Note: This publication is discontinued.

Please refer to the ECB's banking supervision website for the latest information.

EUROPEAN CENTRAL BANK

BANKING SUPERVISION

ECB Guide on options and discretions available in Union law

March 2022

Contents

Section I Overview of the Guide on options and discretions 2

1 Purpose 2

2 Scope, content and effect 2

3 Options and discretions exercised in exceptional circumstances or in support of monetary policy 5

Section II The ECB's policy for the exercise of options and discretions in the CRR and the CRD 6

Chapter 1 Consolidated supervision and waivers of prudential requirements 6

Chapter 2 Own funds 23

Chapter 3 Capital requirements 27

Chapter 4 Institutional protection schemes 32

Chapter 5 Large exposures 40

Chapter 6 Liquidity 44

Chapter 7 Leverage 61

Chapter 8 Reporting on prudential requirements and financial information 63

Chapter 9 General requirements for access to the activity of credit institutions 63

Chapter 10 Timeline for the assessment of proposed acquisitions of qualifying holdings 64

Chapter 11 Governance arrangements and prudential supervision 65

Section III The ECB's general policy regarding the exercise of certain options and discretions in the CRR and the CRD where further action or assessment is required 70

Chapter 1 Consolidated supervision and waivers of prudential requirements 70

Chapter 2 Own funds 71

Chapter 3 Capital requirements 71

Chapter 4 Liquidity 72

Section I
Overview of the Guide on options and discretions

1 Purpose

1. This Guide sets out the approach of the European Central Bank (ECB) concerning the exercise of options and discretions provided for in the European Union legislative framework (Regulation (EU) 575/2013 of the European Parliament and of the Council[1] (CRR) and Directive 2013/36/EU of the European Parliament and of the Council[2] (CRD)) and which concern the prudential supervision of credit institutions.

2. The Guide has been revised and updated to reflect changes to the CRR and the CRD introduced since the Guide's publication in 2016, most notably by means of Regulation (EU) 2019/876 of the European Parliament and of the Council[3] and Directive (EU) 2019/878 of the European Parliament and of the Council[4].

3. The Guide aims to provide coherence, effectiveness and transparency regarding the supervisory policies that will be applied in supervisory processes within the Single Supervisory Mechanism (SSM) as far as the significant credit institutions are concerned. In particular, it aims to assist the Joint Supervisory Teams (JSTs) in the performance of their tasks with regard to the principles the ECB intends to follow in supervising significant credit institutions.

2 Scope, content and effect

1. This Guide is relevant for credit institutions that have been designated as significant credit institutions by the ECB.

---

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 amending Regulation (EU) No 648/2012 (OJ L 176, 27.6.2013, p. 1). Some options and discretions are also included in Commission Delegated Regulation (EU) 2015/61 of 10 October 2014 to supplement Regulation (EU) No 575/2013 of the European Parliament and the Council with regard to liquidity coverage requirement for Credit Institutions (OJ L 11, 17.1.2015, p. 1).

2 Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.6.2013, p. 338).

3 Regulation (EU) 2019/876 of the European Parliament and of the Council of 20 May 2019 amending Regulation (EU) No 575/2013 as regards the leverage ratio, the net stable funding ratio, requirements for own funds and eligible liabilities, counterparty credit risk, market risk, exposures to central counterparties, exposures to collective investment undertakings, large exposures, reporting and disclosure requirements, and Regulation (EU) No 648/2012 (OJ L 150, 7.6.2019, p. 1).

4 Directive (EU) 2019/878 of the European Parliament and of the Council of 20 May 2019 amending Directive 2013/36/EU as regards exempted entities, financial holding companies, mixed financial holding companies, remuneration, supervisory measures and powers and capital conservation measures (OJ L 150, 7.6.2019, p. 253).

2. The Guide sets out the general aspects which will be taken into account by the ECB in determining the prudential requirements for significant credit institutions. The policies set out in this Guide will be used as guidance by the JSTs when assessing individual requests and/or decisions that would involve the exercise of an option or discretion.

3. The structure of the Guide mirrors the structure of the relevant legislative acts (e.g. the CRR/CRD). The Guide should be read in conjunction with the relevant legal texts.

4. The terms used in the Guide have the same meaning as defined in the CRR/CRD and Council Regulation (EU) No 1024/2013[5] (SSM Regulation), with the exception of cases where a term is specifically defined in this Guide for the purposes of this Guide only.[6]

5. The references to the CRD and the CRR should be considered as referring to the CRR and the CRD as amended by all EU legislation in force as of the date of publication of the revised version of the Guide on the ECB's banking supervision website. The references should also be considered as including any regulatory or implementing technical standards provided for in those acts which have already been adopted, or as soon as they are adopted by the European Commission and published in the Official Journal of the European Union. Likewise, references to Commission Delegated Regulation (EU) 2015/61, concerning the liquidity coverage ratio, should be considered as referring to that act as amended by all relevant legislation[7] in force as of the date of publication of the revised version of the Guide on the ECB's banking supervision website. In accordance with the CRD, national implementing law must also be taken into account (see also paragraph 12 below).

6. The policies in this Guide take into account the results of an impact assessment exercise and the outcome of the public consultation carried out between 11 November and 16 December 2015. The ECB carefully examined the comments received during the consultation process and provided its own assessment in a feedback statement, which was published on 24 March 2016. A second consultation on the approach for the recognition of institutional protection schemes for prudential purposes was carried out between 19 February and 15 April 2016. An addendum to the ECB Guide was consulted between 18 May and 21 June 2016. The feedback statements, in which the ECB provides its own assessment of the comments received during those subsequent consultation processes, were published on 12 July and 10 August 2016 respectively. In addition, the ECB's assessment took into account the state of implementation of options and discretions across SSM jurisdictions and considered the treatment of the options and discretions by the Basel

---

5 Council Regulation (EU) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions (OJ L 287, 29.10.2013, p. 63).

6 For the avoidance of doubt, for the purposes of supervision on a consolidated basis, the term credit institution should be understood within the meaning of Article 11(2) of the CRR, where applicable.

7 Notably, Commission Delegated Regulation (EU) 2018/1620 of 13 July 2018 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 (OJ L 271, 30.10.2018, p. 10).

Committee on Banking Supervision, as well as the regulatory approach recommended by the European Banking Authority (EBA).

7. Between 29 June 2021 and 30 August 2021, a consultation was carried out on a draft revised version of the Guide, which took into account changes to the Union legislative framework introduced by Regulation (EU) 2019/876 and Directive (EU) 2019/878. The policy updates set out in the version of the Guide published on 28 March 2022 should be considered to be applicable as of that date.

8. The final policy choices reflected in this Guide aim to achieve the objectives of the SSM, as specified in Recital 12 of the SSM Regulation, i.e. to "*ensure that the Union's policy relating to the prudential supervision of credit institutions is implemented in a coherent and effective manner, that the single rulebook for financial services is applied in the same manner to credit institutions in all Member States concerned, and that those credit institutions are subject to the supervision of the highest quality*". In this context, the policy choices take into account not only the specific features of individual credit institutions, but also the specific features of their business models, as well as indicators related to territories of the participating Member States. Furthermore, the assessment that the ECB will carry out in individual cases will respect the specifics and particular features of significant credit institutions and different markets.

9. This Guide does not establish new regulatory requirements and the specifications and principles included herein should not be construed as being legally binding rules.

10. The guidance included in each policy choice sets out the approach to be followed by the ECB in carrying out its supervisory tasks. If, however, in specific cases, there are factors that justify departing from this guidance, the ECB is empowered to take a decision that departs from the general policy established in this Guide, provided that clear and sufficient reasons are provided for the decision. The rationale of this divergent policy choice must also be compatible with the general principles of EU law, in particular equal treatment, proportionality and the legitimate expectations of supervised entities. This is consistent with established case-law of the Court of Justice of the European Union where internal guidance, such as this Guide, is defined as rules of practice from which EU institutions may depart in justified cases[8].

11. The ECB reserves the right to review the policy guidance set out in this document to take account of changes in legislative provisions or specific circumstances, as well as the adoption of specific delegated acts that may regulate a specific policy issue in a different way. Any changes will be made public and take due account of the principles of legitimate expectations, proportionality and equal treatment referred to above.

---

[8] See, indicatively, paragraph 209 of the judgement of the Court of Justice of the European Union of 28 June 2005 in Joined Cases C-189/02, C-202/02, C-205/02 to C-208/02 and C-213/02: "*The Court has already held, in a judgment concerning internal measures adopted by the administration, that although those measures may not be regarded as rules of law which the administration is always bound to observe, they nevertheless form rules of practice from which the administration may not depart in an individual case without giving reasons that are compatible with the principle of equal treatment. Such measures therefore constitute a general act and the officials and other staff concerned may invoke their illegality in support of an action against the individual measures taken on the basis of the measures.*"

12. When setting out its policy stance as provided for in this Guide, the ECB acts within the limits of applicable EU law. In particular, as regards cases where this Guide refers to options and discretions in the CRD, the ECB sets out its policy stance without prejudice to the application of national legislation transposing directives, in particular the CRD, where a relevant policy choice is already adopted in such national legislation. The ECB will also abide by the applicable EBA Guidelines, within a "comply or explain" framework pursuant to Article 16 of Regulation (EU) No 1093/2010[9].

13. Finally, the policies defined in this Guide are without prejudice and are not applicable to the options and discretions available in EU law and already exercised by the ECB under Regulation (EU) 2016/445[10].

3 Options and discretions exercised in exceptional circumstances or in support of monetary policy

1. Regulation (EU) 2019/876 and Commission Delegated Regulation (EU) 2018/1620 introduce a number of options and discretions that may be exercised in exceptional circumstances or in support of monetary policy. These include:

   - with regard to the liquidity coverage ratio (LCR) requirement, the waiver of certain transactions from the unwind mechanism provided for in Article 17(4) of Commission Delegated Regulation (EU) 2015/61;
   - with regard to the net stable funding ratio (NSFR) requirement, the waiver of the impact of certain derivative contracts provided for in Article 428d(6) of the CRR and the preferential treatment of assets associated with certain non-standard, temporary operations conducted by central banks provided for in Articles 428p(7) and 428aq(7) of the CRR;
   - with regard to the leverage ratio, the waiver to exclude certain central bank exposures from the calculation of the leverage ratio provided for in Article 429a(5) of the CRR.

2. The ECB does not expect to receive applications from institutions in relation to these options and discretions. Instead, the ECB, acting as competent authority, will exercise these options and discretions in exceptional circumstances and under the conditions set forth by the relevant legislative provisions, in consultation with, or subject to the approval of, the relevant central bank, as appropriate.

---

[9] 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).

[10] Regulation (EU) 2016/445 of the European Central Bank of 14 March 2016 on the exercise of options and discretions available in Union law (ECB/2016/4) (OJ L 78, 24.3.2016, p. 60).

Section II
The ECB's policy for the exercise of options and discretions in the CRR and the CRD

This section sets out the specific policy guidance that the ECB intends to follow when assessing individual applications by supervised credit institutions which would involve the exercise of the options and discretions included herein. The purpose of this section is to assist the JSTs in their supervisory tasks and to inform credit institutions and the general public about the ECB's policy in this area in the interests of openness and transparency.

Chapter 1
Consolidated supervision and waivers of prudential requirements

1. This Chapter sets out the preferred policy choice of the ECB on the general principles of consolidated supervision, as well as on waivers from certain prudential requirements.

2. Articles 6 to 24 of Part One of the CRR, as well as Commission Delegated Regulation (EU) 2015/61, set out the relevant legislative and regulatory framework.

3. DEROGATION FROM THE APPLICATION OF PRUDENTIAL REQUIREMENTS ON AN INDIVIDUAL BASIS (Article 7 of the CRR)

   The application of prudential requirements may be waived for subsidiaries of credit institutions, as well as parent credit institutions, where both the subsidiary and the parent credit institution are authorised and supervised in the same Member State, following a case-by-case assessment and provided that the conditions set out in Article 7(1), (2) and (3) of the CRR are satisfied.

   For the purposes of this assessment, the ECB will consider the following factors.

   - **Article 7(1) of the CRR, on the waiver of requirements for subsidiary credit institutions**

   (1) To assess whether the condition laid down in Article 7(1)(a) that there is no current or foreseen material practical or legal impediment to the prompt transfer of own funds or repayment of liabilities by the subsidiary's parent undertaking has been met, the ECB plans to verify that:

(i) the shareholding and legal structure of the group does not hamper the transferability of own funds or repayment of liabilities;

(ii) the formal decision-making process regarding the transfer of own funds between the parent undertaking and subsidiary ensures prompt transfers;

(iii) the by-laws of the parent and of the subsidiaries, any shareholder's agreement, or any other known agreements do not contain any provisions that may obstruct the transfer of own funds or repayment of liabilities by the parent undertaking;

(iv) there have been no previous serious management difficulties or corporate governance issues which might have a negative impact on the prompt transfer of own funds or the repayment of liabilities;

(v) no third parties[11] are able to exercise control over or prevent the prompt transfer of own funds or repayment of liabilities;

(vi) the grant of a waiver has duly been taken into account in the recovery plan and, if any, the group financial support agreement;

(vii) the waiver has no disproportionate negative effects on the resolution plan;

(viii) the COREP "Group Solvency" template (Annex I to Commission Implementing Regulation (EU) No 680/2014[12]), which aims to provide a global view of how risks and own funds are distributed within the group, shows no discrepancy in this regard.

(2) In assessing compliance with the requirement laid down in Article 7(1)(b) of the CRR that either the parent undertaking satisfies the competent authority regarding the prudent management of the subsidiary and has declared, with the permission of the competent authority, that it guarantees the commitments entered into by the subsidiary, or the risks in the subsidiary are of negligible interest, the ECB will take into account whether:

(i) the credit institutions comply with the national legislation implementing Chapter 2 of Title VII of the CRD;

(ii) the supervisory review and evaluation process (SREP) for the parent undertaking shows that the arrangements, strategies, processes and mechanisms it has implemented ensure the sound management of its subsidiaries;

(iii) the waiver has no disproportionate negative effects on the resolution plan;

---

11 Third parties are any party that is not the parent, a subsidiary, a member of their decision-making bodies or a shareholder.

12 Commission Implementing Regulation (EU) No 680/2014 of 16 April 2014 laying down implementing technical standards with regard to supervisory reporting of institutions according to Regulation (EU) No 575/2013 of the European Parliament and of the Council (OJ L 191, 28.6.2014, p. 1).

(iv) with regard to risks being of negligible interest, the subsidiary's contribution to the total risk exposure amount does not exceed 1% of the total exposure amount of the group or its contribution to total own funds does not exceed 1% of the total own funds of the group[13]. (Nonetheless, in exceptional cases the ECB may apply a higher threshold if duly justified. In any case, the sum of the contributions of the subsidiaries considered negligible in terms of the total risk exposure amount must not exceed 5% of the total exposure amount of the group and their contributions to total own funds must not exceed 5% of the total own funds of the group.)

(3) In assessing compliance with the requirement laid down in Article 7(1)(c) that the risk evaluation, measurement and control procedures of the parent undertaking cover the subsidiary, the ECB intends to take into account whether:

(i) senior management of the parent undertaking is sufficiently involved in strategic decisions, setting the risk appetite and the risk management of the subsidiary;

(ii) the risk management and compliance functions of the subsidiary and parent undertaking fully cooperate (e.g. the control functions of the parent have easy access to all the necessary information of the subsidiary);

(iii) the information systems of the subsidiary and parent undertaking are integrated or, at least, fully aligned;

(iv) the subsidiary to be waived complies with the group risk management policy and the risk appetite framework (the limit system in particular);

(v) the SREP for the parent undertaking does not show deficiencies in the area of internal governance and risk management.

(4) In assessing compliance with the requirement laid down in Article 7(1)(d) that the parent undertaking holds more than 50% of the voting rights attached to shares in the capital of the subsidiary or has the right to appoint or remove a majority of the members of the management body of the subsidiary, the ECB plans to verify that:

(i) there are no side agreements that impede the parent undertaking from imposing any measures necessary to steer the group towards compliance with prudential requirements.

(5) In assessing an application for a prudential waiver in accordance with Article 7(1) of the CRR, the ECB will also take into account considerations related to the leverage ratio, given that pursuant to Article 6(5) of the CRR granting such a waiver will also automatically waive the leverage requirement at the same level of the group structure.

[13] Commission Implementing Regulation (EU) No 680/2014, Annex II, Part II, paragraph 37.

- **Article 7(3) of the CRR, on the waiver of requirements for parent institutions**

(1) To assess whether the condition laid down in Article 7(3)(a) that there is no current or foreseen material practical or legal impediment to the prompt transfer of own funds or repayment of liabilities to the parent institution in a Member State has been met, the ECB plans to verify that:

(i) the shareholding and legal structure of the group does not hamper the transferability of own funds or repayment of liabilities;

(ii) the formal decision-making process regarding the transfer of own funds to the parent credit institution in a Member State ensures prompt transfers;

(iii) the by-laws of the parent and of the subsidiaries, any shareholder's agreement, or any other known agreements do not contain any provisions that may obstruct the transfer of own funds or repayment of liabilities to the parent credit institution;

(iv) there have been no previous serious management difficulties or corporate governance issues which might have a negative impact on the prompt transfer of own funds or the repayment of liabilities;

(v) no third parties are able to exercise control over or prevent the prompt transfer of own funds or repayment of liabilities;

(vi) the grant of a waiver has duly been taken into account in the recovery plan and, if any, the group financial support agreement;

(vii) the waiver has no disproportionate negative effects on the resolution plan;

(viii) the COREP "Group Solvency" template, which aims to provide a global view of how risks and own funds are distributed within the group, shows no discrepancy in this regard.

(2) In addition to these specifications, in assessing the condition referred to in Article 7(3)(a) that there is no current or foreseen material practical or legal impediment to the prompt transfer of own funds or repayment of liabilities to the parent institution in a Member State, the ECB will take into account whether:

(i) the own funds held by subsidiary institutions located in the European Economic Area (EEA) are sufficient to grant the waiver to the parent institution (i.e. the granting of the waiver should not be justified on the basis of resources coming from third countries, unless official EU recognition of the equivalence of the third country is available and there are no other impediments);

(ii) the minority shareholders of the subsidiary institutions do not together hold voting rights that would allow them to block an agreement, decision or act of the general meeting under the applicable national company law;

(iii) foreign exchange restrictions, if any, do not prevent the prompt transfer of own funds or repayment of liabilities.

(3) In assessing compliance with the requirement laid down in Article 7(3)(b) that the risk evaluation, measurement and control procedures relevant for consolidated supervision cover the parent institution in a Member State, the ECB intends to take into account whether:

(i) senior management of the entity responsible for the risk evaluation, measurement and control procedures relevant for consolidated supervision is sufficiently involved in strategic decisions, setting the risk appetite and the risk management of the parent institution;

(ii) there is full cooperation between the risk management and compliance functions of the entity responsible for the risk evaluation, measurement and control procedures relevant for consolidated supervision and the parent institution (e.g. the control functions of this entity have easy access to all the necessary information of the parent institution);

(iii) the information systems of the entity responsible for the risk evaluation, measurement and control procedures relevant for consolidated supervision and those of the parent institution are integrated or, at least, fully aligned;

(iv) the parent institution that would benefit from the waiver complies with the group risk management policy and the risk appetite framework (the limit system in particular);

(v) the SREP for the entity responsible for the risk evaluation, measurement and control procedures relevant for consolidated supervision does not show deficiencies in the area of internal governance and risk management.

(4) In assessing an application for a prudential waiver in accordance with Article 7(3) of the CRR, the ECB will also take into account considerations related to the leverage ratio, given that pursuant to Article 6(5) of the CRR granting such a waiver will also automatically waive the leverage requirement at the same level of the group structure.

- **Documentation related to Article 7(1) and (3) CRR waivers**

- **Documentation related to Article 7(1) waivers**

For the purpose of the assessment(s) under Article 7(1) of the CRR, the credit institution is expected to submit the following documents, which the ECB will consider to be evidence that the conditions set out in the legislation have been satisfied:

(i) a letter signed by the parent undertaking's chief executive officer (CEO), with approval from the management body, stating that the significant

supervised group complies with all the conditions for granting the waiver(s) laid down in Article 7 of the CRR;

(ii) a legal opinion, issued either by an external independent third party or by an internal legal department, approved by the management body of the parent undertaking, demonstrating that there are no obstacles to the transfer of own funds or repayment of liabilities by the parent undertaking resulting from either applicable legislative or regulatory acts (including fiscal legislation) or legally binding agreements;

(iii) an internal assessment which confirms that the grant of a waiver has duly been taken into account in the recovery plan and the group financial support agreement, if available, drawn up by the institution in accordance with Directive 2014/59/EU of the European Parliament and of the Council (Bank Recovery and Resolution Directive – BRRD)[14];

(iv) evidence that the parent undertaking has guaranteed all the obligations of the subsidiary, by means, for example, of a copy of a signed guarantee or an extract from a public register certifying the existence of such guarantee or a declaration to such effect, which is reflected in the parent undertaking's articles of association or has been approved by the general meeting and reported in the annex to its consolidated financial statements. As an alternative to a guarantee, credit institutions can provide evidence that the risks in the subsidiary are negligible;

(v) the list of the entities for which the waiver is requested;

(vi) a description of the functioning of the financing arrangements to be used in the event that an institution faces financial difficulties, including information about how those arrangements ensure funds that are (a) available at will, and (b) freely transferrable;

(vii) a statement signed by the CEO and approved by the management body of the parent undertaking and the other institution(s) seeking the waiver, certifying that there are no practical impediments to the transfer of funds or the repayment of liabilities by the parent undertaking;

(viii) documentation approved by the management bodies of the parent undertaking and the other institution(s) seeking the waiver attesting that the risk evaluation, measurement and control procedures of the parent undertaking cover all the institutions included in the application;

(ix) a brief overview of the risk evaluation, measurement and control procedures of the parent institution, or, in the case of a horizontal group of institutions, of the consolidating institution, as well as information about the

[14] Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012, of the European Parliament and of the Council (OJ L 173, 12.06.2014, p. 190).

contractual basis, if any, upon which the risk management for the group as a whole can be controlled by the relevant steering entity;

(x) the structure of the voting rights attached to shares in the capital of the subsidiary;

(xi) any agreement that grants the parent undertaking the right to appoint or remove a majority of the members of the management body of the subsidiary.

- **Documentation related to Article 7(3) waivers**

Institutions applying for a waiver under Article 7(3) of the CRR are expected to submit the following documents to the ECB:

(i) a letter signed by the parent undertaking's CEO, with approval from the management body, stating that the significant supervised group complies with all the conditions for granting the waiver(s) laid down in Article 7 of the CRR;

(ii) a legal opinion, issued either by an external independent third party or by an internal legal department, approved by the management body of the parent undertaking, demonstrating that there are no obstacles to the transfer of funds or repayment of liabilities to the parent undertaking resulting from either applicable legislative or regulatory acts (including fiscal legislation) or legally binding agreements;

(iii) an internal assessment which confirms that the grant of a waiver has duly been taken into account in the recovery plan and the group financial support agreement, if available, drawn up by the institution in accordance with the BRRD;

(iv) a description of the functioning of the financing arrangements to be used in the event that the parent undertaking faces financial difficulties, including information about how those arrangements ensure funds that are (a) available at will and (b) freely transferrable;

(v) a statement signed by the relevant subsidiary undertakings' CEOs and approved by the management bodies of such subsidiary undertakings, certifying that there are no practical impediments to the transfer of funds or the repayment of liabilities to the parent undertaking;

(vi) documentation approved by the management body of the entity responsible for the risk evaluation, measurement and control procedures relevant for consolidated supervision attesting that the risk evaluation, measurement and control procedures cover the parent undertaking;

(vii) a brief overview of the risk evaluation, measurement and control procedures relevant for consolidated supervision.

In the case of subsidiaries established in non-EEA countries, institutions must submit, in addition to those documents, written confirmation by the third-country competent authority for the prudential supervision of such subsidiaries that there are no practical impediments to the transfer of own funds or repayment of liabilities from the relevant subsidiary to the parent institution seeking the waiver.

4. LIQUIDITY WAIVERS (Article 8 of the CRR)

Article 8 of the CRR allows the competent authority to waive, in full or in part, the application of the liquidity requirements set out in Part Six of the CRR to an institution and to all or some of its subsidiaries in the EU and supervise them as a single liquidity sub-group as long as certain conditions are met. The requirements that can be waived as per Article 8 of the CRR are the following:

(i) the application of the liquidity coverage requirement under Article 412(1) of the CRR and further specified in Commission Delegated Regulation (EU) 2015/61;

(ii) the application of the stable funding requirement under Article 413(1) of the CRR and further specified under Title IV of Part Six of the CRR;

(iii) the application of Article 86 of the CRD;

(iv) the application of the associated liquidity reporting requirements under Article 430(1)(d) of the CRR, including the reporting requirements related to the additional liquidity monitoring metrics referred to in Article 415(3) of the CRR.

When applying for a waiver in accordance with Article 8 of the CRR, credit institutions should consider the following:

(i) The ECB intends to exclude liquidity reporting requirements from such waivers (i.e. the reporting requirements will remain in place), with the possible exception of cases where all the credit institutions that form a liquidity sub-group are located in the same Member State.

(ii) Credit institutions that already benefit from a waiver of the stable funding requirement under Article 413(1) of the CRR, for example because their existing waiver decision waives the application of the whole of Part Six of the CRR, are, in principle, already waived from the application of the NSFR as specified under Title IV of Part Six of the CRR. The ECB may review existing waiver decisions at any time to determine whether credit institutions continue to fulfil the relevant conditions for the granting of the waiver.

(iii) When considering whether to waive the application of Article 86 of the CRD to an institution, the ECB will take into account whether the institution meets all the conditions set out in Article 8 of the CRR and further specified below, and whether the application for such a waiver is made in

conjunction with a waiver of the application of both the LCR and the NSFR.

- **General conditions – all waiver applications**

For each application in accordance with Article 8 of the CRR, the credit institution is expected to provide the following.

(1) Details of the entities that will be included in the sub-group, the name of the entity within which the liquidity management function for the sub-group will be allocated and an explanation of the rationale for the application of the waiver.

(2) With respect to the requirement laid down in Article 8(1)(a) of the CRR that the parent institution on a consolidated basis or a subsidiary institution on a sub-consolidated basis complies with the obligations laid down in Part Six of the CRR, the credit institution should provide the following:

(i) A calculation of the liquidity requirement(s) for which the waiver is requested (i.e. the LCR and/or the NSFR) at the level of the liquidity sub-group, which demonstrates that the sub-group meets the relevant requirement(s) applicable in the jurisdiction where the sub-group is established.

(ii) Internal monitoring reports which confirm a sound liquidity and/or funding position. A liquidity and/or funding position would be considered to be sound if the consolidating credit institution has had an adequate level of liquidity and/or funding management and control over the past two years. The credit institution would be expected to flag any obstacles to the free transfer of funds that may arise, either in normal or stressed market conditions, from national liquidity provisions.

(iii) The LCR and/or NSFR of each entity of the sub-group and the existing plans to achieve or maintain compliance with the relevant requirement(s) should the waiver not be granted.

(3) With respect to the condition set out in Article 8(1)(b) of the CRR that the parent institution on a consolidated basis or the subsidiary institution on a sub-consolidated basis monitors and has oversight at all times over the liquidity and/or funding positions of all credit institutions within the sub-group that are subject to the waiver and ensures a sufficient level of liquidity and/or funding for all of these credit institutions, the credit institution should provide:

(i) the organisation chart of the liquidity management function within the sub-group showing the level of centralisation at the sub-group level;

(ii) a description of the processes, procedures and tools used for the internal monitoring of the entities' liquidity positions at all times and the extent to which they are designed at the sub-group level;

(iii) a description of the liquidity contingency plan for the liquidity sub-group.

(4) With respect to the condition laid down in Article 8(1)(c) of the CRR that the credit institutions have entered into contracts that, to the satisfaction of the competent authorities, provide for the free movement of funds between them to enable them to meet their individual and joint obligations as they come due, the credit institution should provide:

(i) the contracts concluded between entities which are part of the liquidity sub-group, which do not provide for any amount or any time limit or which provide for a time limit as specified below under the sub-paragraphs "Further specifications – waiver of the LCR requirement" and "Further specifications – waiver of the NSFR requirement", as applicable;

(ii) evidence that the free movement of funds and the ability to meet individual and joint obligations as they come due are not subject to any conditions that may prevent or limit their exercise, confirmed by a legal opinion to that effect issued either by an external independent third party or by an internal legal department, approved by the management body;

(iii) evidence that, unless the waiver is revoked by the ECB[15], the legal contracts cannot be called off or cancelled unilaterally by either party, or that the legal contracts are subject to a notice period as specified below under the sub-paragraphs "Further specifications – waiver of the LCR requirement" and "Further specifications – waiver of the NSFR requirement", as applicable.

(5) With regard to the condition laid down in Article 8(1)(d) of the CRR that there is no current or foreseen material practical or legal impediment to the fulfilment of the contracts referred to in Article 8(1)(c) of the CRR, the credit institution should provide:

(i) a legal opinion, issued either by an external independent third party or by an internal legal department, approved by the management body, that supports the absence of legal impediments, e.g. with regard to national insolvency laws;

(ii) an internal assessment which concludes that there are no current or foreseen material practical or legal impediments to the fulfilment of the contract referred to above and which confirms that the consequences of a waiver being granted have duly been taken into account in the resolvability self-assessment provided by the credit institution to the resolution authority in relation to the recovery plan and the group financial support agreement, if available, drawn up in accordance with the BRRD;

(iii) an internal assessment which concludes that the waiver has no disproportionate negative effects on the resolution plan.

---

[15] The contract should include a clause providing that if the competent authority revokes the waiver the contract may be cancelled unilaterally with immediate effect.

In relation to this provision, the ECB will additionally seek confirmation from the relevant national competent authority that the national liquidity and/or funding provisions, where applicable, do not contain material practical or legal impediments to the fulfilment of the contract.

- **Further specifications – waiver of the LCR requirement**

In the case of a waiver of the LCR requirement, with regard to the specifications of the contracts referred to under Article 8(1)(c) of the CRR, it is expected that:

(1) the contracts do not provide for any time limit or provide for a time limit that exceeds the validity of the waiver decision by at least six months;

(2) there is evidence that, unless the waiver is revoked by the ECB, the contracts cannot be called off or cancelled unilaterally by either party, or that the legal contracts are subject to a six-month notice period, with prior mandatory notice to the ECB.

- **Further specifications – waiver of the NSFR requirement**

In the case of a waiver of the NSFR requirement, with regard to the specifications of the contracts referred to under Article 8(1)(c) of the CRR, it is expected that:

(1) the contracts do not provide for any time limit or provide for a time limit that exceeds the validity of the waiver decision by at least 18 months;

(2) there is evidence that, unless the waiver is revoked by the ECB, the contracts cannot be called off or cancelled unilaterally by either party, or that the legal contracts are subject to an 18-month notice period, with prior mandatory notice to the ECB.

- **Waivers of the LCR and NSFR requirements at the cross-border level**

In the case of an application for a waiver of the LCR requirement under Article 8 of the CRR with regard to credit institutions which are established in several Member States, the ECB will, in addition to the specifications mentioned for granting a waiver at the national level, assess whether the following specifications have been met.

(1) To assess, in accordance with Article 8(3)(a) of the CRR, the compliance of the organisation and of the treatment of liquidity risk with the conditions set out in Article 86 of the CRD across the single liquidity sub-group, the ECB will verify that the liquidity SREP does not reveal breaches at the time of application and over the previous three months and the liquidity management of the credit institution as evaluated in the SREP is deemed to be of a high quality.

(2) In the case of an application for a waiver of the LCR requirement, with respect to Article 8(3)(b) of the CRR and the distribution of amounts, and the location and ownership of the required liquid assets to be held within the single liquidity

sub-group, account will be taken of whether significant sub-entities[16] or significant groups of sub-entities in one Member State maintain in that Member State an adequate amount of high quality liquid assets (HQLA). An amount of 75% of the level of HQLA that would be required in order to comply with the LCR requirement at the solo or sub-consolidated level, in accordance with Commission Delegated Regulation (EU) 2015/61 and the CRR, would be deemed, in principle, adequate for these purposes.[17]

(3) In the case of an application for a waiver of the NSFR requirement, with respect to Article 8(3)(b) of the CRR and the distribution of amounts and location of available stable funding within the single liquidity sub-group, account will be taken of whether significant sub-entities[18] or significant groups of sub-entities in one Member State maintain in that Member State an adequate amount of available stable funding. An amount of 75% of the level of available stable funding that would be required in order to comply with the NSFR requirement at the solo or sub-consolidated level, in accordance Article 413(1) of the CRR, as further specified under Title IV of Part Six of the CRR, would be deemed, in principle, adequate for these purposes.[19]

(4) With respect to the assessment, under Article 8(3)(d) of the CRR, of the need for stricter parameters than those set out in Part Six of the CRR, in the case of a waiver for a credit institution located in a participating Member State and a non-participating Member State, and in the absence of national provisions which set stricter parameters, the LCR requirement, and respectively the NSFR requirement, is the highest applicable level among the countries where the subsidiaries and the top consolidating entity are located, if allowed by national law.

(5) To assess whether there is a full understanding of the implications of such a waiver under Article 8(3)(f) of the CRR, the ECB will take into account:

---

16 This requirement applies to subsidiaries that meet at least one of the numerical thresholds specified in Articles 50, 56, 61 or 65 of the SSM Framework Regulation on a solo basis. If more than one subsidiary is established in a Member State but none of them meet these numerical thresholds at solo level, this condition should also apply if all entities established in that Member State, on the basis of either the consolidated position of the parent company in that Member State or the aggregated position of all subsidiaries that are subsidiaries of the same EU parent company and are established in said Member State, meet at least one of the numerical thresholds specified in Articles 50, 56, and 61 of the SSM Framework Regulation.

17 The computation of the amount of HQLA at the solo or sub-consolidated level should not take into account any preferential treatment, in particular that available under Article 425(4) and (5) of the CRR and Article 34(1), (2) and (3) of Commission Delegated Regulation (EU) 2015/61 in relation to the LCR.

18 This requirement applies to subsidiaries that meet at least one of the numerical thresholds specified in Articles 50, 56, 61 or 65 of the SSM Framework Regulation on a solo basis. If more than one subsidiary is established in a Member State but none of them meet these numerical thresholds at solo level, this condition should also apply if all entities established in that Member State, on the basis of either the consolidated position of the parent company in that Member State or the aggregated position of all subsidiaries that are subsidiaries of the same EU parent company and are established in said Member State, meet at least one of the numerical thresholds specified in Articles 50, 56, and 61 of the SSM Framework Regulation.

19 The computation of the amount of available stable funding at the solo or sub-consolidated level should not take into account any preferential treatment, in particular that available under Article 428h of the CRR.

(i) the existing back-up plans to meet legal requirements should the waivers not be granted/cease to be granted;

(ii) a full assessment of the implications by the management body, and by the competent authorities as required, which will be performed and submitted to the ECB.

- **Documentation for Article 8 of the CRR**

For the purpose of the assessment under Article 8 of the CRR, the credit institution is expected to submit the following documents, which the ECB considers to be evidence that the criteria set out in the legislation have been met:

(i) a cover letter signed by the credit institution's CEO, with approval from the management body, stating that the credit institution complies with all of the waiver criteria as set out in Article 8 of the CRR;

(ii) a description of the extent of the liquidity sub-group(s) to be constituted together with a list of all the entities that would be covered by the waiver;

(iii) a precise description of the requirements in respect of which the credit institution is asking for a waiver.

5. INDIVIDUAL CONSOLIDATION METHOD (Article 9 of the CRR)

The ECB intends to use the individual consolidation method provided for in Article 9(1) of the CRR for subsidiaries of credit institutions in the same Member State whose material exposures, or material liabilities, are to the same parent institution. The ECB will conduct the relevant assessment on a case-by-case basis based, among other aspects, on whether the sub-consolidated own funds are sufficient to ensure compliance by the institution on the basis of its stand-alone individual situation. For the purposes of this assessment, the criteria for granting the waiver set out in Article 7 of the CRR, as seen above, will also be taken into account, as appropriate and as provided for in Article 9(1) of the CRR.

6. WAIVERS FOR CREDIT INSTITUTIONS PERMANENTLY AFFILIATED TO A CENTRAL BODY (Article 10 of the CRR)

The ECB will grant a waiver both to institutions affiliated to a central body and to the central body itself, provided that the conditions of Article 10 of the CRR are met.

For the purpose of assessing whether to grant a waiver to the affiliates in accordance with Article 10(1) of the CRR, the ECB will take into account whether the following criteria, specifying the conditions of the legislative framework, have been met.

(1) To assess compliance with the requirement laid down in Article 10(1)(a) that the commitments of the central body and affiliated institutions are joint and several liabilities or the commitments of its affiliated institutions are entirely guaranteed by the central body, account will be taken of whether:

(i) funds can be transferred or liabilities can be repaid from one network member to another swiftly and the method for the transfer or repayment is sufficiently simple;

(ii) there are indications from the past regarding the flow of funds between network members which demonstrate an ability to make prompt transfers of funds or repayments of liabilities;

(iii) the by-laws of the network members or any shareholders' agreements, or any other known agreements, do not contain any provisions that may obstruct the transfer of own funds or repayment of liabilities;

(iv) the joint risk-absorbing capacity of the central body and affiliated institutions is sufficient to cover expected and unexpected losses of the members.

(2) To assess compliance with the requirement laid down in Article 10(1)(b) that the solvency and the liquidity of the central body and of all the affiliated institutions are monitored as a whole on the basis of their consolidated accounts, the ECB will verify that:

(i) the COREP "Group Solvency" template, which aims to provide a global view on how the risks and the own funds are distributed within the group, shows no discrepancy in this regard;

(ii) the central body and the affiliated institutions are compliant with the requirements set out in the CRR, including reporting, on a consolidated basis.

(3) To assess compliance with the requirement laid down in Article 10(1)(c) that the management of the central body is empowered to issue instructions to the management of the affiliated institutions, the ECB will take into account whether:

(i) these instructions ensure that the affiliated institutions comply with the requirements of the legislation and of the by-laws with a view to safeguarding the soundness of the group;

(ii) the instructions that the central body can issue cover at least the objectives listed in the CEBS Guidelines[20] issued on 18 November 2010.

For the purpose of the ECB's assessment with regard to granting a waiver to the central body in accordance with Article 10(2) of the CRR, the credit institution is expected to submit the documents mentioned above to demonstrate that the conditions of Article 10(1) of the CRR have been met.

In addition to these, and for the purpose of assessing the second condition referred to in Article 10(2), the institution is expected to submit evidence that the liabilities or

[20] "CEBS's guidelines regarding revised Article 3 of Directive 2006/48/EC", Committee of European Banking Supervisors, November 2010.

commitments of the central body are entirely guaranteed by the affiliated institutions. A copy of a signed guarantee or reference to a public register certifying such a guarantee or a declaration to that effect, which is reflected in the affiliated institution's by-laws or approved by the general meeting and mentioned in the annex to the financial statements, are examples of such evidence.

7. SUPERVISION ON A SUB-CONSOLIDATED BASIS (Article 11(6) of the CRR)

The ECB is of the view that it is sensible to require institutions to comply with the obligations laid down in Parts Two to Eight of the CRR and in Title VII of Directive 2013/36/EU at the sub-consolidated level in accordance with Article 11(6) of the CRR in cases where:

(i) it is justified for supervisory purposes by the specific nature of the risks or the capital structure of a credit institution;

(ii) Member States have adopted national laws requiring the structural separation of activities within a banking group.

The assessment will be carried out on a case-by-case basis.

8. CONSOLIDATION (Article 18(7) of the CRR)

The ECB intends to allow institutions to apply a method different from the equity method only upon application by the institution and provided that the institution demonstrates compliance with the conditions set out in Article 18(7) of the CRR.

To comply with the above-mentioned conditions, the institution should submit an application with the following information: (i) a comprehensive rationale for using a different method; (ii) a qualitative and quantitative assessment of the alleged inadequate reflection of risks or undue burden if the equity method is applied; and (iii) evidence that the alternative approach leads to a treatment that is as prudent as that resulting from the application of the equity method.

The ECB expects to include in the decision granting the permission a review clause to verify that, in the event that the prudential treatment of the holdings in the undertakings referred to in the first sub-paragraph of Article 18(7) changes, the application of a method other than the equity method continues to be as prudent.

9. EXCLUSION FROM CONSOLIDATION (Article 19(2) of the CRR)

For the purposes of the application of Article 19(2)(b) of the CRR, the ECB is of the view that permission for exclusion from the scope of prudential consolidation should only be granted in exceptional circumstances and subject to the conditions set out in the CRR. In this respect, institutions, financial institutions or ancillary services undertakings which are a subsidiary or an undertaking in which a participation is held may be considered of negligible interest only with respect to the objectives of monitoring institutions when institutions are able to provide strong evidence of such negligible interest on the basis of a comprehensive assessment of all relevant risks stemming from these entities, and the ECB decides on a case-by-case basis that their exclusion from the scope of prudential consolidation does not and is not

expected to affect the monitoring of institutions on a consolidated basis. In the exceptional case that the ECB permits the exclusion of a subsidiary or of an entity in which a participation is held from the scope of consolidation, the ECB expects the participation in that subsidiary or entity to be treated as a significant investment in a financial sector entity, provided that the definition set out in Article 43 of the CRR is met and its valuation is effected in accordance with the equity method, or, in cases where it would be unduly burdensome to apply the equity method, with the valuation method applicable under the relevant accounting framework.

10. VALUATION OF ASSETS AND OFF-BALANCE-SHEET ITEMS – USE OF IFRS FOR PRUDENTIAL PURPOSES (Article 24(2) of the CRR)

The ECB has determined not to exercise in a general manner the option set out in Article 24(2) of the CRR, which allows competent authorities to require credit institutions to effect, for prudential purposes, the valuation of assets and off-balance-sheet items and the determination of own funds in accordance with the International Accounting Standards, also in cases where the national applicable accounting framework requires the use of n-GAAP (see also Article 24(1) of the CRR). Banks can therefore continue reporting to the supervisor according to their national accounting standards.

However, the ECB will assess applications to use International Accounting Standards for prudential reporting (also in cases of applicability of n-GAAP under the national accounting framework) pursuant to Article 24(2) of the CRR.

To that end, the ECB would expect the following.

(1) The application should be submitted by the legal representatives of all the legal entities within any banking group that will actually apply the International Accounting Standards for prudential reporting as a consequence of the request being granted.

(2) For prudential purposes the same accounting framework will apply to all reporting entities within a banking group, in order to ensure consistency between subsidiaries established in the same Member State or also in different Member States. For the purposes of this exercise, a banking group is a group composed of all the significant supervised entities included in the group defined in the significance decision applicable to the requesting entities.

(3) A statement should be submitted by the external auditor, certifying that the International Financial Reporting Standards (IFRS) data reported by the institution as a consequence of the application being granted are in line with the applicable IFRS endorsed by the European Commission. This statement must be submitted to the ECB along with the reporting data which the auditor certifies at least once a year.

The use of IFRS for prudential reporting requirements will apply permanently to all relevant prudential reporting requirements after the credit institution has been notified of the ECB decision granting the application.

The ECB may consider the application of a transitional period, as appropriate and on a case-by-case basis, for the full implementation of the above-mentioned conditions.

Chapter 2
Own funds

1. This Chapter sets out the ECB's policy regarding the definition and calculation of own funds.

2. Part Two of the CRR, as well as Commission Delegated Regulation (EU) No 241/2014[21], set out the relevant legislative and regulatory framework.

3. CLASSIFICATION OF SUBSEQUENT ISSUANCES AS COMMON EQUITY TIER 1 INSTRUMENTS (Article 26(3) of the CRR)

The ECB considers that the provisions governing the prior and subsequent issuances are "substantially the same" if there have been no changes to the provisions governing the prior issuances[22] which would affect in substance the clauses that are relevant for the Common Equity Tier 1 (CET1) eligibility assessment and granting of the permission.

Credit institutions that would like to make use of the notification procedure are expected to submit the following documents to the ECB at least 20 calendar days in advance of the date of envisaged classification of the instrument as CET1:

(1) a declaration that (i) no changes of substance have been made to the provisions governing the issuance relevant for the assessment of compliance with Article 28 or 29 of the CRR and Commission Delegated Regulation (EU) No 241/2014; (ii) the instrument is not funded directly or indirectly by the institution; and (iii) there are no other arrangements that would alter the economic substance of the instrument, pursuant to Article 79a of the CRR;

(2) evidence that the instrument is fully paid up;

(3) a description of the changes made to the provisions governing the previous issuance and a self-assessment of why those changes are not relevant for the assessment of the compliance with Articles 28 or 29 CRR and the relevant delegated regulation;

(4) a tracked changes version of the provisions governing the issuance which indicates with marks how the provisions governing the current issuance differ from those governing the previous issuance.[23]

---

21 Commission Delegated Regulation (EU) No 241/2014 of 7 January 2014 supplementing Regulation (EU) No 575/2013 of the European Parliament and of the Council with regard to regulatory technical standards for Own Funds requirements for institutions (OJ L 74, 14.3.2014, p. 8).

22 For capital instruments subject to profit and loss transfer agreements, changes to such agreements also have to be duly considered. The ECB expects that it would be unlikely to consider capital instruments issued against contributions in kind as a subsequent issuance with provisions that are substantially the same as the provisions governing previous issuances for which the institution has already received permission. This is because contributions in kind, contrary to cash contributions, differ from issuance to issuance and, thus, it seems very unlikely that it will be possible to rely on the assessment made for the previous issuance where prior permission was granted.

23 Where the instrument has not yet been issued, the declaration that the instrument is not funded directly or indirectly by the institution and the proof of evidence that the instrument is fully paid up must be submitted within five working days of the date of issuance.

The ECB is deemed to have been notified when it communicates to the credit institution that it has received the complete notification. If there are no objections raised by the ECB regarding the condition that the provisions governing the subsequent issuance are substantially the same as those governing the prior issuance within 20 calendar days of receiving the notification, the institution can classify the instrument as a CET1 instrument. If objections are raised, the standard prior permission process set out in the first sub-paragraph of Article 26(3) of the CRR applies.

4. DEFINITION OF MUTUALS (Article 27(1)(a) of the CRR)

The ECB considers that an institution qualifies as a mutual within the meaning of Article 27(1)(a)(i) of the CRR provided that it is defined as such under national law and according to the specific criteria of Commission Delegated Regulation (EU) No 241/2014.

5. DEDUCTION OF INSURANCE HOLDINGS (Article 49(1) of the CRR)

With regard to the non-deduction of holdings within the context of Article 49(1) of the CRR, significant credit institutions can expect the following treatment:

(i) in cases where permission for non-deduction has already been granted by the national competent authority prior to 4 November 2014, the credit institutions may continue to not deduct the relevant holdings on the basis of that permission, provided that appropriate disclosure requirements are met;

(ii) in cases where the credit institution plans to submit a request to the ECB for such permission, the ECB will grant permission, provided that the CRR criteria and appropriate disclosure requirements are met.

6. DEDUCTION OF HOLDINGS OF FINANCIAL SECTOR ENTITIES (Article 49(2) of the CRR)

The ECB considers the deduction of holdings of own funds instruments issued by financial sector entities included in the scope of consolidated supervision in accordance with Article 49(2) of the CRR to be necessary in specific cases and, in particular, in cases of structural separation and resolution planning. In accordance with the last sub-paragraph of Article 49(2), this provision does not apply when calculating own funds for the purposes of the requirements laid down in Articles 92a and 92b, which are instead calculated in accordance with the deduction framework set out in Article 72e(4).

7. CALCULATION OF THE TRIGGER OF ADDITIONAL TIER 1 INSTRUMENTS ISSUED BY SUBSIDIARY UNDERTAKINGS ESTABLISHED IN A THIRD COUNTRY (Article 54(1)(e) of the CRR)

The ECB intends to consider the national law of the third country or the contractual provisions governing the instruments as equivalent to the requirements set out in Article 54 of the CRR if:

(i) the institution provides the ECB with a signed legal opinion of an independent and recognised law firm certifying that the national law of that third country and the contractual provisions are at least equivalent to the requirements of Article 54 of the CRR;

(ii) the consultation with the EBA confirms the assessment of equivalence.

8. REDUCTION OF OWN FUNDS: EXCESS CAPITAL MARGIN REQUIREMENT (Article 78(1)(b) of the CRR)

The ECB intends to determine the excess margin required in Article 78(1)(b) of the CRR for the purpose of a reduction of own funds, provided that the conditions of Article 78(1) are met and after assessing all of the following factors:

(i) whether the credit institution taking any of the actions referred to in Article 77(1) of the CRR would continue to exceed, over a three-year horizon, the overall capital requirements[24] set out in the most recent applicable SREP decision by at least the guidance on additional own funds set out in the same SREP decision;

(ii) whether the credit institution taking any of the actions referred to in Article 77(1) of the CRR would continue to exceed, over a three-year horizon, the requirements laid down in the BRRD and in Articles 92a or 92b of the CRR, as applicable, by at least the margin which the Single Resolution Board, in agreement with the ECB, would consider necessary to fulfil the condition set out in Article 78a of the CRR;

(iii) the impact of the planned reduction on the relevant tier of own funds;

(iv) whether the credit institution taking any of the actions referred to in Article 77(1) of the CRR would continue to exceed, over a three-year horizon, the leverage ratio requirement laid down in Article 92(1)(d) of the CRR, the additional own funds requirement to address the risk of excessive leverage set out in the most recent applicable SREP decision and the leverage ratio buffer laid down in Article 92(1a) of the CRR by at least the guidance on additional own funds to address the risk of excessive leverage set out in the most recent applicable SREP decision.

Applications to reduce own funds received from institutions that do not adhere to the margins set out above may still be approved on a case-by-case basis where it is duly justified by well-founded prudential arguments. Where the margin under point (ii) is not adhered to, the ECB will seek the opinion of the Single Resolution Board on whether the own funds reduction may jeopardise the fulfilment of the requirements for own funds and eligible liabilities laid down in Articles 92a or 92b of the CRR and in the BRRD.

[24] The reference to capital supply in excess of the overall capital requirements also implies the excess over the higher tiers of own funds requirements, i.e. also (a) CET1 requirement plus combined buffer requirement (CBR) and (b) Tier 1 requirement plus CBR by the same margin.

Where for the purposes of point (i) or (iv) the institution is not subject to guidance on additional own funds, the margin will be determined on a case-by-case basis having regard to the specific circumstances of the institution.

9. REDUCTION OF OWN FUNDS: GENERAL PRIOR PERMISSION (second sub-paragraph of Article 78(1) of the CRR)

The ECB intends to grant the general prior permission laid down in the second sub-paragraph of Article 78(1) of the CRR where the conditions set out therein and in the Commission Delegated Regulation (EU) 241/2014 are met. The ECB intends to determine the margin specified in the second sub-paragraph of Article 78(1) of the CRR after assessing all of the factors laid down in paragraph 8.

10. REDUCTION OF OWN FUNDS: MUTUALS, SAVINGS, COOPERATIVES (Article 78(3) of the CRR)

With regard to instruments issued by mutuals, savings, cooperatives and similar institutions under Article 27 and 29 of the CRR, the ECB intends to grant the waiver provided for in Article 78(3) of the CRR on a case-by-case basis and provided that the conditions set out in Articles 10 and 11 of Commission Delegated Regulation (EU) No 241/2014 are met. In particular, it will take into account the following aspects:

(i) whether the institution has both the right to defer the redemption and the right to limit the amount to be redeemed;

(ii) whether the institution has these rights for an unlimited period of time;

(iii) whether the institution determines the extent of the limitations on the basis of its prudential situation at any time having regard to (a) its overall financial, liquidity and solvency situation and (b) the amount of Common Equity Tier 1 capital, Tier 1 capital and total capital compared to the total risk exposure amount, the specific own funds requirements and the combined buffer requirements, as applicable to the institution.

The ECB may further limit the redemption beyond the legislative or contractual limitations.

11. REDUCTION OF ADDITIONAL TIER 1 OR TIER 2 INSTRUMENTS DURING THE FIVE YEARS FOLLOWING THEIR DATE OF ISSUANCE (Article 78(4) of the CRR)

Provided that the relevant conditions set out in Article 78(1) of the CRR are met, the ECB intends to:

(i) generally permit the reduction of Additional Tier 1 or Tier 2 instruments during the five years following their date of issuance under the conditions specified in Article 78(4)(c) and (e) of the CRR;

(ii) permit the reduction of Additional Tier 1 or Tier 2 instruments during the five years following their date of issuance under the conditions specified in

Article 78(4)(a), (b) and (d) of the CRR only if justified following a case-by-case assessment.

12. TEMPORARY WAIVER OF THE DEDUCTION OF OWN FUNDS INSTRUMENTS OR ELIGIBLE LIABILITIES FROM OWN FUNDS AND ELIGIBLE LIABILITIES IN A FINANCIAL ASSISTANCE OPERATION (Article 79(1) of the CRR)

    The ECB considers that the deduction of own funds instruments or eligible liabilities can be temporarily waived for the purpose of facilitating a financial assistance operation when the conditions specified in Article 79(1) of the CRR and the conditions specified in Article 33 of Commission Delegated Regulation (EU) No 241/2014 are met.

13. WAIVER FOR ADDITIONAL TIER 1 AND TIER 2 INTSTRUMENTS ISSUED BY A SPECIAL PURPOSE ENTITY (Article 83(1) of the CRR)

    The ECB intends to grant until 31 December 2021 the waiver provided for in Article 83(1) of the CRR for the purpose of including Additional Tier 1 and Tier 2 instruments issued by a special purpose entity (SPE) in the qualifying Additional Tier 1 or Tier 2 capital of a credit institution in accordance with the conditions specified therein and the conditions specified in Article 34 of Commission Delegated Regulation (EU) No 241/2014. The ECB will grant this waiver when the other assets owned by the SPE are minimal and insignificant.

14. MINORITY INTERESTS INCLUDED IN CONSOLIDATED COMMON EQUITY TIER 1 CAPITAL (Article 84 of the CRR)

    The ECB would consider it appropriate to apply Article 84(1) of the CRR to a parent financial holding company of a credit institution in order to ensure that only that part of the consolidated own funds that is promptly available to cover losses at the parent level is included in the regulatory capital.

Chapter 3
Capital requirements

1. This chapter sets out the ECB's policy on capital requirements.

2. Part Three of the CRR, as well as the relevant EBA Guidelines, set out the relevant legislative and regulatory framework.

3. CALCULATION OF RISK-WEIGHTED EXPOSURE AMOUNTS – INTRAGROUP EXPOSURES (Article 113(6) of the CRR)

    The ECB is of the view that a request not to apply the requirements of Article 113(1) of the CRR may be approved, following a case-by-case assessment, for credit institutions that submit a specific application. As clearly established in Article 113(6)(a), the counterparty of the credit institution must be another institution, a financial institution or an ancillary services undertaking subject to appropriate

prudential requirements. Moreover, the counterparty must be established in the same Member State as the credit institution (Article 113(6)(d)).

For the purposes of this assessment, the ECB will consider the following factors.

(1) To assess compliance with the requirement, as laid down in Article 113(6)(b) of the CRR, that the counterparty is included in the same consolidation as the institution on a full basis, the ECB will take into account whether the group entities under assessment are included within the same consolidation on a full basis in a participating Member State, using the methods for prudential consolidation set out in Article 18 of the CRR.

(2) To assess compliance with the requirement laid down in Article 113(6)(c) of the CRR that the counterparty is subject to the same risk evaluation, measurement and control procedures as the institution, the ECB will take into account whether:

   (i) the senior management of the entities in the scope of application of Article 113(6) of the CRR is responsible for risk management and risk measurement is regularly reviewed;

   (ii) regular and transparent communication mechanisms are established within the organisation, so that the management body, senior management, business lines, the risk management function and other control functions can all share information about risk measurement, analysis and monitoring;

   (iii) internal procedures and information systems are consistent and reliable throughout the consolidated group so that all sources of relevant risks can be identified, measured and monitored on a consolidated basis and also, to the extent necessary, separately by entity, business line, and portfolio;

   (iv) key risk information is regularly reported to the central risk management function of the parent undertaking to enable appropriate centralised evaluation, measurement and control of risk across the relevant group entities.

(3) To assess compliance with the requirement laid down in Article 113(6)(e) of the CRR that there is no current or foreseen material practical or legal impediment to the prompt transfer of own funds or repayment of liabilities from the counterparty to the institution[25], the ECB will take into account whether or not:

   (i) the shareholding and legal structure of the group hampers the transferability of own funds or repayment of liabilities;

   (ii) the formal decision-making process regarding the transfer of own funds between the institution and its counterparty ensures prompt transfers;

[25] Beyond the limitations stemming from national company laws.

(iii) the by-laws of the institution and of the counterparty, any shareholders' agreement, or any other known agreements contain any provisions that may obstruct the transfer of own funds or repayment of liabilities by the counterparty to the institution;

(iv) there have been any previous serious management difficulties or corporate governance issues that might have a negative impact on the prompt transfer of own funds or the repayment of liabilities;

(v) third parties are able to exercise control over or prevent the prompt transfer of own funds or repayment of liabilities;

(vi) the COREP "Group Solvency" template, which aims to provide a global view of how risks and own funds are distributed within the group, shows any discrepancy in this regard.

- **Documentation related to approval decisions under Article 113(6)**

For the purpose of the assessment(s) under Article 113(6) of the CRR, the credit institution presenting the application is expected to submit the following documents, unless they have already been provided to the ECB pursuant to other regulations, decisions or requirements:

(i) an up-to-date organisation chart of the entities of the consolidated group included within the scope of consolidation on a full basis in the same Member State, the prudential qualification of the individual entities (credit institution, investment firm, financial institution, ancillary services undertaking) and the identification of the entities that intend to apply Article 113(6) of the CRR;

(ii) a description of the risk management policies and controls and how they are centrally defined and applied;

(iii) the contractual basis, if any, for the group-wide risk management framework together with additional documentation such as the group company risk policies in the areas of credit risk, market risk, liquidity risk and operational risk;

(iv) a description of the possibilities for the parent institution/undertaking to enforce group-wide risk management;

(v) a description of the mechanism that ensures a prompt transfer of own funds and the repayment of liabilities in the event of financial distress by one of the group entities;

(vi) a cover letter signed by the legal representative of the parent undertaking pursuant to applicable law, with approval from the management body, stating that the significant supervised credit institution complies with all conditions as set out in Article 113(6) of the CRR at the group level;

(vii) a legal opinion, issued by an external independent third party or by an internal legal department and approved by the management body of the parent undertaking, demonstrating that beyond the limitations set out in company law there are no obstacles to the transfer of funds or repayment of liabilities resulting from either applicable legislative or regulatory acts (including fiscal legislation) or legally binding agreements;

(viii) a statement signed by the legal representatives and approved by the management bodies of the parent undertaking and of the group entities that intend to apply Article 113(6) of the CRR declaring that there are no practical impediments to fund transfer or repayment of liabilities.

4. MATURITY OF EXPOSURES (Article 162 of the CRR)

Where institutions have not received permission to use their own loss given default (LGD) and conversion factors for exposures to corporates, institutions or central governments and central banks, the ECB considers that it is appropriate to require the use of the maturity value (M) as defined in the first sub-paragraph of Article 162(1) of the CRR, and not to allow the use of the maturity set out in Article 162(2).

5. COLLECTION OF DATA (Article 179 of the CRR)

For the purposes of the last sentence of the second sub-paragraph of Article 179(1) of the CRR, the ECB intends to allow credit institutions some flexibility in the application of the required standards for data collected prior to 1 January 2007, provided that institutions have made the appropriate adjustments to achieve broad equivalence with the definition of default laid down in Article 178 of the CRR or with the definition of loss laid down in Article 5(2) of the CRR.

6. OWN ESTIMATES OF VOLATILITY ADJUSTMENTS (Article 225(2)(e) of the CRR)

For the purposes of Article 225(2)(e) of the CRR, the ECB is of the view that it is only appropriate to maintain the requirements set in order for the credit institution to use a shorter observation period for the purpose of the calculation of volatility adjustments in cases where such requirements are in place under national law before the final publication of this Guide.

7. SIGNIFICANT RISK TRANSFER (Articles 244(2) and 245(2) of the CRR)

The ECB may consider it necessary to depart from the general assumption that significant credit risk is transferred in the two cases defined in Articles 244(2) and 245(2) of the CRR, on traditional and synthetic securitisation respectively, on a case-by-case basis and following the EBA Guidelines on significant risk transfer[26], issued on 7 July 2014.

8. IMPLEMENTATION OF THE INTERNAL MODEL METHOD (Article 283(3) of the CRR)

[26] "Guidelines on Significant Credit Risk Transfer relating to Articles 243 and Article 244 of Regulation 575/2013 (EBA/GL/2014/05)", European Banking Authority, July 2014.

The ECB intends to permit institutions to implement for a limited period the Internal Model Method (IMM), pursuant to Article 283(3) of the CRR, sequentially across different transaction types following a case-by-case assessment.

For the purpose of this assessment, the ECB plans to take into account whether:

(i) the initial coverage at the time of approval comprises “plain vanilla” interest rate and FX derivatives and covers 50% of both the risk-weighted assets (RWA) (as calculated with exposures based on the chosen non-IMM method in accordance with Article 271(1) of the CRR) and the number of trades (i.e. legal transactions, no single legs);

(ii) a coverage of more than 65% in terms of RWA (based on either IMM or non-IMM methods, depending on the trade) and more than 70% in terms of the number of trades (legal transactions, no single legs) relative to total counterparty credit risk is achieved within three years;

(iii) if a larger than 35% (RWA) or 30% (number of trades) portion remains outside the IMM after the three-year period, the credit institution would be expected to prove that either the remaining transaction types cannot be modelled owing to missing calibration data, or that the standardised approach exposures used are sufficiently conservative.

9. CALCULATION OF THE EXPOSURE VALUE FOR COUNTERPARTY CREDIT RISK (Article 284(4) and (9) of the CRR)

The ECB intends to assess the necessity of requiring a higher α factor than 1.4 for the purpose of calculating the exposure value pursuant to Article 284(4) of the CRR, on a case-by-case basis depending on model deficits or model risk. Moreover, it considers that, for prudential purposes, α should in principle be the value stipulated in the said paragraph.

10. OPERATIONAL RISK: BASIC INDICATOR APPROACH (Article 315(3) of the CRR) AND STANDARDISED APPROACH (Article 317 of the CRR) WITH REGARD TO OWN FUNDS REQUIREMENTS

In the case of mergers, acquisitions or disposal of entities or activities, the ECB intends to exercise both options in each Article on a case-by-case basis, in accordance with the conditions specified therein.

11. CALCULATION OF THE VALUE-AT-RISK NUMBER (Article 366(4) of the CRR)

The ECB is of the view that the calculation of the addend for the purpose of calculating the own funds requirement referred to in Articles 364 and 365 of the CRR should be based on hypothetical and actual changes in the portfolio value, in accordance with the specifications set out in Article 366(3).

Chapter 4
Institutional protection schemes

1. This chapter sets out the ECB's policy on options and discretions that are relevant for credit institutions that have entered into an institutional protection scheme (IPS).

2. Parts One, Two and Three of the CRR, as well as Commission Delegated Regulation (EU) 2015/61, set out the relevant legislative and regulatory framework.

3. LIQUIDITY WAIVERS (Article 8(4) of the CRR)

   The ECB intends to grant waivers under Article 8(4) of the CRR to credit institutions which are members of the same IPS provided that all the conditions laid down in Article 113(7) of the CRR are fulfilled. Reporting requirements at individual sub-entity level are to be maintained.

   For the purposes of this assessment, the relevant specifications and/or documents mentioned in Chapter 1 above will be applied, specifically points 1 to 5 relating to the general conditions for all liquidity waivers in accordance with Article 8 of the CRR as well as the further specifications for waivers of the LCR and NSFR requirements, as appropriate.

   As for the documents required, the credit institution must submit in addition:

   (i) proof that a valid power of attorney has been granted and a copy of the signature of the attorney appointed;

   (ii) a legal contract that stipulates that the sub-consolidated entity has irrevocable control rights over the waived entities within the liquidity risk framework.

4. DEDUCTION OF HOLDINGS IN THE PRESENCE OF INSTITUTIONAL PROTECTION SCHEMES (Article 49(3) of the CRR)

   Until the implementing technical standards referred to in Article 430(7) of the CRR are applicable, the ECB expects the information set out in Article 49(3) of the CRR to be reported in accordance with the specifications set out in this section. Once the implementing technical standards are applicable, the specifications regarding the frequency and format of the reporting will be reviewed and amended, if necessary.

   The ECB intends to permit institutions, on a case-by-case basis, to not deduct holdings of own funds instruments in other institutions falling within the same IPS for the purposes of calculating own funds on an individual or sub-consolidated basis, provided that the conditions set out in Article 49(3) of the CRR are fulfilled. For the purpose of this assessment the ECB will take into account whether the following criteria, specifying the conditions of the legal framework, have been met:

(1) Article 49(3)(a)(iv) of the CRR requires the equivalence of the extended aggregated calculation of an IPS with the provisions of Directive 86/635/EEC[27] governing the consolidated accounts of groups of credit institutions to be shown. The calculation must be verified by an external auditor and the multiple use of elements eligible for the calculation of own funds as well as any inappropriate creation of own funds between the members of the IPS must be eliminated from the calculation.

    (i) The external auditor who is responsible for the audit of the extended aggregated calculation must confirm annually that:

        (a) the aggregation method ensures that all intragroup exposures are eliminated;

        (b) the multiple use of elements eligible for the calculation of own funds as well as any inappropriate creation of own funds between the members of the IPS has been eliminated;

        (c) no other transactions by the members of the IPS have led to an inappropriate creation of own funds at the consolidated level.

(2) Article 49(3)(a)(iv), last sentence, of the CRR requires the consolidated balance sheet or the extended aggregated calculation of the IPS to be reported to the competent authorities no less frequently than the frequency set out in the implementing technical standards referred to in Article 430(7) of the CRR. Until the implementing technical standards are applicable, the following reporting standards must be adhered to.

    (i) Information on the consolidated balance sheet or the extended aggregated calculation must be reported at least on a semi-annual basis.

    (ii) The information on the consolidated balance sheet or the extended aggregated calculation must comply with Regulation (EU) 2015/534 (ECB/2015/13) as follows:

        (a) IPSs that draw up a consolidated balance sheet applying IFRS must report full FINREP.

        (b) All other IPSs must provide supervisory financial reporting data points (Annex IV to Regulation (EU) 2015/534 (ECB/2015/13)). The IPS must only report financial reporting data points that have to be reported by all IPS member institutions on an individual basis.

(3) Article 49(3)(a)(v) of the CRR requires that the institutions included in an IPS meet together on a consolidated or extended aggregated basis the own funds requirements laid down in Article 92 of the CRR and carry out reporting of compliance with those requirements in accordance with Article 430 of the CRR.

---

[27] Council Directive 86/635/EEC of 8 December 1986 on the annual accounts and consolidated accounts of banks and other financial institutions (OJ L 372, 31.12.1986, p. 1).

The ECB will consider the following factors in assessing compliance with this criterion.

(i) All intragroup exposures and participations between IPS members must be eliminated within the consolidation/aggregation.

(ii) The data provided by the IPS member institutions must be based on the same accounting standards, or an adequate transformation calculation must be conducted.

(iii) The entity responsible for the preparation of the consolidated reports on own funds must perform adequate quality assurance on the data provided by the IPS member institutions and review at regular intervals its own IT systems that are used to prepare the consolidated reporting.

(iv) The minimum frequency of the reporting must be on a quarterly basis (until the implementing technical standards referred to in Article 430(7) of the CRR become applicable).

(v) The reporting must use the COREP templates set out in Annex I of Commission Implementing Regulation (EU) No 680/2014 (until the implementing technical standards referred to in Article 430(7) of the CRR become applicable). The reporting on own funds and own funds requirements on an extended aggregated basis must be based on the individual reports on own funds and own funds requirements of the IPS member institutions.

(4) In determining for the purposes of Article 49(3)(a)(v), second sentence, of the CRR whether within an IPS the deduction of the interest owned by cooperative members or legal entities which are not members of the IPS is required, the ECB will not require such deduction provided that the multiple use of elements eligible for the calculation of own funds as well as any inappropriate creation of own funds between the members of the IPS and the minority shareholder, when it is an institution, is eliminated. The ECB will take into account:

(i) the extent to which minority interests that are held by institutions which are not members of the IPS are included within the calculation of own funds at the consolidated/aggregated level;

(ii) whether the minority interests are implicitly included in the total own funds of the institutions that own the minority interests;

(iii) whether the IPS applies Articles 84, 85 and 86 of the CRR when calculating the own funds on a consolidated/extended aggregated basis regarding the minority interests that are held by institutions which are not IPS members.

5. RECOGNITION OF INSTITUTIONAL PROTECTION SCHEMES FOR PRUDENTIAL PURPOSES (Article 113(7) of the CRR)

This paragraph sets out the specific criteria the ECB will follow when assessing individual applications for the prudential permission referred to in Article 113(7) of the CRR by supervised credit institutions that are members of an IPS.

The ECB will grant permission to institutions, on a case-by-case basis, not to apply the requirements of Article 113(1) of the CRR to exposures to counterparties with which the institution has entered into an IPS and to assign a 0% risk weight to those exposures, provided that the conditions set out in Article 113(7) of the CRR are fulfilled.

Before carrying out a detailed supervisory assessment on the basis of points (a) to (i) of Article 113(7) of the CRR, the ECB will first assess whether the IPS can provide sufficient support in the event that a member institution faces severe financial constraints regarding liquidity and/or solvency. Article 113(7) of the CRR does not determine a specific point in time where support to ensure liquidity and solvency must be provided in order to avoid insolvency. By making proactive and timely interventions the IPS should ensure that its member institutions abide by the regulatory own funds and liquidity requirements. If such preventive measures are not sufficient, the IPS needs to decide on material or financial support. Intervention by the IPS is deemed to be triggered, at the latest, where there is no reasonable prospect that any alternative measures, including the recovery measures provided for in the recovery plan, would prevent the failure of that institution. As part of its contractual or statutory arrangements, the IPS should have in place a broad range of measures, processes and mechanisms which make up the framework under which it operates. This framework should comprise a suite of available actions ranging from less intrusive measures, such as closer monitoring of the member institutions on the basis of relevant indicators and additional reporting requirements, to more substantial measures that are proportionate to the riskiness of the beneficiary IPS member institution and the severity of its financial constraints, including direct capital and liquidity support.

For the purposes of assessing whether to grant this permission, the ECB will consider the following factors.

(1) In accordance with Article 113(7)(a) taken in conjunction with Article 113(6)(a) and (d) of the CRR, the ECB will verify whether:

    (i) the counterparty is an institution, a financial institution or an ancillary services undertaking subject to appropriate prudential requirements;

    (ii) the IPS members requesting the permission are established in the same Member State.

(2) For the purposes of assessing compliance with the condition laid down in Article 113(7)(a) taken in conjunction with Article 113(6)(e) of the CRR, namely that there is no current or foreseen material practical or legal impediment to the prompt transfer of own funds or repayment of liabilities from the counterparty to the institution, the ECB will verify that:

(i) the shareholding and legal structure of the IPS members does not hamper the transferability of own funds or repayment of liabilities;

(ii) the formal decision-making process regarding the transfer of own funds between IPS members ensures prompt transfers;

(iii) the by-laws of the IPS members, any shareholders' agreements, or any other known agreements do not contain any provisions that may obstruct the transfer of own funds or repayment of liabilities by the counterparty;

(iv) there have been no previous serious management difficulties or corporate governance issues related to the IPS members that might have a negative impact on the prompt transfer of own funds or the repayment of liabilities;

(v) no third parties are able to exercise control over or prevent the prompt transfer of own funds or repayment of liabilities;

(vi) any indications from the past regarding flows of funds between IPS members which demonstrate the ability to promptly transfer funds or repay liabilities will be taken into account;

(vii) the crisis management intermediation role and responsibility of the IPS to provide funds to support troubled members is considered key.

(3) When assessing compliance with the condition laid down in Article 113(7)(b) of the CRR, namely that arrangements are in place which ensure that the IPS is able to grant the support it has committed to provide from funds readily available to it, the ECB will consider the following factors.

(i) The IPS arrangements include a broad range of measures, processes and mechanisms which make up the framework under which the IPS operates. This framework should comprise a series of possible actions, ranging from less intrusive measures to more substantial measures that are proportionate to the riskiness of the beneficiary IPS member institution and the severity of its financial constraints, including direct capital and liquidity support. The IPS support may be conditional – for example upon the implementation of certain recovery and restructuring measures by the respective institution.

(ii) The governance structure of the IPS and the process for making decisions on support measures allow support to be provided in a timely manner.

(iii) A clear commitment exists on the part of the IPS to provide support when – despite previous monitoring of risks and early intervention measures – an IPS member is or is likely to become insolvent or illiquid. In addition, the IPS should ensure that its member institutions abide by the regulatory own funds and liquidity requirements.

(iv) The IPS conducts stress tests at regular intervals to quantify potential capital and liquidity support measures.

(v) The risk-absorbing capacity of the IPS (consisting of paid-up funds, potential ex post contributions and comparable commitments) is sufficient to cover potential support measures taken in respect of its members.

(vi) An ex ante fund has been created to ensure that the IPS has funds for support measures readily available.

(a) Contributions to the ex ante fund follow a clearly defined framework.

(b) The funds are invested only in liquid and secure assets that may be liquidated at any time and whose value does not depend on the solvency and liquidity position of the members of the IPS and their subsidiaries.

(c) For the determination of the minimum target amount of the ex ante fund the IPS stress test results are considered.

(d) An adequate floor/minimum amount for the ex ante fund is determined to ensure the prompt availability of the funds.

IPSs may be recognised as deposit guarantee schemes pursuant to the DGS Directive[28] and may be allowed under the conditions set out in the respective national laws to use the available financial means for alternative measures in order to prevent the failure of a credit institution. In this case the ECB will consider the available financial means when assessing the availability of funds to grant support, taking into account the different purposes of an IPS (which aims to protect its members) and a deposit guarantee scheme (whose key task is to protect depositors against the consequences of the insolvency of a credit institution).

(4) Article 113(7)(c) of the CRR provides that the IPS must have at its disposal suitable and uniformly stipulated systems for the monitoring and classification of risk, which give a complete overview of the risk situation of all the individual members and of the IPS as a whole, with corresponding possibilities to take influence, and that those systems must suitably monitor defaulted exposures in accordance with Article 178(1) of the CRR. In assessing compliance with this condition, the ECB will consider whether:

(i) the member institutions of the IPS are obliged to provide the main body responsible for the management of the IPS with up-to-date data on their risk situation at regular intervals, including information on their own funds and own funds requirements;

(ii) the corresponding appropriate data flows and IT systems are in place;

[28] Directive 2014/49/EU of the European Parliament and of the Council of 16 April 2014 on deposit guarantee schemes (OJ L 173, 12.06.2014, p. 149).

(iii) the main body responsible for the management of the IPS defines uniformly stipulated standards and methodologies for the risk management framework to be applied by the IPS members;

(iv) for the purposes of the monitoring and classification of risk by the IPS there is a common definition of risks, the same risk categories are monitored for all institutions, and the same confidence level and time horizon is used for the quantification of risks;

(v) the IPS systems for the monitoring and classification of risks classify the IPS members according to their risk situation, i.e. the IPS should define different categories to which to assign its members in order to allow early intervention;

(vi) the IPS has the possibility to influence the risk situation of the IPS member institutions by issuing instructions, recommendations, etc. to them, for example to restrict certain activities or to require a reduction of certain risks.

(5) When assessing compliance with the condition laid down in Article 113(7)(d) of the CRR, namely that the IPS conduct its own risk review which is communicated to the individual members, the ECB will consider whether:

(i) the IPS assesses at regular intervals the risks and vulnerabilities of the sector to which its member institutions belong;

(ii) the results of the risk reviews as performed by the main body responsible for the management of the IPS are summarised in a report or other document and are distributed to the relevant decision-making bodies of the IPS and/or the members of the IPS shortly after they have been finalised;

(iii) individual members are informed of their risk classification by the IPS as required by Article 113(7)(c).

(6) Article 113(7)(e) of the CRR provides that the IPS must draw up and publish on an annual basis a consolidated report comprising the balance sheet, the profit and loss account, the situation report and the risk report, concerning the IPS as a whole, or a report comprising the aggregated balance sheet, the aggregated profit and loss account, the situation report and the risk report, concerning the IPS as a whole. When assessing compliance with this condition, the ECB will verify whether:

(i) the consolidated or aggregated report is audited by an independent external auditor on the basis of the relevant accounting framework or, if applicable, the aggregation method;

(ii) the external auditor is required to provide an audit opinion;

(iii) all members of the IPS, the subsidiaries of all IPS members, any intermediary structures such as holding companies and the special entity

steering the IPS itself (if it is a legal entity) are included in the scope of consolidation/aggregation;

(iv) in cases where the IPS draws up a report comprising an aggregated balance sheet and an aggregated profit and loss account, the aggregation method can ensure that all intragroup exposures are eliminated.

(7) In accordance with Article 113(7)(f) of the CRR, the ECB will verify whether:

(i) the contract or legal text of the statutory arrangements includes a provision under which members of the IPS are obliged to give advance notice of at least 24 months if they wish to end the IPS.

(8) Article 113(7)(g) of the CRR provides that the multiple use of elements eligible for the calculation of own funds (hereinafter referred to as "multiple gearing") as well as any inappropriate creation of own funds between the members of the IPS must be eliminated. For the purposes of assessing compliance with this requirement, the ECB will verify whether:

(i) the external auditor who is responsible for the audit of the consolidated or aggregated financial report can confirm that multiple gearing, as well as any inappropriate creation of own funds between the members of the IPS, has been eliminated;

(ii) any transactions by the members of the IPS have led to the inappropriate creation of own funds at the individual level, sub-consolidated level or consolidated level.

(9) The ECB's assessment of compliance with the condition laid down in Article 113(7)(h) of the CRR, namely, that the IPS must be based on a broad membership of credit institutions of a predominantly homogeneous business profile, will be based on the following factors.

(i) The IPS should have sufficient members (among the institutions that are potentially eligible for membership) to cover any support measures it may have to implement.

(ii) The criteria to be considered within the assessment of the business profile are: business model, business strategy, size, customers, regional focus, products, funding structure, material risk categories, sales cooperation and service agreements with other IPS members, etc.

(iii) The different business profiles of the IPS member institutions should allow the monitoring and classification of their risk situations using the uniformly stipulated systems that the IPS has in place (Article 113(7)(c) of the CRR).

(iv) IPS sectors are often based on collaboration, meaning that central institutions and other specialised institutions in the network offer products and services to other IPS members. When assessing the homogeneity of business profiles the ECB will consider the extent to which the business activities of the IPS members are related to the IPS network (products and

services provided to local banks, services to shared customers, capital market activities etc.).

6. OTHER EXEMPTIONS AND RELEVANT PROVISIONS FOR CREDIT INSTITUTIONS THAT HAVE ENTERED INTO AN INSTITUTIONAL PROTECTION SCHEME

As a direct consequence of permission being granted under Article 113(7) of the CRR, credit institutions may permanently use the “standardised approach” for those exposures in accordance with Article 150(1)(f) of the CRR. In addition, the exposures in question are exempt from the application of Article 395(1) of the CRR on large exposure limits.

Furthermore, the application of Article 113(7) of the CRR is one of the pre-conditions for granting additional permissions to IPS members, namely: (i) the application of lower outflow and higher inflow percentages for LCR calculation (Articles 422(8) and 425(4) of the CRR taken in conjunction with Articles 29 and 34 of Commission Delegated Regulation (EU) 2015/61); (ii) exemption from the cap on inflows under Article 33(2)(b) of Commission Delegated Regulation (EU) 2015/61; and (iii) the application of higher available stable funding factors or lower required stable funding factors (Article 428h of the CRR). The policy the ECB will apply for these options and discretions is laid down in Chapter 6 of this Guide.

Chapter 5
Large exposures

1. This chapter sets out the ECB’s policy on the treatment of large exposures.

2. Part Four of the CRR sets out the relevant legislative framework.

3. COMPLIANCE WITH THE LARGE EXPOSURES REQUIREMENTS (Articles 395 and 396 of the CRR)

Where, in exceptional cases, the exposures of credit institutions exceed the limit set in Article 395(1) of the CRR, the ECB intends to allow a limited period of time in which to comply with the limit, pursuant to Article 396(1).

For the purpose of this assessment, the ECB would more specifically examine whether immediate rectification is viable or not. In the event that such rectification is not viable, the ECB would consider it appropriate to set a time limit by which a rapid rectification would be required. In addition, the credit institution would be expected to show that the breach of the limit did not result from the usual policy of entering into ordinary credit risk exposures. However, even in these exceptional cases referred to in Article 396(1), the ECB does not consider it appropriate to allow the exposure to exceed 100% of the Tier 1 capital of the credit institution.

4. EXEMPTIONS FROM THE LIMITS TO LARGE EXPOSURES: THIRD-COUNTRY INTRAGROUP EXPOSURES (Article 400(2)(c) of the CRR)

The ECB intends to exempt, fully or partially, the exposures listed in Article 400(2)(c) of the CRR, in so far as those exposures are incurred to undertakings that are established in third countries, from the large exposures limit laid down in Article 395(1) of the CRR, provided that the requirements set out in Article 400(3) of the CRR are fulfilled. The ECB intends to grant such exemptions only after conducting a case-by-case prior assessment and following an application from the credit institution.

Credit institutions should state in their applications whether they are applying for a full exemption of the exposures, or for an exemption of only a specific proportion of the exposures. The ECB will take the proposed extent of the exemption into account when conducting the case-by-case prior assessment.

For the purposes of assessing whether the conditions in Article 400(3) of the CRR are fulfilled, in addition to the generally applicable factors reflected in paragraphs 1 and 2 of Annex I of Regulation (EU) 2016/445, the ECB will take into consideration the following non-exhaustive list of factors, as appropriate, in view of the specific circumstances of each credit institution.

(i) There are adequate arrangements in place which enable the ECB to exchange information, including personal data, and cooperate with the competent authority responsible for the prudential supervision of the counterparty on a permanent basis.

(ii) The applicant credit institution is in a position to provide sufficient regular information on those third-country entities to which it has, or intends to have, exposures which would be covered by the requested exemption, were it to be granted. The existence of obstacles for the applicant credit institution in providing such information, for example owing to prohibition in the legal framework applicable in the third country, should ordinarily be considered as an important deterrent factor for granting the requested exemption.

(iii) The booking practices of the credit institution are aligned with its risk management strategy and risk control mechanisms, at both the individual level and the consolidated level. For the purposes of this assessment, in particular for the purposes of specifying the terms of a potential partial exemption, the ECB's general policy with regard to booking practices should be taken into account.

(iv) The structure of the part of the group which is located outside the EU does not hinder the timely repayment of the exposure by the counterparty to the credit institution.

(v) There have been no negative precedents with regard to the transfer of funds by the counterparty to the credit institution.

(vi) The credit institution has established sound collateral management and independent price verification (IPV) capabilities to ensure (a) intragroup exposures are independently quantified, (b) collateral received is of good

quality and segregated from other group entities, and (c) disputes are promptly resolved.

(vii) The exemption has no disproportionate negative effects on the preferred resolution approach.

- **Documentation related to approval decisions under Article 400(2)(c) for third-country intragroup exposures**

For the purpose of the assessment(s) under Article 400(2)(c) of the CRR, the credit institution presenting the application is expected to submit all the documents required under paragraph 3 of Annex I of Regulation (EU) 2016/445, unless they have already been provided to the ECB pursuant to other regulations, decisions or requirements. In addition, the credit institution should also present the following documentation:

(1) A description of the legal entity structure of the group, identifying all third-country undertakings to which the applicant credit institution has, or intends to have, exposures which would be covered by the requested exemption, were it to be granted.

(2) A statement signed by the legal representative and approved by the management body confirming that:

(i) the applicant credit institution is able to provide sufficient regular information on those third-country entities to which it has, or intends to have, exposures that would be exempted from the large exposures limits, if the exemption were to be granted;

(ii) there are no obstacles in the legal framework applicable in the relevant third countries that impede the applicant credit institution from providing relevant information to the ECB;

(iii) the booking practices of the credit institution are aligned with its risk management strategy and risk control mechanisms, at both the individual level and the consolidated level;

(iv) the structure of the part of the group which is located outside the EU does not hinder the timely repayment of the exposure by the counterparty to the credit institution;

(v) there have been no relevant negative precedents with regard to the transfer of funds by the relevant undertakings to the credit institution;

(vi) the credit institution has established, as appropriate, sound collateral management and IPV capabilities to ensure (i) intragroup exposures are independently quantified, (ii) collateral received is of good quality and segregated from other group entities, and (iii) disputes are promptly resolved.

The ECB expects credit institutions to notify it of any material change in circumstances that would affect fulfilment of the conditions specified in Article 400(3) of the CRR.

Chapter 6
Liquidity

1. This chapter sets out the ECB's policy on compliance with liquidity requirements and liquidity reporting requirements.

2. The legislative framework for liquidity requirements and reporting requirements is set out in Part Six of the CRR and in Commission Delegated Regulation (EU) 2015/61, which provides for the liquidity coverage ratio applicable in the EU, as well as specifying the conditions for establishing a liquidity buffer and calculating liquidity outflows and inflows. This Regulation became applicable on 1 October 2015.

3. COMPLIANCE WITH LIQUIDITY REQUIREMENTS (Article 414 of the CRR)

   The ECB intends to authorise, on a case-by-case basis, lower reporting frequencies (than daily) and longer reporting delays (than by the end of each business day) where a credit institution does not meet, or expects not to meet, the liquidity coverage requirement set out in Article 412(1) of the CRR and further specified in Commission Delegated Regulation (EU) 2015/61 or the stable funding requirement laid down in Article 413(1) of the CRR and further specified in Title IV of Part Six of the CRR, under the conditions stipulated in Article 414 of the CRR. When considering granting this authorisation, the ECB will take into consideration the shorter time horizon of the LCR relative to the NSFR and, thus, the relatively greater importance of more frequent liquidity reporting by credit institutions that do not meet, or expect not to meet, their liquidity coverage requirement relative to credit institutions that do not meet, or expect not to meet, their stable funding requirement.

   In addition to the above requirements, the ECB would consider imposing additional reporting requirements on credit institutions pursuant to Article 16(2)(j) of the SSM Regulation in the event of a liquidity crisis.

4. CURRENCY MISMATCHES (Article 8(6) of Commission Delegated Regulation (EU) 2015/61)

   The first sentence of Article 8(6) of Commission Delegated Regulation (EU) 2015/61, according to which credit institutions must ensure that the currency denomination of their liquid assets is consistent with the distribution by currency of their net liquidity outflows, does not require credit institutions to comply with a 100% LCR requirement in relation to the LCR in significant currencies (as defined in Article 415(2) of the CRR). Instead, the ECB will assess potential mismatches against the factors referred to under Article 8(6) of Commission Delegated Regulation (EU) 2015/61. Moreover, the ECB will also consider the credit institution-specific contingency plans to resolve currency mismatches during times of idiosyncratic and/or market-wide stress. Based on the above-mentioned assessment, the ECB may then impose a limit on net liquidity outflows addressing currency mismatches in accordance with Article 8(6) of Commission Delegated Regulation (EU) 2015/61 on a case-by-case basis, if deemed necessary.

This is notwithstanding the fact that the ECB will also monitor risks related to currency mismatches more generally by also looking at currency mismatches of assets and liabilities with an effective residual maturity beyond the 30 calendar-day time horizon referred to in the LCR.

5. DIVERSIFICATION OF HOLDINGS OF LIQUID ASSETS (Article 8(1) of Commission Delegated Regulation (EU) 2015/61)

The ECB intends to impose restrictions or requirements on credit institutions for the purpose of diversifying their holdings of liquid assets, as specified in Article 8(1) of Commission Delegated Regulation (EU) 2015/61, on a case-by-case basis and possibly implemented via a SREP decision, to be revised annually. Within this context, the ECB will assess, in each individual case, the concentration thresholds by asset class and will, in particular, focus on covered bonds referred to in Articles 10(1)(f), 11(1)(c), 11(1)(d) and 12(1)(e) of Commission Delegated Regulation (EU) 2015/61, if on aggregate they represent more than 60% of the total amount of liquid assets net of applicable haircuts.

This is notwithstanding the fact that the ECB will also monitor more generally whether credit institutions have policies and limits in place to ensure that the holdings of liquid assets comprising their liquidity buffer remain appropriately diversified at all times, as required by Article 8(1) of Commission Delegated Regulation (EU) 2015/61.

6. MANAGEMENT OF LIQUID ASSETS (Article 8(3) of Commission Delegated Regulation (EU) 2015/61)

In accordance with Article 8(3)(c) of Commission Delegated Regulation (EU) 2015/61, the ECB intends to permit credit institutions to combine the approaches provided for in Article 8(3)(a) and (b) of that Regulation, on a consolidated basis or at the level of the liquidity sub-group, where a liquidity waiver has been granted at the individual level in accordance with Article 8 of the CRR. Credit institutions can also be allowed to combine both approaches at individual level, provided that they can explain why the combined approach is needed.

7. ADDITIONAL OUTFLOWS FOR OTHER PRODUCTS AND SERVICES (Article 23(2) of Commission Delegated Regulation (EU) 2015/61)

With regard to the identification of the products and services that fall under Article 23 of Commission Delegated Regulation (EU) 2015/61, the ECB expects credit institutions to consider the high-level principles and examples provided by the EBA in the first EBA report on the implementation of the LCR in the EU[29] or any future publications and specifications by the EBA on this matter.

In accordance with Article 23(2) of Commission Delegated Regulation (EU) 2015/61, the ECB will, at least once a year, collect information from credit institutions on the products and services referred to in Article 23(1) of Commission Delegated

[29] "Monitoring of liquidity coverage ratio implementation in the EU – First report", European Banking Authority, July 2019.

Regulation (EU) 2015/61 for which the likelihood and potential volume of such liquidity outflows are material. The ECB will determine the outflow rates to be applied, either by accepting the outflow rates applied by the credit institutions or by setting the outflow rates itself.

8. HIGHER OUTFLOW RATES (Article 25(3) of Commission Delegated Regulation (EU) 2015/61)

The ECB intends to impose supervisory outflow rates pursuant to Article 25(3) of Commission Delegated Regulation (EU) 2015/61, especially in cases where:

(i) empirical evidence shows that the actual outflow rate observed for certain retail deposits is higher than those set out in that Regulation for riskier retail deposits;

(ii) certain credit institutions develop aggressive marketing policies, such as offering remuneration rates significantly above the average, that present a risk for their liquidity position, as well as a systemic risk, in particular to the extent that they can trigger a change in market practices regarding riskier forms of deposits.

9. OUTFLOWS WITH INTERDEPENDENT INFLOWS (Article 26 of Commission Delegated Regulation (EU) 2015/61)

- **General considerations**

The ECB intends to allow credit institutions with interdependent inflows to calculate the corresponding outflows net of the interdependent inflows pursuant to Article 26 of Commission Delegated Regulation (EU) 2015/61, provided that the applicant credit institution provides evidence that the following criteria, which specify the conditions set out in Article 26 of Commission Delegated Regulation (EU) 2015/61, are met.

(1) Regarding Article 26(a) of Commission Delegated Regulation (EU) 2015/61, interdependent inflows and outflows should not be subject to a judgement or discretionary decision of the reporting credit institution.

(2) Regarding Article 26(a) of Commission Delegated Regulation (EU) 2015/61, the interdependent inflow should not be captured otherwise in the LCR of the credit institution, in order to avoid double-counting.

(3) Evidence of the legal, regulatory or contractual commitment as required by Article 26(b) of Commission Delegated Regulation (EU) 2015/61 should be provided by the credit institution.

(4) When Article 26(c)(i) of Commission Delegated Regulation (EU) 2015/61 applies, the credit institution should consider the following:

(i) due consideration should be given to delays in payment systems that could prevent the condition in Article 26(c)(i) of Commission Delegated Regulation (EU) 2015/61 from being met;

(ii) in the event of a time lag between the inflow and the outflow, the funds from the inflow should be segregated and held in the form of assets referred to in Chapter 2 of Title II of Commission Delegated Regulation (EU) 2015/61 and, if the inflow arises before the reporting reference date of the LCR, it should not be considered anywhere else in the calculation of the LCR.

(5) When Article 26(c)(ii) of Commission Delegated Regulation (EU) 2015/61 applies, the State guarantee, as well as the timing of the inflows, is clearly defined in the applicable legal, regulatory or contractual framework. Existing payment practices are not considered to be sufficient to fulfil this condition. Due consideration should also be given to delays in payment systems regarding interdependent inflows and outflows pursuant to Article 26(c)(ii) of Commission Delegated Regulation (EU) 2015/61.

For the purpose of the assessment of compliance with the specifications above, as well as the notification to the EBA referred to in the last paragraph of Article 26 of Commission Delegated Regulation (EU) 2015/61, the applicant credit institution is also expected to submit to the ECB ex ante information about (i) the outstanding balance of assets, liabilities and off-balance-sheet commitments whose liquidity flows would be treated as interdependent, and (ii) the impact on the net liquidity outflows and the LCR if the ECB were to allow the credit institution to apply the preferential treatment.

- **Specific considerations when applying Article 26 of Commission Delegated Regulation (EU) 2015/61 to debit and credit balances related to accounts that are subject to a notional cash pooling arrangement**

Where the conditions under sub-paragraphs (1) to (5) above are met, the ECB also intends to allow credit institutions to apply Article 26 of Commission Delegated Regulation (EU) 2015/61 to debit and credit balances of accounts that are subject to a notional cash pooling arrangement, i.e. to net the amount of credit balances that is virtually offset by debit balances, provided that the following additional conditions are met.

(i) The accounts associated with the cash pool are maintained in the same individual applicant credit institution or, where applicable, in the same applicant liquidity sub-group as per Article 8 of the CRR.

(ii) The cash pooling arrangement meets the conditions referred to in Article 429b(3) of the CRR.

(iii) There are contractual arrangements in place which ensure that the overall net balance of the pool cannot become negative, except to the extent arising from the use of any overdraft facility attached to the cash pool.

(iv) The credit institution can demonstrate that it has the operational capacity to transfer the debit and credit balances of all the parties to any individual cash pooling arrangement into a separate single account at any time.

(v) None of the clients that have access to the cash pool qualify as a credit institution referred to in Article 4(1)(1) of the CRR.

The ECB intends to exclude from the application of Article 26 of Commission Delegated Regulation (EU) 2015/61 balances denominated in currencies where there are or might be obstacles to convertibility.

If the application of Article 26 of Commission Delegated Regulation (EU) 2015/61 in relation to a cash pooling arrangement is approved, the credit institution should consider the following aspects.

(i) The netting should only be applied to the current debit and credit balances of the individual accounts which are subject to the notional cash pooling arrangement. By contrast, any undrawn overdraft facility attached to the cash pool or to the individual accounts associated with the cash pool should be treated separately, i.e. for the undrawn amount of these facilities, the credit institution should consider an outflow in accordance with Articles 23 or 31 of Commission Delegated Regulation (EU) 2015/61.

(ii) Any excess debit or credit balance should still be considered in the calculation of the LCR and should be calculated by assuming that debit or credit balances are netted in order of increasing outflow rates and/or decreasing inflow rates.

(iii) If the application of Article 26 of Commission Delegated Regulation (EU) 2015/61 is approved in relation to a cash pooling arrangement involving accounts denominated in multiple currencies, credit institutions should continue treating balances denominated in different currencies on a gross basis for the purpose of reporting in a currency subject to separate reporting in accordance with Article 415(2) of the CRR.

(iv) Where a credit institution or a liquidity sub-group with an EU parent institution in the euro area benefits from the application of Article 26 of Commission Delegated Regulation (EU) 2015/61 in relation to a cash pooling arrangement, any netting approved at individual or liquidity sub-group-level may also be reflected in the calculation of the LCR at the consolidated level.

10. PREFERENTIAL TREATMENT WITHIN A GROUP OR AN IPS (Article 29 of Commission Delegated Regulation (EU) 2015/61)

- **General conditions**

The ECB considers that differentiated treatment, pursuant to Article 422 of the CRR and Article 29 of Commission Delegated Regulation (EU) 2015/61, can be applied to intragroup outflows of credit institutions, following a case-by-case assessment. More specifically, such treatment can be applied for outflows of credit and liquidity facilities only under Article 29 of Commission Delegated Regulation (EU) 2015/61, in cases where waivers of Article 8 or 10 of the CRR were not granted or were partially

granted. This policy applies both for credit institutions established within the same Member State and for credit institutions established in different Member States.

For the purpose of the assessment pursuant to Article 422(8) of the CRR and Article 29(1) of Commission Delegated Regulation (EU) 2015/61 with regard to credit institutions established in the same Member State, the ECB will take into account whether the following criteria, which specify the conditions of the applicable legal framework, are met:

(i) in order to assess whether there are reasons to expect a lower outflow over the next 30 calendar days even under a combined idiosyncratic and market-wide stress scenario, the ECB expects to be shown that cancellation clauses for the contract include a notification period of at least six months;

(ii) when a lower outflow rate applies to credit or liquidity facilities, in order to assess whether a corresponding symmetric or more conservative inflow is applied by the facility receiver, the ECB expects to be shown that the inflow that could potentially arise from the relevant facility is properly taken into account in the contingency funding plan of the facility-receiving credit institution;

(iii) in the event of the application of Article 422(8) of the CRR, when a lower outflow rate applies to deposits, in order to assess whether a corresponding symmetric or more conservative inflow is applied by the depositor, the ECB expects to be shown that the corresponding deposits are not taken into account in the liquidity recovery plan of the liquidity-providing entity, for the purpose of applying Article 422 of the CRR.

- **Additional conditions in the case of an application where the counterparty is located in a different Member State from the applicant credit institution**

For the purpose of this assessment pursuant to Article 422(9) of the CRR and Articles 29(1) and (2) of Commission Delegated Regulation (EU) 2015/61 with regard to credit institutions established in different Member States, the ECB will take into account whether the criteria provided under Commission Delegated Regulation (EU) 2017/1230[30], which specify the conditions of the legislative framework, are met.

11. ADDITIONAL COLLATERAL OUTFLOWS FROM DOWNGRADE TRIGGERS (Article 30(2) of Commission Delegated Regulation (EU) 2015/61)

The ECB would expect credit institutions to calculate the amount of collateral that would be posted for, or contractual cash outflows associated with, contracts whose contractual conditions will lead to outflows within 30 calendar days in the case of a downgrade in the credit institution's external credit assessment by three notches.

[30] Delegated Regulation (EU) 2017/1230 of 31 May 2017 supplementing Regulation (EU) No 575/2013 of the European Parliament and of the Council with regard to regulatory technical standards further specifying the additional objective criteria for the application of a preferential liquidity outflow or inflow rate for cross-border undrawn credit or liquidity facilities within a group or an institutional protection scheme (OJ L 177, 8.7.2017, p. 7).

When credit institutions do not have an external credit assessment, it is expected that they will consider the impact on their liquidity outflows of a material deterioration of their credit quality corresponding to a three-notch downgrade. Where the above amount represents at least 1% of gross liquidity outflows such outflows are expected to be included in the regular supervisory reporting in accordance with Article 415 of the CRR. For the purpose of this specification, gross liquidity outflows should be understood as total liquidity outflows referred to in Article 22 of Delegated Regulation (EU) 2015/61, including those additional outflows triggered by the above-mentioned deterioration in credit quality.

12. CAP ON INFLOWS (Article 33(2) of Commission Delegated Regulation (EU) 2015/61)

The ECB is aware that under certain conditions the exercise of this specific option on liquidity requirements, when considered in combination with the option in Article 34 of Commission Delegated Regulation (EU) 2015/61, could, from the liquidity-receiving entity's perspective, produce a comparable effect to a waiver under Article 8 of the CRR (i.e. where, in the case that the above-mentioned options are combined, the liquidity buffer requirement for the exempted credit institution is reduced to zero, or close to zero), while the two exemptions are subject to different specifications.

Consequently, in exercising the combination of those options and granting the related waivers, the ECB will make sure that this does not create any inconsistencies or conflicts with the ECB policy for granting a waiver in accordance with Article 8 of the CRR concerning the same entities within the same perimeter.

Details on the combination of the Article 33(2) exemption and the Article 34 waiver and their interaction with a waiver under Article 8 of the CRR are provided below in the specifications for the assessment of the inflows referred to in sub-paragraph (a) of Article 33(2).

In general, the ECB considers that the cap on inflows set out in Article 33(1) of Commission Delegated Regulation (EU) 2015/61 can be fully or partially waived following a specific assessment of the applications submitted by credit institutions pursuant to Article 33(2) of the same Regulation. This assessment will be carried out according to the factors specified below for each type of exposure.

- **Assessment for granting the exemption from the cap on inflows under Article 33(2)(a) of Commission Delegated Regulation (EU) 2015/61**

The provision captures inflows where the provider is a parent or subsidiary of the credit institution or another subsidiary of the same parent or linked to the credit institution by a relationship within the meaning of Article 12(1) of Directive 83/349/EEC[31]. In this context, parent should be understood as a parent undertaking,

[31] Seventh Council Directive 83/349/EEC of 13 June 1983 based on the Article 54(3)(g) of the Treaty on consolidated accounts (OJ L 193, 18.7.1983, p. 1).

as defined in Article 4(1)(15) of the CRR, and subsidiary should be understood as defined in Article 4(1)(16) of the CRR.

Both entities should also belong to the same scope of consolidation as defined in Article 18(1) of the CRR, unless they have a relationship within the meaning of Article 12(1) of Directive 83/349/EEC.

The ECB intends to exempt only those credit institutions which currently have inflows exceeding 75% of their gross outflows, or which reasonably expect to have inflows exceeding 75% of their gross outflows in the foreseeable future, also taking into consideration the potential volatility of the LCR.

(1) The ECB will pay particular attention to cases where this option is exercised in combination with the option set out in Article 34 of Commission Delegated Regulation (EU) 2015/61, when a preferential treatment on intragroup credit and liquidity facilities has been granted.

    Exercising these two options in combination could result in zero net liquidity outflows for the liquidity-receiving entity. It could, therefore, under certain conditions, have an effect for the liquidity-receiving entity that is comparable to a waiver in accordance with Article 8 of the CRR. In this regard, the ECB should ensure that granting applications for a combination of these two options or for the exemption under Article 33(2)(a) of Commission Delegated Regulation (EU) 2015/61 in isolation does not conflict with the approved policy for applications for a waiver, under Article 8 of the CRR, which would cover the same entities.

    In cases where the conditions for a waiver in accordance with Article 8 of the CRR cannot be met for reasons that are not under the control of the credit institution or the group, or where the ECB is not satisfied that a waiver in accordance with Article 8 of the CRR may actually be granted, the ECB will consider instead the possibility of granting a combination of the preferential treatment under Article 34 of Commission Delegated Regulation (EU) 2015/61 and the exemption from the cap on inflows pursuant to Article 33(2)(a) of Commission Delegated Regulation (EU) 2015/61.

(2) The ECB considers it appropriate, in cases where applications are submitted jointly pursuant to Articles 33(2)(a) and 34 of Commission Delegated Regulation (EU) 2015/61 for the same inflows, that the assessment regarding inflows from undrawn credit and liquidity facilities is carried out according to the specifications under Article 34 of Commission Delegated Regulation (EU) 2015/61 in order to ensure consistency.

Where the exemption under Article 33(2) of Commission Delegated Regulation(EU) 2015/61 is not requested in combination with a preferential treatment pursuant to Article 34 of the same Regulation, the ECB will consider the potential impact of this exemption on the LCR of the credit institution and its liquidity buffer, and the type of intragroup inflows that would be exempted from the cap on inflows. In particular, the ECB recognises that, under certain conditions, granting this exemption in isolation

could have a similar impact to a waiver granted in accordance with Article 8 of the CRR for the credit institution exempted from the cap on inflows.

The inflows in question should, therefore, meet minimum characteristics that would give sufficient comfort to the ECB that the applicant credit institution could rely on the inflows for its liquidity needs in times of stress. To this end, the ECB considers that the inflows should present the following features.

(i) There are no contractual clauses that require any specific conditions to be met for the inflow to become available.

(ii) There are no provisions that would allow the intragroup counterparty providing the inflows to withdraw from its contractual obligations or impose additional conditions.

(iii) The terms of the contractual agreement giving rise to the inflows cannot be changed substantially without the prior approval of the ECB. An extension or a renewal of contracts under the same provisions as previous contracts does not per se require prior approval. Nonetheless, extensions or renewals of contracts must be notified to the ECB.

(iv) The inflows are subject to a symmetric or more conservative outflow rate when the intragroup counterparty calculates its own LCR. In particular, for intragroup deposits, if the deposit-receiving credit institution applies an inflow rate of 100%, the applicant entity should demonstrate that the intragroup counterparty does not treat this deposit as operational (as defined in Article 27 of Commission Delegated Regulation (EU) 2015/61).

(v) The applicant credit institution is able to demonstrate that the inflows are also properly captured in the contingency funding plan of the intragroup counterparty or, in the absence of such contingency funding plan, in the contingency funding plan for the applicant credit institution.

(vi) The applicant credit institution should be able to demonstrate that the intragroup counterparty has been fulfilling the LCR requirement for at least one year.

(vii) The applicant credit institution should monitor the liquidity position of the intragroup counterparty on a regular basis and demonstrate that it also enables the intragroup counterparty to monitor its own liquidity position on a regular basis. Alternatively, the applicant credit institution is expected to demonstrate how it has access to the appropriate information on the liquidity positions of the intragroup counterparty.

(viii) The applicant credit institution should be able to factor in the impact of granting the exemption on its risk management systems with a view to complying with Article 86 of the CRD and should also be able to monitor how a potential withdrawal of the exemption would affect its liquidity risk position and LCR.

- **Assessment for granting the exemption from the cap on inflows under Article 33(2)(b) of Commission Delegated Regulation (EU) 2015/61**

It must be borne in mind that for members of institutional protection schemes (IPSs) this exemption could, under certain circumstances, be functionally equivalent, for the depositing entity (depositor) member of the IPS, to the deposit being treated in accordance with Article 16(1)(a) of Commission Delegated Regulation (EU) 2015/61 as a Level 1 liquid asset. Even if the treatment under Article 16(1)(a) concerns the LCR numerator, allowing an exemption from the cap on inflows pursuant to Article 33(2)(b) for the deposit would, through the offsetting of outflows by inflows, decrease the denominator of the same ratio to a corresponding degree. This would ultimately produce an equivalent effect to the same deposit being recognised in full as high quality liquid assets and would increase the numerator. Consequently, the ECB is of the opinion that the exemption from the cap on inflows should not be exercised for deposits from entities (members of IPSs) qualifying for the treatment set out in Article 113(7) of the CRR that are fully eligible for the treatment pursuant to Article 16(1)(a) of Commission Delegated Regulation (EU) 2015/61.

This being the case, credit institutions are invited (encouraged) to directly apply the treatment set out in Article 16(1)(a) of Commission Delegated Regulation (EU) 2015/61 for the determination of the LCR.

Other deposits that do not qualify for the treatment under Article 16(1)(a) of Commission Delegated Regulation (EU) 2015/61 could benefit from the exemption only in the following cases:

(1) where, in accordance with national law or the legally binding provisions, the deposit-receiving entity is obliged to hold or invest the deposits in Level 1 liquid assets as defined in letters (a) to (d) of Article 10(1) of Commission Delegated Regulation (EU) 2015/61;

or

(2) where the following conditions are met.

(i) There are no contractual clauses that require any specific conditions to be met for the inflow to become available.

(ii) There are no provisions that would allow the intra-IPS counterparty to not fulfil its contractual obligations or to impose additional conditions on the withdrawal of the deposit.

(iii) The terms of the contractual agreement governing the deposit cannot be changed substantially without the prior approval of the ECB.

(iv) The inflows are subject to a symmetric or more conservative outflow rate when the intra-IPS counterparty calculates its own LCR. In particular, if the deposit-receiving credit institution applies an inflow rate of 100%, the applicant entity should demonstrate that the intra-IPS counterparty does

not treat this deposit as operational (as defined in Article 27 of Commission Delegated Regulation (EU) 2015/61).

(v) The inflows are also properly captured in the contingency funding plan of the intra-IPS counterparty.

(vi) The applicant credit institution is able to demonstrate that the intra-IPS counterparty has been fulfilling the LCR requirement for at least one year.

(vii) The IPS adequately monitors and reviews the liquidity risk and communicates the review to individual members in terms of its systems in accordance with Article 113(7)(c) and (d) of the CRR.

(viii) The applicant credit institution is able to incorporate the impact of granting the exemption in its risk management systems and monitor how a potential withdrawal of the exemption would affect its liquidity risk position and its LCR.

The legislative wording used for the other category of deposits eligible for exemption from the cap, namely groups of entities qualifying for the treatment set out in Article 113(6) of the CRR, means that the conditions mentioned in Article 113(6) of the CRR must have been met and the corresponding exemption from risk-weighted capital requirements for intragroup exposures must actually have been granted. Therefore, entities that have been excluded from the scope of prudential consolidation in accordance with Article 19 of the CRR should also be excluded from the application of the exemption on the cap on inflows, given that an exemption referred to under Article 113(6) of the CRR cannot be granted. Consequently, the exemption from the cap on inflows under Article 33(2)(b) of Commission Delegated Regulation (EU) 2015/61 is not allowed either.

In this case, other intragroup deposits could benefit from the exemption only where, in accordance with national law or other legally binding provisions regulating groups of credit institutions, the deposit-receiving entity is obliged to hold or invest the deposits in Level 1 high quality liquid assets as defined in letters (a) to (d) of Article 10(1) of Commission Delegated Regulation (EU) 2015/61.

- **Assessment for granting the exemption from the cap on inflows under Article 33(2)(c) of Commission Delegated Regulation (EU) 2015/61**

The ECB is of the opinion that inflows already benefiting from the preferential treatment mentioned in Article 26 of Commission Delegated Regulation (EU) 2015/61 should also be exempted from the cap referred to in Article 33(1) of Commission Delegated Regulation (EU) 2015/61.

In order to grant the exemption for the inflows referred to in the second sub-paragraph of Article 31(9) of Commission Delegated Regulation (EU) 2015/61, the ECB intends to assess such inflows against the definition of promotional loans in Article 31(9) of Commission Delegated Regulation (EU) 2015/61, and against the criteria of Article 26 of Commission Delegated Regulation (EU) 2015/61.

13. SPECIALISED CREDIT INSTITUTIONS (Article 33(3) to (5) of Commission Delegated Regulation (EU) 2015/61)

The ECB considers it appropriate that specialised credit institutions should have differentiated treatment for the recognition of their inflows under the conditions specified in Article 33(3) to (5) of Commission Delegated Regulation (EU) 2015/61.

More specifically:

(i) credit institutions whose main activities are leasing and factoring can be fully exempted from the cap on inflows;

(ii) credit institutions whose main activities are financing for the acquisition of motor vehicles and consumer credit as defined in Directive 2008/48/EC of the European Parliament and of the Council[32] may apply a higher cap of 90% on inflows.

The ECB considers that only credit institutions with a business model that fully corresponds to one or several of the activities identified in Article 33(3) and (4) of Commission Delegated Regulation (EU) 2015/61 can expect preferential treatment.

For the purpose of this assessment, the ECB would also examine whether the business activities exhibit a low liquidity risk profile, taking into account the following factors.

(i) The timing of inflows should match the timing of outflows. More specifically, the ECB would examine whether the following apply.

(a) Inflows and outflows subject to the cap exemption or to a 90% cap are triggered by a single decision or set of decisions by a given number of counterparties and are not subject to a judgement or discretionary decision of the reporting credit institution.

(b) Inflows and outflows subject to the exemption are related to a legal, regulatory or contractual commitment. This commitment has to be evidenced by the applicant credit institution. In the event that the exempted inflow arises from a contractual commitment, the credit institution is expected to show that this commitment has a residual validity exceeding 30 days. Alternatively, when the business activity does not make it possible to show a relationship between inflows and outflows on a transaction-by-transaction basis, the applicant credit institutions should provide maturity ladders showing the respective timing of inflows and outflows over a period of 30 days for a total period covering at least one year.

(ii) At the individual level, the credit institution is not significantly financed by retail deposits. More specifically, the ECB would examine whether deposits from retail depositors exceed 5% of its total liabilities, and whether at the

[32] Directive 2008/48/EC of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers and repealing Council Directive 87/102/EEC (OJ L 133, 22.5.2008, p. 66).

individual level the ratio of the main activities of the credit institution exceeds 80% of the total balance sheet. In cases where at the individual level credit institutions have diversified business activities which include one or several of the activities identified in Article 33(3) or (4) of Commission Delegated Regulation (EU) 2015/61, only inflows corresponding to activities under Article 33(4) are considered to be subject to the 90% cap. Within this context, the ECB would also examine whether the credit institution's activities under Article 33(3) and (4), jointly examined, exceed 80% of the total balance sheet of the credit institution at the individual level. The institution is expected to demonstrate that it has an appropriate reporting system to precisely identify these inflows and outflows on a continuous basis.

(iii) The derogations are disclosed in annual reports.

In addition, the ECB would examine whether, at the consolidated level, inflows exempt from the cap are higher than outflows arising from the same specialised credit institution and cannot cover any other types of outflows.

14. INTRAGROUP LIQUIDITY INFLOWS (Article 34 of Commission Delegated Regulation (EU) 2015/61)

- **General conditions**

The ECB would also allow for differentiated treatment with regard to inflows within a group, under the conditions set out in Article 425 of the CRR and Article 34 of Commission Delegated Regulation (EU) 2015/61, after a case-by-case assessment. This approach would be considered for inflows of credit and liquidity facilities, in cases where waivers of Article 8 or 10 of the CRR were not granted or were partially granted, with regard to the LCR. This policy applies both for institutions established within the same Member State and for credit institutions established in different Member States.

For the purpose of this assessment pursuant to Article 425(4) of the CRR and Article 34(1) of Commission Delegated Regulation (EU) 2015/61, with regard to credit institutions established in the same Member State, the ECB will take into account whether the following criteria, which specify the conditions of the legislative framework, are met.

(i) In order to assess whether there are reasons to expect a higher inflow even under a combined idiosyncratic and market-wide stress scenario, the ECB expects to be shown that cancellation clauses include a notification period of at least six months and that the agreements and commitments do not contain any clause that would allow the liquidity provider to:

(a) require any conditions to be fulfilled before the liquidity is provided;

(b) withdraw from its obligations to fulfil these agreements and commitments;

(c) change substantially the terms of the agreements and commitments without prior approval from the competent authorities involved.

(ii) In order to assess whether a corresponding symmetric or more conservative outflow is applied by the counterparty by way of derogation from Articles 422, 423 and 424 of the CRR, the ECB expects to be shown that the corresponding outflows from the credit or liquidity facility are taken into account in the liquidity recovery plan of the liquidity-providing entity.

(iii) In order to assess whether the liquidity-providing entity exhibits a sound liquidity profile, the credit institution is expected to demonstrate that it has been fulfilling its LCR on an individual and a consolidated basis, when applicable, for at least one year. The liquidity-receiving entity is expected to reflect the impact of the preferential treatment and of any exemption granted under Article 33 of Commission Delegated Regulation (EU) 2015/61 in its calculation of the LCR.

- **Additional conditions in the case of an application where the counterparty is located in a different Member State than the applicant credit institution**

For the purpose of this assessment pursuant to Article 425(5) of the CRR and Article 34(1) to (3) of Commission Delegated Regulation (EU) 2015/61, with regard to credit institutions established in different Member States, the ECB will take into account whether the criteria provided for in Commission Delegated Regulation (EU) 2017/1230, which specify the conditions of the legislative framework, are met.

15. RESTRICTION OF CURRENCY MISMATCHES (Article 428b(5) of the CRR)

The first paragraph of Article 428b(5) of the CRR, according to which credit institutions must ensure that the distribution of their funding profile by currency denomination is generally consistent with the distribution of their assets by currency, does not require credit institutions to comply with a 100% NSFR in relation to the NSFR in significant currencies (as defined in Article 415(2) of the CRR). Instead, the ECB will assess potential mismatches against the factors referred to under points (a) and (b) of Article 428b(5) of the CRR. Based on this assessment, the ECB may then impose a limit on the proportion of required stable funding in a particular currency that can be met by available stable funding that is not denominated in that currency on a case-by-case basis, if deemed necessary.

This is notwithstanding the fact that the ECB will also monitor risks related to currency mismatches of assets and liabilities more generally by also looking at those currency mismatches of assets and liabilities with an effective residual maturity beyond the one-year time horizon referred to in the NSFR.

16. INTERDEPENDENT ASSETS AND LIABILITIES (Article 428f(1) of the CRR)

In the context of Article 428f(1) of the CRR, the ECB intends to allow credit institutions to treat an asset and a liability as interdependent on a case-by-case basis and provided that the following criteria, which specify the conditions of the legislative framework, are met.

(1) With regard to Article 428f(1)(a) to (c) and (f) of the CRR, the applicant credit institution is expected to provide a comprehensive description of the underlying assets and liabilities which will be treated as interdependent as well as the counterparties involved. The description should demonstrate that:

(i) the credit institution acts solely as a pass-through unit to channel funding from the liability into the corresponding asset;

(ii) the individual interdependent assets and liabilities are clearly identifiable and have the same principal amount;

(iii) the asset and interdependent liability have substantially matched maturities, with a maximum delay of 20 days between the maturity of the asset and the maturity of the liability;

(iv) the counterparties for each pair of interdependent assets and liabilities are not the same.

(2) With regard to Article 428f(1)(d) and (e) of the CRR, the credit institution is expected to provide a legal opinion, issued either by an external independent third party or by an internal legal department, and approved by the management body, which confirms that the contractual arrangements and the legal and regulatory framework ensure that the interdependent liability cannot be used to fund other assets and that flows from the asset cannot be used for purposes other than repaying the interdependent liability.

The credit institution is expected to submit to the ECB ex ante information about (i) the outstanding balance of the assets and liabilities which would be treated as interdependent and (ii) the impact on the NSFR if the ECB were to allow the credit institution to treat an asset and a liability as interdependent.

17. PREFERENTIAL TREATMENT WITHIN A GROUP OR AN IPS (Article 428h of the CRR)

The ECB intends to allow credit institutions to apply a higher available stable funding factor or a lower required stable funding factor to assets, liabilities and committed credit or liquidity facilities pursuant to Article 428h of the CRR on a case-by-case basis and provided that the following criteria, which specify the conditions of the legislative framework, are met.

- **General conditions**

(1) The credit institution is expected to provide the following.

(i) The name of the entity which is the counterparty to the transaction; information on the relevant asset, liability or committed credit or liquidity facility which will benefit from the preferential treatment; and the NSFR of the credit institution and of the counterparty should the preferential treatment be granted.

(ii) Where an application is made before 28 June 2021 and where the credit institution or the counterparty does not yet have an NSFR of at least 100%, a description of the plans to achieve compliance, including in the situation where the preferential treatment is not granted. The ECB will assess whether these plans are reliable, also in view of the specific business model of the credit institution.

(2) With respect to the requirement laid down in Article 428h(1)(a) of the CRR specifying the counterparty to the transaction for which a preferential treatment may be applied, credit institutions should consider the following.

(i) Where Article 428h(1)(a)(i) or (ii) of the CRR applies, the parent should be understood as a parent undertaking as defined in Article 4(1)(15) of the CRR and subsidiary should be understood as defined in Article 4(1)(16) of the CRR. In those cases, the credit institution and the counterparty should belong to the same scope of consolidation as defined in Article 18(1) of the CRR.

(ii) Where Article 428h(1)(a)(iv) or (v) of the CRR applies, a preferential treatment may only be granted where the conditions referred to in Article 113(7) have been met or where credit institutions and counterparties are situated in the same Member State and are permanently affiliated to a central body which supervises them and which is established in the same Member State, as referred to in Article 10 of the CRR. Moreover, in those cases, the ECB does not intend to apply the preferential treatment to deposits referred to in Article 428g of the CRR, which already receive a dedicated treatment of being recognised as liquid assets pursuant to the Commission Delegated Regulation (EU) 2015/61.

(3) With respect to the requirement laid down in Article 428h(1)(b) of the CRR, where the credit institution would like to apply a higher available stable funding factor to a committed credit or liquidity facility granted to the credit institution by a counterparty referred to in Article 428h(1)(a) of the CRR, the ECB expects to be shown that cancellation clauses for the contracts include a notification period of at least 18 months and that the agreements and commitments do not contain any clause that would allow the funding provider to:

(i) require any conditions to be fulfilled before the funding is provided;

(ii) withdraw from its obligations to fulfil these agreements and commitments;

(iii) change substantially the terms of agreements and commitments without prior approval from the ECB.

(4) With respect to the requirement laid down in Article 428h(1)(c) of the CRR, the credit institution should demonstrate the following:

(i) where the credit institution would like to apply a higher available stable funding factor to a committed credit or liquidity facility received from a counterparty referred to in Article 428h(1)(a) of the CRR, the

corresponding outflows that could arise from the relevant facility are taken into account in the liquidity recovery plan and contingency funding plan of the counterparty;

(ii) where the credit institution would like to apply a lower required stable funding factor to a committed credit or liquidity facility granted to a counterparty referred to in Article 428h(1)(a) of the CRR, the inflows that could potentially arise from the relevant facility are taken into account in the liquidity recovery plan and contingency funding plan of the counterparty.

Where the credit institution has received funding or may receive it by drawing upon committed credit or liquidity facilities granted by a counterparty referred to in Article 428h(1)(a) of the CRR, the credit institution may be authorised to apply a higher available stable funding factor up to the required stable funding factor applied by the counterparty. Where the credit institution has provided funding or has granted committed credit or liquidity facilities to a counterparty referred to in Article 428h(1)(a) of the CRR, the credit institution may be authorised to apply a lower required stable funding factor that should be at least equal to the available stable funding factor applied by the counterparty.

- **Additional conditions in the case of an application where the counterparty is located in a different Member State than the applicant credit institution**

For the purpose of the assessment pursuant to Article 428h(2) of the CRR with regard to credit institutions established in different Member States, the ECB will take into account whether the following criteria, which specify the conditions of the legislative framework, are met.

(1) With respect to the requirement laid down in Article 428h(2)(a) of the CRR, the credit institution should demonstrate to the ECB that any application for preferential treatment is supported by a reasoned and formalised decision of the management bodies of both the credit institution and the counterparty, ensuring that they fully understand the implications of the preferential treatment in the event that it is granted and that cancellation clauses include a notification period of at least 18 months.

(2) With respect to the requirement laid down in Article 428h(2)(b) of the CRR, the credit institution should demonstrate that:

(i) where the NSFR requirement has been applicable under the legislation in place for a full year, the funding provider has been fulfilling the NSFR on an individual basis, when applicable, for at least one year;

(ii) where the NSFR requirement has been not been applicable under the legislation in place for a full year, the funding provider has a sound funding position, which would be considered to have been achieved if the liquidity and funding management of the funding provider evaluated in the SREP is deemed to be of high quality.

(3) With respect to the requirement laid down in Article 428h(2)(c) of the CRR, the credit institution should demonstrate to the ECB that the funding provider monitors on a regular basis the funding position of the recipient of the funding.

18. APPLICATION OF THE SIMPLIFIED NET STABLE FUNDING REQUIREMENT (Article 428ai of the CRR)

The ECB intends to permit, upon application, small and non-complex institutions defined under Article 4(145) of the CRR to apply the simplified net stable funding requirement as referred to in Chapter 5 of Title IV of Part Six of the CRR. Where the applicant institution belongs to a group with an EU parent institution that does not meet the definition of a small and non-complex institution defined under Article 4(145) of the CRR, the ECB intends to permit the applicant institution to apply the simplified net stable funding requirement only where there is no evidence that such application would prevent the group from complying with the net stable funding requirement as defined under Chapter 1 of Title IV of Part Six of the CRR at the consolidated level.

Chapter 7
Leverage

1. This chapter sets out the ECB's policy regarding leverage.

2. Part Seven of the CRR sets out the relevant legislative framework.

3. TREATMENT OF UNITS WITHIN CREDIT INSTITUTIONS AS PUBLIC DEVELOPMENT CREDIT INSTITUTIONS IN THE CALCULATION OF THE LEVERAGE RATIO (Article 429a(2) of the CRR).

In the exercise of the discretion provided for in Article 429a(2) of the CRR, the ECB will assess applications from credit institutions taking into account the specific aspects highlighted below in order to ensure a prudent implementation of the relevant regulatory framework.

In particular, the assessment aims to ensure that the conditions of Article 429a(2) of the CRR are fulfilled and that a preferential treatment for the units within credit institutions does not affect the effectiveness of supervision.

To these ends, the ECB will verify at least the following factors.

(1) The unit within the credit institution has been established by a Member State's central government, regional government or local authority. To demonstrate that this condition is fulfilled, the applicant credit institution should refer to a law or executive decision by a Member State's central government, regional government or local authority through which the unit has been established or a European Commission State aid decision.

(2) The activity of the unit is limited to advancing specified objectives of financial, social or economic public policy in accordance with the laws and provisions

governing that credit institution, including articles of association, on a non-competitive basis. The goal of the unit is not to maximise profit or market share. To demonstrate that these conditions are fulfilled, in addition to its articles of association, the applicant credit institution should provide a full overview of the assets and liabilities originated by the unit and a description of the client services provided by the unit. In addition, the applicant credit institution should provide information about the remuneration policies in place for the staff in charge of the assets and liabilities of the unit. This documentation should provide evidence that the activities of the unit are limited as set out in the first sentence and that either the pricing of the assets, liabilities and services is performed on a non-competitive basis or the activities are aimed at covering a market shortfall recognised by a European Commission State aid decision.

(3) Subject to Union State aid rules, the central government, regional government or local authority has an obligation to protect the viability of the unit or credit institution, or directly or indirectly guarantees at least 90% of the credit institution's own funds requirements, funding requirements or promotional loans granted. To demonstrate compliance with this condition, the applicant credit institution should provide to the ECB an effective law or legally enforceable protection arrangement which clearly sets out the obligations of a central government, regional government or local authority. This documentation should be supplemented by a legal opinion issued either by an external independent third party or by an internal legal department, approved by the management body of the parent undertaking, confirming the effectiveness of the protection or of the guarantee arrangements.

(4) The unit does not take covered deposits, as defined in point (5) of Article 2(1) of Directive 2014/49/EU or in national law implementing that Directive, that may be classified as fixed term or savings deposits from consumers as defined in point (a) of Article 3 of Directive 2008/48/EC of the European Parliament and of the Council.

(5) The unit is organisationally, structurally and financially independent and autonomous. To demonstrate the organisational autonomy of the unit, the applicant credit institution should submit to the ECB an organisation chart confirming that the unit has its own staff and management which report directly to the highest management body of the applicant credit institution as well as any document supporting the ability of the unit to establish its own governance arrangements (e.g. the statutes of the credit institution). The ECB considers structural independence to be in place when the assets and liabilities originated by the unit are individually identifiable and separated from the other assets and liabilities of the credit institution (e.g. the unit publishes its own financial reports and has its own credit rating). To demonstrate financial independence, the applicant credit institution should provide evidence that the unit's exposures are funded by external sources, i.e. the unit does not rely on cross-financing from other parts of the group.

Where a credit institution receives permission from the ECB to treat a unit as a public development credit institution, the credit institution should, on an ongoing basis,

ensure that the ECB receives the most up-to-date versions of the documentation referred to in points (1) to (5) above in order to facilitate the ECB's annual review of the decision. Credit institutions should consider an ECB decision granting the preferential treatment of Article 429a(2) of the CRR as applicable until the decision is revoked by the ECB.

4. PREFERENTIAL TREATMENT FOR NOTIONAL CASH POOLING ARRANGEMENTS (Article 429b(3) of the CRR)

Credit institutions should notify the ECB if they intend to apply the preferential treatment for cash pooling set out in Article 429b(3) of the CRR. The notification to the ECB should be made to the relevant JST and include a detailed description of the cash pooling product, including details about the frequency of transfers from the original accounts to the separate single account and a self-assessment of compliance with the conditions of Article 429b(3) of the CRR.

Chapter 8
Reporting on prudential requirements and financial information

1. WAIVER FROM REPORTING REQUIREMENTS FOR DUPLICATIVE DATA POINTS (Article 430(11) of the CRR)

Article 430(11) of the CRR permits competent authorities to waive the requirement to submit any of the data points set out in the reporting templates specified in the implementing technical standards referred to in Article 430 of the CRR where those data points are duplicative. In order to be waived, duplicate data points need to be identical in terms of, for example, definition, scope of consolidation, metrics, and accounting rules. The ECB intends to consider and approve a waiver whenever its use is duly justified, but expects duplicative reporting to be very rare given the maximum harmonisation principle applied to supervisory reporting. Against this background, the ECB expects that the necessity to make use of the waiver provided for in Article 430(11) of the CRR will also be very rare.

Chapter 9
General requirements for access to the activity of credit institutions

1. WAIVER FOR CREDIT INSTITUTIONS PERMANENTLY AFFILIATED TO A CENTRAL BODY (Article 21(1) of the CRD)

2. Credit institutions permanently affiliated to a central body, as described in Article 10 of the CRR, will not be required to meet the authorisation requirements set out in national law implementing Articles 10 and 12 and Article 13(1) of the CRD, provided

that the ECB deems that the conditions set out in Article 10(1) of the CRR are fulfilled.

3. DISCRETION TO ALLOW A THIRD-COUNTRY GROUP TO HAVE TWO INTERMEDIATE EU PARENT UNDERTAKINGS IN THE EU (Article 21b(2) of the CRD)

The ECB will consider allowing, on a case-by-case basis, a third-country group to have two intermediate EU parent undertakings in the EU after considering, as applicable, both possible justifications referred to in the CRD:

(1) in the case that the third-country group is subject to a mandatory requirement for separation of activities – either by virtue of generally applicable rules in the third country where the ultimate parent undertaking of the third-country group has its head office, or by virtue of a supervisory decision by a supervisory authority in that third country – an assessment by that third country's supervisory authority which is responsible for ensuring compliance with such rules or for taking such decision;

(2) the assessment of the competent resolution authority of the EU intermediate parent undertaking regarding the impact on the efficiency of resolvability of a structure with two intermediate parent undertakings.

The ECB may also require institutions to submit relevant documentation.

Chapter 10
Timeline for the assessment of proposed acquisitions of qualifying holdings

1. This chapter sets out the ECB's policy on the specific provisions of Article 22(4) and (7) of the CRD regarding the assessment of qualifying holdings in credit institutions.

2. The ECB plans to keep a flexible stance, in case further information is required to complete the assessment within the context of Article 22 and extend, on a case-by-case basis, the suspension of the assessment period of a qualifying holding application from 20 working days up to 30 working days, under the conditions specified in Article 22(4) of the CRD. If the criteria in Article 22(3) and (4) are met, the ECB considers that the suspension of the assessment period can always be extended up to 30 working days, provided that such extension is possible under the applicable national law and unless specific circumstances require otherwise.

As a general rule, a maximum period of six months should be sufficient to conclude the proposed acquisition, without excluding the possibility of an extension, in accordance with Article 22(7) of the CRD. Potential extensions will be assessed on a case-by-case basis.

Chapter 11
Governance arrangements and prudential supervision

1. This chapter sets out the ECB's policy on specific provisions related to governance arrangements and the prudential supervision of credit institutions.

2. The relevant legislative and regulatory framework is set out in Title VII of the CRD (and the national implementations of the provisions included in that Title) and the applicable EBA Guidelines.

3. COMBINING THE RISK COMMITTEE AND THE AUDIT COMMITTEE (Article 76(3) of the CRD)

   The ECB considers that all significant supervised groups should have a separate risk and audit committee at the level of the parent undertaking, or the highest level of consolidation within the participating Member States. At the subsidiary level, the ECB considers that a non-significant institution within the meaning of Article 76(3) of the CRD can combine the risk committee with the audit committee. For this purpose, it should be noted that the designation of an institution as non-significant pursuant to Article 76(3) is different from the classification of a credit institution as a significant supervised entity under Article 6 of the SSM Regulation. The categorisation will be assessed by the ECB on a case-by-case basis.

   For the purposes of this assessment and for the sole purpose of applying Article 76(3), a credit institution would be considered as significant by the ECB within the meaning of that Article if at least one of the following aspects is present:

   (i) the assets of the credit institution, calculated on either an individual or a consolidated basis, are equal to, or exceed, €5 billion;

   (ii) the credit institution has been identified as an "other systemically important institution" (O-SII);

   (iii) the resolution authority has identified critical functions or critical shared services and it envisages the application of resolution tools to the credit institution, instead of orderly liquidation;

   (iv) the credit institution has issued transferable shares listed on a regulated market;

   (v) the internal organisation as well as the nature, scope and complexity of the activities of the credit institution would justify its classification as a significant institution within the meaning of Article 76(3).

4. COMBINING THE FUNCTIONS OF CHAIRMAN AND CEO (Article 88(1)(e) of the CRD)

   The ECB considers that there should be a clear separation of the executive and non-executive functions in credit institutions and that the separation of the functions of Chairman and CEO should be the rule. Sound principles of corporate governance

require that both functions be exercised in line with their responsibilities and accountability requirements. The responsibilities and accountability requirements of the chair of the management body in its supervisory function (Chair) and of the CEO diverge, reflecting the different purposes of each supervisory function and management function respectively.

Moreover, the Basel Committee on Banking Supervision's Guidelines on corporate governance principles for banks[33] recommend that in order "to promote checks and balances, the chair of the board should be an independent or non-executive board member. In jurisdictions where the chair is permitted to assume executive duties, the bank should have measures in place to mitigate any adverse impact on the bank's checks and balances, e.g. by designating a lead board member, a senior independent board member or a similar position and having a larger number of non-executives on the board" (paragraph 62).

The authorisation to combine the two functions should, therefore, be granted only in exceptional cases and only where corrective measures are in place to ensure that the responsibilities and accountability obligations of both functions are not compromised by their being combined. The ECB intends to assess applications for the combination of the two functions in line with the above-mentioned Basel principles and the EBA Guidelines on internal governance[34], where it is recommended that in the case of combination of the two functions, "the institution should have measures in place to mitigate any adverse impact on the institution's checks and balances".

More specifically, the ECB considers that such authorisation should be granted only for the period where the justifying circumstances continue to exist, as presented by the applying institution in accordance with Article 88(1)(e) of the CRD. After a period of six months from the adoption of the ECB decision authorising the combination of the two functions, the credit institution should assess whether the justifying circumstances do in fact continue to exist and inform the ECB accordingly. The ECB can withdraw the authorisation where it determines that the outcome of the assessment regarding the continuing existence of the exceptional circumstances is not satisfactory.

In order to grant the authorisation, the ECB will assess the following factors.

(1) The specific reasons why the situation is exceptional; in this regard, the ECB would not consider the fact that the combination is allowed under national law to be sufficient.

(2) The impact on the checks and balances of the credit institution's framework of corporate governance and how such impact will be mitigated, taking into account:

---

33 "Guidelines: Corporate governance principles for banks", Basel Committee on Banking Supervision, July 2015.

34 "Guidelines on internal governance under Directive 2013/36/EU (EBA/GL/2017/11)", European Banking Authority, September 2017.

(i) the scale, nature, complexity and variety of activities; the particularities of the governance framework with regard to applicable company law or specificities in the by-laws of the institution; and how these allow or prevent the separation of the management function from the supervisory function;

(ii) the existence and scale of cross-border activities;

(iii) the number, quality and nature of the shareholders: in general, a diversified shareholder base or the admission to listing on a regulated market may not support granting such authorisation, whereas the 100% control of the entity by a parent company which is fully compliant with the separation of functions between its chair and its CEO, and closely monitors its subsidiary, may support granting such authorisation.

It is clearly the responsibility of the credit institution to demonstrate to the ECB that it has put in place effective measures consistent with relevant national law in order to mitigate any adverse impacts on the checks and balances of the credit institution's corporate governance framework.

5. ADDITIONAL NON-EXECUTIVE DIRECTORSHIP (Article 91(6) of the CRD)

The ECB intends to authorise, on a case-by-case basis, members of the management body of a credit institution to hold one additional non-executive directorship, in accordance with Article 91(6) of the CRD.

For the purpose of this assessment, the ECB would examine whether the following criteria, specifying the conditions of the legislative framework, are met:

(i) whether the person holds a full-time occupation or an executive mandate;

(ii) whether the person holds any additional responsibilities such as membership of committees (e.g. the person is Chair of the audit, risk, remuneration or nominations committee in a supervised entity);

(iii) whether the company is regulated or listed, the nature of its business activities or cross-border business activities, internal group structures and whether or not there are synergies;

(iv) whether the person already benefits from the privileged counting of directorships;

(v) whether the mandate is temporary only, i.e. for less than the duration of one whole term;

(vi) whether the person's experience of the management body or the company is such that he or she could carry out duties with greater familiarity and hence efficiency.

6. INTERNAL CAPITAL ADEQUACY ASSESSMENT PROCESS FOR CREDIT INSTITUTIONS PERMANENTLY AFFILIATED TO A CENTRAL BODY (Article 108(1) of the CRD)

   The provision of the second sub-paragraph of Article 108(1) of the CRD gives competent authorities the option to exempt credit institutions included in Article 10 of the CRR (affiliates and central body) from complying with the internal capital adequacy assessment process (ICAAP) requirements on a solo basis.

   The ECB is inclined to grant such exemption in cases where a capital waiver pursuant to Article 10 of the CRR has already been granted for the credit institutions in question. For the specifications for granting a waiver pursuant to Article 10 of the CRR, please see Chapter 1.

7. DETERMINATION OF THE CONSOLIDATING SUPERVISOR (Article 111(6) of the CRD)

   In certain cases, the ECB would consider it appropriate to agree that a competent authority of a non-participating Member State be designated as the consolidating supervisor or, alternatively, that the ECB take over as consolidating supervisor from another authority, as specified in Article 111(6) of the CRD and on a case-by-case basis.

8. BILATERAL AGREEMENT ON THE SUPERVISION OF CREDIT INSTITUTIONS IN NON-PARTICIPATING MEMBER STATES

   Moreover, in cases where the ECB is the competent authority that has authorised a parent undertaking which is a credit institution, it would, by bilateral agreement with the competent authority of the non-participating Member State, seek to assume responsibility for supervising the subsidiary credit institution authorised in that Member State through delegation of responsibilities from the competent authority of the subsidiary credit institution, in accordance with Article 115(2) of the CRD.

9. COOPERATION OBLIGATIONS (Articles 117 and 118 of the CRD)

   Within the cooperation obligations of Articles 117 and 118 of the CRD, the ECB is keen to be able to check information concerning entities in other Member States and to participate in related checks, especially in cases where the national competent authority seeks to verify information, for example by means of an on-site inspection.

10. SUPERVISION OF MIXED FINANCIAL HOLDING COMPANIES (Article 120(1) and (2) of the CRD)

    With respect to the supervision of mixed financial holding companies, the ECB, as the consolidating supervisor, would consider it appropriate to exclude them from the application of the CRD, under the condition that they are subject to equivalent

supervision under the Financial Conglomerates Directive (FICOD)[35], particularly in terms of risk-based supervision. Conversely, the ECB would also consider it appropriate to include mixed financial holding companies in the application of those parts of the CRD relating to the banking sector, provided that this is the most significant financial sector in which these companies operate. The choice between the two approaches will be decided after a case-by-case assessment, taking into account the related delegated acts.

11. ESTABLISHMENT OF FINANCIAL HOLDING COMPANIES OR MIXED FINANCIAL HOLDING COMPANIES (Article 127(3) of the CRD)

In addition, for the purpose of applying prudential requirements on a consolidated basis, the ECB may consider it necessary to require, on a case-by-case basis, the establishment of a financial holding company or mixed financial holding company in the participating Member State pursuant to the SSM Regulation, under the conditions specified in Article 127(3) of the CRD and taking into account relevant delegated acts (Commission Implementing Decision of 12 December 2014[36] and any subsequent amendments).

12. CAPITAL CONSERVATION PLANS (Article 142 of the CRD)

Finally, the ECB intends to retain some flexibility with regard to the capital conservation plan to be submitted under Article 142 of the CRD. The ECB is of the view that additional information requests can prove useful, taking into account the individual situation of a bank and the content of the capital plan provided by the same credit institution. The ECB will decide on the time frame for rebuilding capital buffers or, where applicable, leverage ratio buffers, on a case-by-case basis; as a general rule, however, this time frame should not exceed a period of two years. Appropriate measures taken by the ECB of the types specified in Article 142(4) of the CRD and on the basis of Article 16(2) of the SSM Regulation are not excluded in cases where the ECB considers the plan to be insufficient to conserve or raise sufficient capital, so as to enable the institution to meet its combined buffer requirements or, where applicable, its leverage ratio buffer requirement within an appropriate period. In any case, a capital conservation plan should be submitted to the ECB, after the identification of the failure to meet a requirement, within the time limits set out in Article 142(1) of the CRD.

---

[35] Directive 2002/87/EC of the European Parliament and of the Council of 16 December 2002 on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate and amending Council Directives 73/239/EEC, 79/267/EEC, 92/49/EEC, 92/96/EEC, 93/6/EEC and 93/22/EEC, and Directives 98/78/EC and 2000/12/EC of the European Parliament and of the Council (OJ L 35, 11.2.2003, p. 1).

[36] 2014/908/EU: Commission Implementing Decision of 12 December 2014 on the equivalence of the supervisory and regulatory requirements of certain third countries and territories for the purposes of the treatment of exposures according to Regulation (EU) No 575/2013 of the European Parliament and of the Council (OJ L 359, 16.12.2014, p. 155).

Section III
The ECB's general policy regarding the exercise of certain options and discretions in the CRR and the CRD where further action or assessment is required

This section provides the ECB's general stance with regard to the exercise of certain options and discretions where further action or assessment is required. Specific policy guidance, potentially including more detailed specifications, will be communicated on the basis of future regulatory developments or further assessment and, where appropriate, also in cooperation with the national competent authorities. The purpose of this section is to communicate the ECB's stance prior to the development of specific policies and specifications.

Chapter 1
Consolidated supervision and waivers of prudential requirements

1. METHODS FOR CONSOLIDATION IN THE CASE OF RELATED UNDERTAKINGS WITHIN THE MEANING OF ARTICLE 22(7) OF DIRECTIVE 2013/34/EU[37] (Article 18(3) of the CRR)

   The ECB will be bound by the Commission Delegated Regulation which will be issued in accordance with Article 18(9) of the CRR. If necessary, the ECB will further develop the specifications for the exercise of this option.

2. METHODS FOR CONSOLIDATION IN THE CASE OF PARTICIPATIONS OR CAPITAL TIES OTHER THAN THOSE REFERRED TO IN ARTICLE 18(1) and (4) of THE CRR (Article 18(5) of the CRR)

   The ECB is of the view that, in the case of holdings in institutions, financial institutions or ancillary services undertakings that do not lead to full consolidation or proportional consolidation, the use of the equity method is preferable, where feasible, given the available information from the undertaking.

[37] Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ L 182, 29.6.2013, p. 19).

The ECB will be bound by the Commission Delegated Regulation which will be issued in accordance with Article 18(9) of the CRR. If necessary, the ECB will further develop the specifications for the exercise of this option.

3. CONSOLIDATION IN CASES OF SIGNIFICANT INFLUENCE AND SINGLE MANAGEMENT (Article 18(6) of the CRR)

   The ECB will be bound by the Commission Delegated Regulation which will be issued in accordance with Article 18(9) of the CRR. If necessary, the ECB will further develop the specifications for the exercise of this option.

4. CONSOLIDATION (Article 18(8) of the CRR)

   The ECB will be bound by the Commission Delegated Regulation which will be issued in accordance with Article 18(9) of the CRR. If necessary, the ECB will further develop the specifications for the exercise of this option.

Chapter 2
Own funds

1. ELIGIBILITY OF CAPITAL INSTRUMENTS SUBSCRIBED BY PUBLIC AUTHORITIES IN EMERGENCY SITUATIONS (Article 31 of the CRR)

   In close and timely cooperation with the EBA, the ECB intends to assess the inclusion in Common Equity Tier 1 of capital instruments subscribed by public authorities in emergency situations in accordance with Article 31(1) of the CRR when future specific cases arise.

Chapter 3
Capital requirements

1. NETTING (MARKET RISK) (Article 327(2) of the CRR)

   The ECB intends to determine its policy and potentially develop specifications for exercising the option in Article 327(2) of the CRR in order to allow netting between a convertible and an offsetting position in the instrument underlying it, based on the EBA Guidelines to be issued pursuant to Article 327(2) of the CRR.

Chapter 4
Liquidity

1. MULTIPLIER FOR RETAIL DEPOSITS COVERED BY A DEPOSIT GUARANTEE SCHEME (Article 24(4) and (5) of Commission Delegated Regulation (EU) 2015/61)

With regard to the discretion under Articles 24(4) and (5) of Commission Delegated Regulation (EU) 2015/61, while the ECB remains generally supportive of it, finalisation of the ECB's policies is pending. In that regard, the ECB will carefully monitor related regulatory developments, including the extent to which deposit guarantee schemes in the euro area meet the conditions under Article 24(4) of Delegated Regulation (EU) 2015/61, as well as any emerging evidence that the outflow rates for stable retail deposits would be below 3% during any stress period experienced consistent with the scenarios referred to in Article 5 of Delegated Regulation (EU) 2015/61.

MULTIPLIER FOR RETAIL DEPOSITS COVERED BY A DEPOSIT GUARANTEE SCHEME (Article 24(6) of Commission Delegated Regulation (EU) 2015/61)

The ECB intends to authorise a credit institution to multiply by 3% the amount of deposits covered by a deposit guarantee scheme in a third country at the consolidated level, pursuant to Article 24(6) of Commission Delegated Regulation (EU) 2015/61, provided that:

(i) the ECB has authorised the credit institution to apply an outflow rate of 3% to stable retail deposits covered by a deposit guarantee scheme in accordance with Directive 2014/49/EU pursuant to Article 24(4) of Commission Delegated Regulation (EU) 2015/61;

(ii) the third country allows this treatment and the deposit guarantee scheme in the third country has been assessed as equivalent to the schemes listed in Article 24(1) of Commission Delegated Regulation (EU) 2015/61 and meets the conditions listed in Article 24(4)(a) to (c) of Commission Delegated Regulation (EU) 2015/61.

© European Central Bank, 2022

Postal address 60640 Frankfurt am Main, Germany
Telephone +49 69 1344 0
Website www.bankingsupervision.europa.eu

All rights reserved. Reproduction for educational and non-commercial purposes is permitted provided that the source is acknowledged.

For specific terminology please refer to the SSM glossary (available in English only).