

Imposition of an administrative penalty on Crédit Agricole Corporate and Investment Bank

The EUROPEAN CENTRAL BANK,

decided on 12 July 2022 to amend Decision ECB-SSM-FRCAG-2018-76 of 16 July 2018 (the ‘initial ECB decision’) and to impose an administrative penalty on Crédit Agricole Corporate and Investment Bank in the amount of EUR 300,000, pursuant to Article 18(1) of Council Regulation (EU) No 1024/2013. This penalty is imposed in respect of a breach of Article 26(3) of Regulation (EU) No 575/2013 of the European Parliament and of the Council for having classified capital instruments as Common Equity Tier 1 (CET1) instruments from 31 December 2015 to 30 June 2016 without the ECB’s prior permission.

On 8 July 2020, the General Court annulled partially the initial ECB sanction decision due to an insufficient statement of reasons concerning the determination of the amount of the penalty imposed in 2018 (case T-577/18). The judgment confirmed Crédit Agricole Corporate and Investment Bank’s liability for the infringement. On 16 June 2021, the Court of Justice dismissed the appeal brought by Crédit Agricole Corporate and Investment Bank against the judgment of the General Court (joined cases C-456/20 to C-458/20).

ECB decision of 12 July 2022 addresses the procedural deficiency identified by the General Court by providing a supplemented statement of reasons, and imposes a penalty on Crédit Agricole Corporate and Investment Bank which corresponds to the pecuniary penalty imposed in the initial ECB decision.

When determining an administrative penalty, the ECB follows the principles set out in the ECB’s Guide to the method of setting administrative pecuniary penalties pursuant to Article 18(1) and (7) of Council Regulation (EU) No 1024/2013. The ECB considered all the relevant circumstances of the case, in particular the impact of the breach, the degree of the misconduct of Crédit Agricole Corporate and Investment Bank, the size of the entity and the applicable mitigating factor.

The ECB assessed the impact of the breach as ‘low’ based on the duration and the effect that the breach had on the prudential situation of the entity and its effective supervision, as determined on the basis of the amount of capital instruments classified without prior permission and the deviation it represents in basis points on the CET1 ratio of Crédit Agricole Corporate and Investment Bank, as well as the fact that the instruments did meet the substantive requirements laid down in Article 28 of Regulation (EU) No 575/2013 from the moment of their issuance. The ECB assessed the degree of the entity’s misconduct as ‘medium’

taking into account the fact that the entity continued to classify the capital instruments as CET1 instruments without the ECB's prior permission even after it had applied for permission. As the impact and the misconduct were determined, respectively, as 'low' and 'medium', the ECB classified the breach as 'minor'.

In addition, the ECB considered as a mitigating circumstance the fact that, following the entity's application, the ECB granted permission to classify the capital instruments concerned as CET1 instruments.

The administrative penalty is published in accordance with Article 18(6) of Council Regulation (EU) No 1024/2013 and Article 132 of Regulation (EU) No 468/2014 of the European Central Bank (ECB/2014/17).

The ECB's decision to impose an administrative penalty on Crédit Agricole Corporate and Investment Bank may be challenged before the Court of Justice of the European Union under the conditions and within the time limits provided for in Article 263 of the Treaty on the Functioning of the European Union.