC) of any residential or commercial immovable properties incur a heightened risk. That heightened risk is due to the fact that the source of repayment at origination of the loan is either a planned, but uncertain sale of the property, or substantially uncertain cash flows. The current treatment of speculative immovable property financing is based solely on the borrower’s intention to resell the property for a profit, without taking into account to which extent the repayment is actually certain. Therefore, a new definition is introduced in Article 4 and a new Article 126a is inserted to introduce the specific risk weight treatment of 150% provided by the Basel III standards for loans to companies or special purpose vehicles financing ADC of any residential or commercial property. In turn, the current risk weight treatment of 150% for “speculative immovable property financing” is removed as it is solely based on the borrower’s intention to resell the property for a profit, without taking into account to which extent the repayment is actually uncertain. “*

**We kindly request the EBA to clarify in the guidelines whether ADC does not apply to exposures to entities for financing the acquisition of land and/or the construction of real estate which is intended for own use, where the repayment of the loan does not materially depend on the cashflow generated by the property either by sale or rent to third unrelated entities.**

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## About us

Leaseurope brings together 44 member associations representing the leasing, long term and/or short term automotive rental industries in the 31 European countries in which they are present. The scope of products covered by Leaseurope members' ranges from hire purchase and financeleases to operating leases of all asset categories (automotive, equipment, machinery, ICT and real estate). It also includes the short-term rental of cars, vans and trucks. It is estimated that Leaseurope represents over 90% of the European leasing market.

Asset finance and leasing markets have developed to respond to business investment and consumption needs as well as to accompany the development of local industrial production and distribution. The types of institutions represented by the Federation include specialised banks, bank-owned subsidiaries, the financing arms of manufacturers as well as other, independently- owned institutions.

In 2023, the leasing firms represented through **Leaseurope's membership helped European businesses, households and the public sector invest in assets that is estimated worth more than 440 billion EUR, reaching about 975 billion EUR** of outstandings at the end of the year<sup>1</sup>. **Leasing is the most relevant external financing source for SMEs** and is also popular amongst larger corporates<sup>2</sup>. Leasing is also useful to support the public sector (e.g. leasing to schools, hospitals, etc.).

**Leaseurope is entered into the European Transparency Register of Interest Representatives with ID n° 430010622057-05**

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<sup>1</sup> Leaseurope 2023 Annual Statistical Enquiry (provisional).

<sup>2</sup> European Commission, Survey on the Access to Finance of Enterprises Apr. – Oct. 2023