

GUIDELINES

GUIDELINE (EU) 2020/978 OF THE EUROPEAN CENTRAL BANK

of 25 June 2020

on the exercise of the discretion under Article 178(2)(d) of Regulation (EU) No 575/2013 of the European Parliament and of the Council by national competent authorities in relation to less significant institutions with regard to the threshold for assessing the materiality of credit obligations past due (ECB/2020/32)

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

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

Having regard to Council Regulation (EU) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions ⁽¹⁾, and in particular Article 6(1), and Article 6(5)(a) and (c) thereof,

Whereas:

- (1) The European Central Bank (ECB) is responsible for the effective and consistent functioning of the Single Supervisory Mechanism (SSM). It oversees the functioning of the system to ensure the consistent application of high supervisory standards and the consistency of supervisory outcomes across the participating Member States. The ECB may issue guidelines to national competent authorities (NCAs) in accordance with which supervisory tasks are to be performed and supervisory decisions are to be adopted by NCAs.
- (2) The ECB has to ensure the consistent application of prudential requirements for credit institutions within the participating Member States, as set out under Regulation (EU) No 1024/2013 and Regulation (EU) No 468/2014 of the European Central Bank (ECB/2014/17) ⁽²⁾.
- (3) As the authority competent to supervise significant credit institutions under Regulation (EU) No 1024/2013, the ECB has exercised the discretion conferred on it under Article 178(2)(d) of Regulation (EU) No 575/2013 of the European Parliament and of the Council ⁽³⁾ by adopting Regulation (EU) 2018/1845 of the European Central Bank (ECB/2018/26) ⁽⁴⁾ which defines the threshold for assessing the materiality of credit obligations past due.
- (4) Although NCAs are primarily responsible for exercising the relevant options and discretions in relation to less significant institutions, the ECB's overarching oversight role within the SSM enables it to promote the consistent exercise of options and discretions in relation to both significant and less significant institutions, where appropriate. This ensures that: (a) the prudential supervision of all credit institutions in the participating Member States is implemented in a coherent and effective manner; (b) the single rulebook for financial services is applied consistently to all credit institutions in the participating Member States; and (c) that all credit institutions are subject to supervision of the highest quality.

⁽¹⁾ OJ L 287, 29.10.2013, p. 63.

⁽²⁾ Regulation (EU) No 468/2014 of the European Central Bank of 16 April 2014 establishing the framework for cooperation within the Single Supervisory Mechanism between the European Central Bank and national competent authorities and with national designated authorities (SSM Framework Regulation) (ECB/2014/17) (OJ L 141, 14.5.2014, p. 1).

⁽³⁾ Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (OJ L 176, 27.6.2013, p. 1).

⁽⁴⁾ Regulation (EU) 2018/1845 of the European Central Bank of 21 November 2018 on the exercise of the discretion under Article 178(2)(d) of Regulation (EU) No 575/2013 in relation to the threshold for assessing the materiality of credit obligations past due (ECB/2018/26) (OJ L 299, 26.11.2018, p. 55).

- (5) With the aim of balancing the need for the consistent application of supervisory standards between significant and less significant institutions on the one hand with the application of the principle of proportionality on the other hand, the ECB considers that the NCAs which supervise less significant institutions should exercise the discretion under Article 178(2)(d) of Regulation (EU) No 575/2013 and Commission Delegated Regulation (EU) 2018/171 ⁽⁵⁾ in the same way as exercised by the ECB in Regulation (EU) 2018/1845 (ECB/2018/26),

HAS ADOPTED THIS GUIDELINE:

Article 1

Subject matter and scope

This Guideline specifies how NCAs shall exercise the discretion conferred on competent authorities under Article 178(2)(d) of Regulation (EU) No 575/2013 in relation to less significant institutions with regard to the threshold for assessing the materiality of credit obligations past due, irrespective of the method used for the calculation of their risk-weighted exposure amounts. The exercise of this discretion by the NCAs in relation to the less significant institutions shall be fully aligned with the ECB's exercise of the relevant discretion in Regulation (EU) 2018/1845 (ECB/2018/26).

Article 2

Definitions

For the purposes of this Guideline, the definitions contained in Article 4(1) of Regulation (EU) No 575/2013, Article 2 of Regulation (EU) No 1024/2013 and Article 2 of Regulation (EU) No 468/2014 (ECB/2014/17) shall apply.

Article 3

Threshold for the assessment of the materiality of a credit obligation past due

1. For the purpose of Article 178(2)(d) of Regulation (EU) No 575/2013, NCAs shall require less significant institutions to assess the materiality of a credit obligation past due against the following threshold, which comprises two components:
 - (a) a limit in terms of the sum of all amounts past due owed by the obligor to the credit institution, the parent undertaking of that credit institution or any of its subsidiaries (hereinafter the 'credit obligation past due'), equal:
 - (i) for retail exposures, to EUR 100;
 - (ii) for exposures other than retail exposures, to EUR 500; and
 - (b) a limit in terms of the amount of the credit obligation past due in relation to the total amount of all on-balance sheet exposures to that obligor for the credit institution, the parent undertaking or any of its subsidiaries, excluding equity exposures, equal to 1 %.
2. NCAs shall require less significant institutions applying the definition of default laid down in points (a) and (b) of the first subparagraph of Article 178(1) of Regulation (EU) No 575/2013 for retail exposures at the level of an individual credit facility to apply the threshold laid down in paragraph 1 at the level of the individual credit facility granted to the obligor by the credit institution, the parent undertaking or any of its subsidiaries.
3. A default shall be deemed to have occurred when both of the limits set out in points (a) and (b) of paragraph 1 are exceeded for more than 90 consecutive days.

⁽⁵⁾ Commission Delegated Regulation (EU) 2018/171 of 19 October 2017 on supplementing Regulation (EU) No 575/2013 of the European Parliament and of the Council with regard to regulatory technical standards for the materiality threshold for credit obligations past due (OJ L 32, 6.2.2018, p. 1).

*Article 4***Date of application of the materiality threshold**

The NCAs shall ensure that less significant institutions notify them of the exact date on which they will commence applying the threshold for the assessment of the materiality of a credit obligation past due and that less significant institutions apply such threshold no later than 31 December 2020.

*Article 5***Taking effect and implementation**

1. This Guideline shall take effect on the day of its notification to the NCAs of the participating Member States.
2. The NCAs shall comply with this Guideline no later than 31 December 2020.

*Article 6***Addressees**

This Guideline is addressed to the NCAs of the participating Member States.

Done at Frankfurt am Main, 25 June 2020.

For the Governing Council of the ECB
The President of the ECB
Christine LAGARDE
