



**EUROPEAN CENTRAL BANK**  
**BANKING SUPERVISION**

## PUBLIC CONSULTATION

Draft ECB Regulation on the exercise of options and discretions available in Union law

Draft ECB Guide on options and discretions available in Union law

## Template for comments

Institution/Company

Banco Popular Español

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Please tick here if you do not wish your personal data to be published.

Please make sure that each comment only deals with a single issue.

In each comment, please indicate:

- the document to which the comment refers (Regulation and/or Guide)
- the relevant article/chapter/paragraph, where appropriate
- whether your comment is a proposed amendment, clarification or deletion.

If you require more space for your comments, please copy page 2.

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Draft ECB Guide on options and discretions available in Union law

**Template for comments**

Name of Institution/Company    Banco Popular Español

Country                                Spain

**Comments**

Regulation	Guide	Issue	Article	Comment	Concise statement why your comment should be taken on board
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Phase-out calendar for deferred tax assets that rely on future profitability	21	Deletion	<p>Deletion of paragraph 3</p> <p>The ECB proposed regulation reduces the flexibility provided by regulation 575/2013 to extend the phase-out calendar for deferred tax assets that rely on future profitability until 2024 (article 473.2). According to the ECB proposed regulation, these deferred tax assets would have to be totally deducted from 2019.</p> <p>Banco Popular recommends maintaining the flexibility provided by regulation 575/2013. Indeed, the initial calendar is more adjusted to the recuperation path followed by these deferred tax assets that</p>



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require a larger time period to compensate the extraordinary losses suffered in previous periods. Shortening their phase-out calendar would interfere with the capital planning of banks that already considered a larger calendar in their strategies.

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<input checked="" type="checkbox"/>	<input type="checkbox"/>	Unrealised losses measured at fair value	16	Amendment
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Proposed amendment:

"During the period from 1 January 2016 to 31 December 2017, credit institutions shall remove from their calculation of Common Equity Tier 1 items the applicable percentage of unrealised gains within the meaning of Article 468(1) of Regulation (EU) No 575/2013.

By way of derogation, the competent authorities may, in cases where such treatment was applied before 1 January 2014, allow institutions not to include in any element of own funds unrealised gains or losses on exposures to central governments classified in the "Available for Sale" category of EU-endorsed IAS 39.

This treatment shall be applied until the Commission has adopted a regulation on the basis of Regulation (EC) No 1606/2002 endorsing the International Financial Reporting Standard replacing IAS 39."

Banco Popular recommends maintaining the treatment that was initially adopted in regulation 575/2013 (article 467(2)) for those exposures to central governments that are classified in the "available for sale" category. Indeed, the ECB proposed regulation would impose an immediate recognition of gains and losses on those exposures from 2016, which would result in a significant increase of the volatility of banks' equity and raise new threats to financial stability affecting the sovereign debt markets.



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					<p>If gains and losses on these sovereign exposures have finally to be included in the common equity tier 1 calculation, it is preferable to require their inclusion only once a certain level of stability is ensured in the European Union. Initially, the regulation 575/2013 postponed the recognition of gains and losses on these exposures to the adoption of the new accounting standards. The immediate elimination of this clause could have procyclical effects and serious impacts on financial stability since the sovereigns' situation is still not stabilized and several external factors already threaten the risk premium. Finally, it would also interfere with banks' capital planning and creates some legal instability.</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Unrealised gains measured at fair value	17	Amendment	<p>Same reasons as those detailed with respect to article 16 of the proposed regulation, related to unrealized losses measured at fair value.</p>
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Deduction of insurance holdings	Section II Chapter 2 Paragraph 4	Amendment	<p>According to the proposed guide, the national option that allows financial conglomerates not to deduct their relevant holding in insurance companies from their own funds, article 49(1) of regulation 575/2013, is maintained under the condition that the permission has been granted by their national authority before 4 November 2014. Banco Popular recommends eliminating this national option and requiring that financial conglomerates deduct their holdings in insurance companies from their own funds in all cases. Indeed, it is worth noting that this national option has been considered as one of the main deviations from Basel III in the Regulatory Consistency Assessment Programme report. Furthermore, on the contrary of Basel III, the CRD IV does not require a subsequent consolidation of entities for the computation of capital ratios in order to apply the non-deduction. As a</p>

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					consequence, the non-deduction of holdings in insurance companies implies a double counting of own funds and creates a competitive advantage for financial conglomerates distorting the level playing field.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Exposures to public sector entities	Section III Chapter 3 Paragraph 1	Amendment	Currently, national competent authorities designate those public sector entities that may be treated as exposures to central government, regional government or local authority (article 116(4) of regulation 575/2013). According to the proposed guide, the ECB will be responsible for communicating a list of eligible public entities. Banco Popular recommends introducing a transitional period during which the ECB will take into consideration the national list of eligible public entities in order to avoid any abrupt change in the capital treatment of capital exposures that could affect the situation of the public sector in the markets.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Basel 1 floors	Section III Chapter 6 Paragraph 4	Amendment	Banco Popular recommends eliminating the possibility to allow credit institutions which meet the conditions of article 500(3) of regulation 575/2013 to replace the amount referred to in point (b) of article 500(1) with the requirement specified in article 500(2) in the calculation method of their own funds requirements. In addition, for those credit institutions that do not meet the conditions of article 500(3) of regulation 575/2013, Banco Popular recommends eliminating the possibility provided to the ECB to assess Article 500(5) applications on a case-by-case basis and requiring that these credit institutions use the amount referred to in point (b) of article 500(1) to calculate their own funds requirements. Indeed, it is important to ensure that all credit institutions calculate the capital floors according to the same framework in order to ensure consistency and to improve the comparability of capital

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