

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

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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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Template for comments

Name of Institution/Company Intesasanpaolo S.p.A

Country Italy

Comments

Regulation	Guide	Issue	Article	Comment	Concise statement why your comment should be taken on board
☒	☐	Article 467(3) of Regulation (EU) No 575/2013: Unrealised losses measured at fair value	16	Amendment	Article 16 of the Draft regulation establishes the percentages of unrealised losses measured at fair value which should be included in the CET 1 . Although the Italian law establishes the same percentages (Circolare 285, Part II, Section II, Chapter 14, 2) of those proposed by the ECB, the ECB includes in Art.16(1) unrealised losses on exposures to central governments classified in the AFS category according to IAS 39, whereas Art. 467(2) of the CRR establishes that competent authorities may allow institutions not to include in the own funds unrealised gains and



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					losses on exposures to central governments classified in the AFS category if such treatment was applied before 1 January 2014. The Italian Authority has applied this option and the CRR doesn't empower the ECB to amend to this exemption until the endorsement of IFRS 9 into the EU law, amending IAS 39. The ECB is only in charge of setting the applicable percentages. Therefore, we ask to delete the part of Article 16 stating "and including losses on exposures to central governments classified in the 'available for sale category' " and to reintegrate the part of Art. 467(2) of CRR " By way of derogation from paragraph 1, 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. The treatment set out in the second subparagraph 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 ". In fact the exemption provided for by the CRR prevents volatility of banks' CET 1, which otherwise will be affected by volatility in government bonds' yields and prices. Moreover, fire sales in the sovereign market might be caused, affecting Member States' funding.
☒	☐	Percentage of unrealised gains that should not be removed from CET 1 already as of 2016	17	Amendment	Article 17 of the Draft regulation establishes the percentages of unrealised gains that should be removed from the calculation of CET 1 . Although the Italian law establishes the same percentages (Circolare 285, Part II, Section II, Chapter 14, 2) of those proposed by the ECB, the ECB in Art.17(1) applies those percentages also to unrealised gains on exposures to central governments classified



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in the AFS category according to IAS 39, whereas Art. 467(2) of the CRR establishes that competent authorities may allow institutions not to include in the own funds unrealised gains and losses on exposures to central governments classified in the AFS category if such treatment was applied before 1 January 2014. The Italian Authority has applied this option and the CRR doesn't empower the ECB to amend to this exemption until the endorsement of IFRS 9 into the EU law, amending IAS 39. The ECB is only in charge of publishing the applicable percentages. Therefore we ask to delete the part of Article 17 stating "and including gains on exposures to central governments classified in the 'available for sale category' " and to reintegrate the part of Art. 467(2) of CRR " By way of derogation from paragraph 1, 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. The treatment set out in the second subparagraph 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 ". In fact the exemption provided for by the CRR prevents volatility of banks' CET 1, which otherwise will be affected by volatility in government bonds' yields and prices. Moreover, fire sales in the sovereign market might be caused, affecting Member States' funding.



Article 495(1) of
Regulation (EU) No

26

Amendment

The text of Article 26 of the Draft regulation is not updated to the EBA's RTS for the transitional treatment of equity exposures

575/2013: Treatment of equity exposures under the Internal Ratings Based (IRB) approach		under the IRB approach (required by CRR, Article 495 (3)), which has been already published in the Official Journal on 11 June 2015.	
☐	☒	LIQUIDITY WAIVERS (Article 8 of the CRR)	Section II, Chapter 1, ph. 4 Amendment In relation to Art.8 of the CRR "Derogation to the application of liquidity requirements on an individual basis ", the ECB states that plans to exclude reporting requirements from liquidity waivers (i.e. the reporting requirements will remain in place), with the possible exception of credit institutions which are in the same Member State as the parent company. The exemption for credit institutions which are part of a banking group and are in the same Member State should be provided for assuring continuity to what has currently already been done by single NCAs, where exceptions have been granted for sub-consolidated reporting perimeters, including all group entities sited in the same country. Moreover, point (1)(iv) of Section II, Chapter 1, ph. 4 (page 10) of the Draft Guide requires the calculation of the LCR requirement for each-entity of the sub-group, which is in contrast to what has been stated above, as the banking group submit the LCR on a consolidated basis, because of a business model characterised by a centralised management of the securities portfolio. We also underline how burdensome can be all the requirements under point (3) which requires the issue of a legal opinion either by an independent third party or an internal legal department.
☐	☐	Choose one option	
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