Latvijas Banka

Regulation No. 266

Adopted 18 December 2023

**Regulations for the Application of Options Provided for in Directly Applicable European Union Legal Acts on Prudential Requirements**

*Issued pursuant to*

*Section 50, Paragraphs one and two of the Credit Institution Law*

**I. General Provision**

1. The Regulation prescribes the application of the options provided for in 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 (hereinafter – Regulation No 575/2013) and the 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 (hereinafter – Delegated Regulation No 2015/61) concerning the establishment of prudential requirements for credit institutions registered in the Republic of Latvia, excluding the significant supervised credit institutions within the meaning of Section 1, Paragraph one, Clause 67 of the Credit Institution Law, investment firms referred to in Section 11.2 of the Credit Institution Law, and investment firms referred to in Article 1(2) and (5) of Regulation (EU) 2019/2033 of the European Parliament and of the Council of 27 November 2019 on the prudential requirements of investment firms and amending Regulations (EU) No 1093/2010, (EU) No 575/2013, (EU) No 600/2014 and (EU) No 806/2014 (hereinafter together – the credit institution).

**II. Prudential Consolidation**

2. For the purposes of the application of Article 18(3) of Regulation No 575/2013, the credit institution shall consolidate institutions, financial institutions or ancillary services undertakings using the full consolidation method in accordance with the international accounting standards put in place by Commission Regulation (EC) No 1126/2008 of 3 November 2008 adopting certain international accounting standards in accordance with Regulation (EC) No 1606/2002 of the European Parliament and of the Council (hereinafter – the international accounting standards) if the connection is manifested in one of the following ways:

2.1. where commercial companies are placed under single management pursuant to a contract, clauses of their memoranda or articles of association;

2.2. during the financial year, at least half of the members comprising any management body consists of the same individuals.

3. For the purposes of the application of Article 18(6) of Regulation No 575/2013, the credit institution shall consolidate the institutions, financial institutions or ancillary services undertakings referred to in Article 18(6) of Regulation No 575/2013, using the full consolidation method in accordance with the international accounting standards.

4. In order to obtain the permission to exclude an undertaking within a consolidation group from consolidation as per the reasons outlined in Article 19(2) of Regulation No 575/2013, the credit institution shall submit a written application, explanation and all requisite information to Latvijas Banka for the assessment of the conditions specified in Article 19(2) of Regulation No 575/2013. The permission remains valid until the date by which the relevant undertaking complies with the conditions of Article 19(2) of Regulation No 575/2013.

**III. Own Funds and Large Exposures**

5. The credit institution shall apply the provisions laid down in Article 89(3)(a) of Regulation No 575/2013 concerning the amount of its qualifying holding and the total amount of the qualifying holdings which complies with the requirements set out in Article 89(1) and (2) of Regulation No 575/2013 respectively.

6. The following exposures shall be exempt from large exposure limits referred to in Article 395(1) of Regulation No 575/2013:

6.1. with the permission of Latvijas Banka, exposures with the parent undertaking of the credit institution, subsidiaries of the credit institution or other subsidiaries of the parent undertaking of the credit institution, if these undertakings are covered by the supervision on a consolidated basis to which the credit institution itself is also subject, and their supervision at the level of the consolidation group is conducted by Latvijas Banka, another supervisory authority in a country of the European Union or the European Economic Area (hereinafter – the Member State) or a foreign supervisory authority in a country where consolidated supervision is conducted in accordance with the requirements equivalent to those established in the European Union;

6.2. 80 % of the value of exposures to regional governments or local authorities of Member States or of exposures secured by guarantees or securities issued by regional governments or local authorities of Member States if a risk weight of 20 % is assigned to such exposures in accordance with the requirements of Article 115(5) of Regulation No 575/2013;

6.3. the claims on institutions reported under asset items and other exposures to institutions which are not investments in their own funds do not last longer than the end of the following business day and are not denominated in major trading currencies. The credit institution shall compile and maintain a list of major trading currencies based on market practice and currency trading statistics;

6.4. the claims on central banks denominated in the national currency of the respective country reported under asset items which are taken into consideration when judging compliance with the minimum reserve requirements;

6.5. 50 % of the medium or low risk off-balance-sheet documentary credits and of the medium or low risk off-balance-sheet undrawn credit facilities referred to in points 3(a)(i) and 3(b)(i) of Annex I to Regulation No 575/2013 respectively;

6.6. legally required guarantees used when a mortgage loan financed by issuing mortgage bonds is granted to the mortgage borrower before the final registration of the mortgage in the land register, provided the guarantee is not used to reduce the credit risk when calculating the risk-weighted exposure amounts;

6.7. exposures in the form of a collateral or a guarantee for residential loans, provided by an eligible protection provider referred to in Article 201 of Regulation No 575/2013 who qualifies for the credit rating which is at least the lower of the following credit quality steps:

6.7.1. credit quality step 2;

6.7.2. the credit quality step corresponding to the central government foreign currency rating of the Member State where the protection provider’s headquarters are located;

6.8. 80 % of the nominal value of covered bonds corresponding to the requirements of Article 129(1), (3), and (6) of Regulation No 575/2013;

6.9. asset items constituting claims on central governments which are taken into account for determining the compliance with the liquidity coverage ratio requirement and which are central government debt securities denominated and funded in the national currency of the respective country provided that the credit assessment of those central governments conducted by a nominated external credit assessment institution corresponds to credit quality step 3 or higher;

6.10. exposures in the form of a guarantee for officially supported export credits provided by an export credit agency qualifying for the credit rating which is at least the lower of the following credit quality steps:

6.10.1. credit quality step 2;

6.10.2. the credit quality step corresponding to the central government foreign currency rating of the Member State where the export credit agency’s headquarters are located.

7. In order to obtain the permission from Latvijas Banka referred to in Sub-paragraph 6.1 of this Regulation, allowing not to limit exposures with the parent undertaking of the credit institution, subsidiaries of the credit institution or other subsidiaries of the parent undertaking of the credit institution if these undertakings are covered by the supervision on a consolidated basis, to which the credit institution itself is also subject, the credit institution shall submit to Latvijas Banka:

7.1. a written application approved during a meeting of the credit institution’s executive board;

7.2. an assessment prepared in accordance with the table provided in the Annex to this Regulation regarding compliance with the following criteria:

7.2.1. consolidation is performed using the full consolidation method in accordance with the international accounting standards;

7.2.2. a parent undertaking of the credit institution, subsidiaries of the credit institution or other subsidiaries of the parent undertaking of the credit institution (hereinafter also – the counterparty) shall apply risk measurement and evaluation methods and risk control procedures identical to those applied by the credit institution, and their information technology governance and systems shall be integrated or harmonised;

7.2.3. there are no current or foreseen material practical or legal impediments arising from binding agreements or, if the counterparty is a foreign undertaking, from applicable legal acts that could hinder the timely repayment of exposures by the counterparty to the credit institution, except in cases of business recovery and resolution where the restrictions specified in the Law on Recovery of Activities and Resolution of Credit Institutions and Investment Firms shall apply;

7.2.4. exposures to the parent undertaking of the credit institution, subsidiaries of the credit institution or other subsidiaries of the parent undertaking of the credit institution (hereinafter – the intra-group exposures) are based on the group’s funding strategy and funding structure (items);

7.2.5. the decision-making process for approving intra-group exposures individually, and, where applicable, at the level of the prudential consolidation group, is similar to the processes used to make a decision on the approval of exposures to third parties;

7.2.6. risk management policies and control procedures, information technology systems and the management information system shall allow for continuous monitoring of intra-group exposures, inter alia, checking their compliance with the risk strategy individually and, where applicable, at the level of the prudential consolidation group, as well as ensuring that their monitoring is similar to the monitoring process of exposures to third persons;

7.2.7. risk management policies and control procedures individually and, where applicable, at the level of the prudential consolidation group ensure that the use of the exemption from the large exposure limits referred to in Article 395(1) of Regulation No 575/2013 does not result in concentration risk exceeding that set out in the risk strategy and contradicts the internal liquidity and liquidity risk management principles within the group;

7.2.8. concentration risk arising from intra-group exposures is an integral part of the credit institution’s risk management system and the capital adequacy assessment process;

7.2.9. concentration risk management complies with the group’s recovery plan;

7.3. any additional information that the credit institution deems necessary to submit to Latvijas Banka.

**IV. Liquidity**

8. To determine the scope of the shares that might be considered Level 2B assets according to Article 12(1)(c)(i) of Delegated Regulation No 2015/61, the indices listed in Annex I to Commission Implementing Regulation (EU) 2016/1646 of 13 September 2016 laying down implementing technical standards with regard to main indices and recognised exchanges in accordance with Regulation (EU) No 575/2013 of the European Parliament and of the Council on prudential requirements for credit institutions and investment firms (hereinafter – Regulation No 2016/1646) are designated as the major stock indices.

9. In addition to the indices referred to in Paragraph 8 of this Regulation, the following indices shall be designated as the major stock indices for determining the scope of the shares that might be considered Level 2B assets according to Article 12(1)(c)(i) of Delegated Regulation No 2015/61:

9.1. any main stock index in a Member State or third country not included in Annex I to Regulation No 2016/1646, designated as such for the purpose of defining the scope of the shares that might be considered Level 2B assets according to Article 12(1)(c)(i) of Delegated Regulation No 2015/61, has been determined by the supervisory authority of the respective Member State or the respective third country;

9.2. any main stock index not listed in Annex I to Regulation No 2016/1646 and in Sub-paragraph 9.1 of this Regulation that includes leading companies in the respective country.

10. In accordance with Article 428p(10) of Regulation No 575/2013, the credit institution shall apply the required stable funding factors to the off-balance-sheet exposures not referred to in Chapter 1 of Part Six of Title IV of Regulation No 575/2013, corresponding to the liquidity outflow rates that the credit institution applies to the related products and services in the context of the liquidity coverage requirement pursuant to Article 23 of Delegated Regulation No 2015/61.

11. The credit institution that has been granted permission to apply the simplified net stable funding requirement laid down in Chapter 5 of Title IV of Part Six of Regulation No 575/2013 shall adhere to the approach set out in Paragraph 10 of this Regulation regarding the required stable funding factors for the off-balance-sheet exposures not referred to in Chapter 4 of Title IV of Part Six of Regulation No 575/2013.

12. Where assets have been segregated in compliance with Article 11(3) of Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories, as referred to in Article 428q(2) of Regulation No 575/2013, and the credit institution cannot freely dispose of such assets, they are considered encumbered for the period corresponding to the term of the obligations to the credit institution’s customers subject to the segregation requirement.

13. The credit institution that has been granted permission to apply the simplified net stable funding requirement laid down in Chapter 5 of Title IV of Part Six of Regulation No 575/2013 shall adhere to the approach set out in Paragraph 12 of this Regulation with regard to determining the term of encumbrance of segregated assets.

**V. Closing Provisions**

14. The following regulations are repealed:

14.1. Financial and Capital Market Commission’s Regulation No. 193 of 20 October 2020, Regulations for the Application of Options and Transitional Periods Provided for in Directly Applicable European Union Legal Acts on Prudential Requirements (*Latvijas Vēstnesis*, 2020, No. 210; 2021, No. 111; 2022, No. 184);

14.2. Financial and Capital Market Commission’s Regulation No. 243 of 22 December 2020, Regulations for Consolidation Methods (*Latvijas Vēstnesis*, 2021, No. 6; 2022, No. 122).

15. The Regulation shall come into force on 1 January 2024.

Governor of Latvijas Banka M. Kazāks

**Annex**

Latvijas Banka’s Regulation No. 266

18 December 2023

**Assessment Table on Compliance with the Criteria for Obtaining Permission Allowing Not to Limit Exposures to the Parent Undertaking of the Credit Institution, Subsidiaries of the Credit Institution or Other Subsidiaries of the Parent Undertaking of the Credit Institution if These Undertakings Are Covered by the Supervision on a Consolidated Basis, to Which the Credit Institution Itself Is also Subject**

Table

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| --- | --- | --- |
| 1. | Criterion\* | |
| 2. | Compliance assessment and its rationale\*\* | Documentation references supporting the assessment, including the relevant section or page |
| 3. |  |  |

\* The credit institution shall indicate the criterion referred to in Sub-paragraphs 7.2.1, 7.2.2, 7.2.3, 7.2.4, 7.2.5, 7.2.6, 7.2.7, 7.2.8, and 7.2.9 of this Regulation for which the compliance assessment is conducted.

\*\* The credit institution shall assess and substantiate (describe) compliance with the criterion based on internal documents (policies, procedures, reports, etc.) as well as, if necessary, on external documents (legal acts, etc.), for example, if the counterparty is a foreign undertaking.

Governor of Latvijas Banka M. Kazāks