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#### COVER NOTE

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From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
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To:	General Secretariat of the Council
No. Cion doc.:	C(2022) 3008 final
Subject:	COMMISSION DELEGATED REGULATION (EU) .../... of 12.5.2022 amending the regulatory technical standards laid down in Delegated Regulation (EU) No 183/2014 as regards the specification of the calculation of specific and general credit risk adjustments

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Delegations will find attached document C(2022) 3008 final.

Encl.: C(2022) 3008 final



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**COMMISSION DELEGATED REGULATION (EU) .../...**

**of 12.5.2022**

**amending the regulatory technical standards laid down in Delegated Regulation (EU)  
No 183/2014 as regards the specification of the calculation of specific and general credit  
risk adjustments**

(Text with EEA relevance)

## **EXPLANATORY MEMORANDUM**

### **1. CONTEXT OF THE DELEGATED ACT**

Article 110(4), first subparagraph, point (e), of Regulation (EU) No 575/2013 empowers the Commission to adopt, following submission of draft standards by the European Banking Authority (EBA), and in accordance with Articles 10 to 14 of Regulation No (EU) 1093/2010, delegated acts to specify the amounts that need to be included in the calculation of credit risk adjustments for the determination of default under Article 178 of Regulation (EU) No 575/2013.

On 16 December 2020, the European Commission published its action plan on *Tackling non-performing loans in the aftermath of the COVID-19 pandemic*, urging a revision of the treatment of defaulted exposures under the standardised approach of credit risk to remove any impediment to the creation of secondary markets for defaulted exposures.

In the context of a sale of defaulted exposures, a misalignment has been identified in the risk weight applied to those exposures by institutions selling them ('selling institutions') and the risk weight applied to those exposures by institutions purchasing them ('purchasing institutions'). This misalignment could create undue obstacles for credit institutions to move their defaulted exposures off their balance sheets. It is therefore necessary to amend the identification of the specific credit risk adjustments as set out in Commission Delegated Regulation (EU) No 183/2014 of 20 December 2013 supplementing Regulation (EU) No 575/2013 of the European Parliament and of the Council on prudential requirements for credit institutions and investment firms, with regard to regulatory technical standards for specifying the calculation of specific and general credit risk adjustments.

In accordance with Article 10(1) of Regulation No (EU) 1093/2010 establishing the EBA, the Commission shall decide within three months of receipt of the draft standards whether to endorse the drafts submitted. The Commission may also endorse the draft standards in part only, or with amendments, where the Union's interests so require, having regard to the specific procedure laid down in those Articles.

### **2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT**

In accordance with the third subparagraph of Article 10(1) of Regulation No (EU) 1093/2010, the EBA has carried out a public consultation on the draft technical standards. A consultation paper was published on the EBA internet site on 24 June 2021, and the consultation closed on 24 September 2021. Together with the draft technical standards, the EBA has submitted an explanation on how the outcome of these consultations has been taken into account in the development of the final draft technical standards submitted to the Commission.

Together with the draft technical standards, and in accordance with the third subparagraph of Article 10(1) of Regulation No (EU) 1093/2010, the EBA has submitted its impact assessment, including its analysis of the costs and benefits, related to the draft technical standards submitted to the Commission. This analysis is available at <https://www.eba.europa.eu/regulation-and-policy/credit-risk/draft-regulatory-technical-standards-on-the-calculation-of-credit-risk-adjustment#pane-new-ed8f3c99-9589-454a-a87e-37f2578a1783>.

### **3. LEGAL ELEMENTS OF THE DELEGATED ACT**

In the context of a sale of a defaulted exposure, the draft regulatory technical standards allow for the inclusion of any write-downs accounted for in the transaction price of the exposure,

which are retained by the selling institution as a realised loss, in the specific credit risk adjustments recognised for the determination of the risk weight that the purchasing institution applies to that exposure under the standardised approach of credit risk at the sale date.

This is achieved via the introduction of an amount included in the amount of specific credit risk adjustments used to determine the appropriate risk weight under Article 127(1) of Regulation (EU) No 575/2013. The amount used to determine the risk weight under that Article is designed in such a way that the purchase of a defaulted exposure with a discount equal to the amount of specific credit risk adjustments that were assigned to the exposure by the selling institution leaves the applicable risk weight unchanged.

In particular, with regard to the calculation of the discount for purchased defaulted exposures, the reference to the term ‘amount owed’ ensures consistency across different types of defaulted exposures as well as across Regulation (EU) No 575/2013 as amended in that only the outstanding amount of credit obligations is considered. As such, any amount no longer due by the obligor, either because already repaid or forgiven (including by the selling institution), is excluded. Furthermore, it ensures both cash payment obligations and obligations to deliver non-cash items are considered based on Article 24 of Regulation (EU) No 575/2013 which requires effecting the valuation of assets and off-balance sheet items in accordance with the applicable accounting framework. Finally, the reference to ‘amount owed’ also ensures that the total outstanding credit obligation, including outstanding payments of principal, accrued interests and fees, as applicable, is considered in the calculation of the discount.

**COMMISSION DELEGATED REGULATION (EU) .../...**

**of 12.5.2022**

**amending the regulatory technical standards laid down in Delegated Regulation (EU) No 183/2014 as regards the specification of the calculation of specific and general credit risk adjustments**

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to 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<sup>1</sup>, and in particular Article 110(4), third subparagraph, thereof,

Whereas:

- (1) Based on the definition of credit risk adjustment laid down in Article 4(1), point (95), of Regulation (EU) No 575/2013, only the expected credit losses reflected in the specific credit risk adjustments made by the institution holding the defaulted exposure can be accounted for in the assignment of a risk weight for the purposes of Article 127(1) of that Regulation. However, the credit losses accounted for in the transaction price of the defaulted exposure, which are retained by the selling institution as a realised loss, cannot be recognised after the sale by the purchasing institution. As a result, the applicable risk weight applied to the defaulted exposure may change following the sale of that exposure, even though the transaction price incorporates a discount of an amount equal to the specific credit risk adjustments for expected credit losses booked by the selling institution before the sale. That situation creates a regulatory impediment to the creation of secondary markets for defaulted exposures, as the potential misalignment between the risk weights applied to the defaulted exposure by the selling institution and by the purchasing institution respectively might make the transaction less attractive for the purchasing institution and therefore create undue obstacles for credit institutions to move their defaulted exposures off their balance sheets.
- (2) In order to also account for the possibility that the COVID-19 pandemic might result in an increase in the levels of defaulted exposures across credit institutions, it is desirable to remove any regulatory impediments to the creation of secondary markets for defaulted exposures. It is therefore necessary to ensure that the specific credit risk adjustments recognised for the purposes of Article 127(1) of Regulation (EU) No 575/2013 incorporate any discount in a transaction price of a defaulted exposure that the purchasing institution has not recognised by increasing Common Equity Tier 1 capital. In particular, in order to avoid any undue double recognition of the potential decrease in the level of expected loss by the purchasing institution after the purchase on both Common Equity Tier 1 capital of that institution and for the purposes of

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<sup>1</sup> OJ L 176, 27.6.2013, p. 1.

determining the risk weight in accordance with Article 127(1) of Regulation (EU) No 575/2013, in case of a revaluation of the defaulted exposure occurring after its purchase, the discount should no longer incorporate the part of the revaluation amount of the defaulted exposure that has been recognised as increasing the institution's Common Equity Tier 1 capital.

- (3) Commission Delegated Regulation (EU) No 183/2014<sup>2</sup> should therefore be amended accordingly.
- (4) This Regulation is based on the draft regulatory technical standards submitted to the Commission by the European Banking Authority.
- (5) The European Banking Authority has conducted open public consultations on the draft regulatory technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the advice of the Banking Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1093/2010<sup>3</sup>,

HAS ADOPTED THIS REGULATION:

#### *Article 1*

#### **Amendment to Delegated Regulation (EU) No 183/2014**

In Article 1 of Delegated Regulation (EU) No 183/2014, the following paragraph 6 is added:

‘6. Without prejudice to paragraph 1, when calculating the specific credit risk adjustments for the purposes of assigning the risk weights referred to in Article 127(1), points (a) and (b), of Regulation (EU) No 575/2013 to the unsecured part of a defaulted exposure, institutions shall include any positive difference between the amount owed by the obligor on that exposure and the sum of the following:

- (a) the additional own funds reduction if that exposure was written-off fully;
- (b) any already existing own funds reductions related to that exposure.’

#### *Article 2*

#### **Entry into force**

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

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<sup>2</sup> Commission Delegated Regulation (EU) No 183/2014 of 20 December 2013 supplementing Regulation (EU) No 575/2013 of the European Parliament and of the Council on prudential requirements for credit institutions and investment firms, with regard to regulatory technical standards for specifying the calculation of specific and general credit risk adjustments (OJ L 57, 27.2.2014, p. 3).

<sup>3</sup> 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).

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 12.5.2022

*For the Commission*  
*The President*  
*Ursula VON DER LEYEN*