



Brussels, 12.3.2014
C(2014) 1552 final

COMMISSION DELEGATED REGULATION (EU) No .../..

of 12.3.2014

supplementing Regulation (EU) No 575/2013 of the European Parliament and of the Council with regard to regulatory technical standards for the definition of market

(Text with EEA relevance)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

Article 341(3) of Regulation (EU) No 575/2013 ('the Regulation') empowers the Commission to adopt, following submission of draft standards by the European Banking Authority (EBA), and in accordance with Article 10 of Regulation (EU) No 1093/2010, delegated acts defining the term 'market' which is applied for the calculation of the overall net position in equity instruments. The overall net position in equity instruments is used to calculate the own funds requirements for equity general market risk according to Article 343 of the Regulation.

In accordance with Articles 10 to 15 of Regulation (EU) No 1095/2010 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 (EU) No 1093/2010, the EBA has carried out a public consultation on the draft technical standards submitted to the Commission in accordance with Article 341(3) of the Regulation. A consultation paper was published on 30 July 2013, and the consultation closed on 15 October 2013. Moreover, the EBA invited the EBA's Banking Stakeholder Group set up in accordance with Article 37 of Regulation (EU) No 1093/2010 to provide advice on the consultation paper.

Together with the draft technical standards, and in accordance with the third subparagraph of Article 10(1) of Regulation (EU) No 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 <http://www.eba.europa.eu/regulation-and-policy/market-risk/draft-regulatory-technical-standards-rtis-on-the-definition-of-market>, pages [9-10] of the Final Draft RTS package.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

All the provisions in this delegated act relate to the definition of the term 'market' which is applied for the calculation of the overall net position in equity instruments.

Article 341(3) of the Regulation requires the development of draft regulatory technical standards defining the term 'market' which is applied for the calculation of the overall net position in equity instruments. The overall net position in equity instruments is used to calculate the own funds requirements for equity general market risk according to Article 343 of the Regulation.

The definition of market is based on a currency criterion, but solely for jurisdictions included in the Euro-zone. For the rest of the jurisdictions, 'market' is defined using a nationality criterion.

The currency criterion applied for the Euro-zone recognises that the introduction of a single currency has addressed some important elements of segmentation among equity markets, such as: (i) the elimination of foreign exchange currency risk, (ii) the presence of a unique currency in which company results are reported or (iii) the existence of an integrated market with common rules.

Accordingly, since the adoption of the euro has many legal and economic conditions attached to it, the elimination of the foreign exchange risk is not the only condition behind the adoption of a currency criterion for defining 'market'. Therefore, those shares listed in markets located in jurisdictions with a 'pegged' currency to the Euro are not considered as part of the Euro-zone market for the purposes of this delegated act.

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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 investment firms and amending Regulation (EU) No 648/2012¹ and in particular the third subparagraph of Article 341(3) thereof,

Whereas:

- (1) General market risk is defined in Article 362 of Regulation (EU) No 575/2013 as the risk of a price change in a financial instrument, due in the case of traded debt instruments or debt derivatives to a change in the level of interest rates, or in the case of equities or equity derivatives to a broad equity-market movement unrelated to any specific attributes of individual securities.
- (2) For the purposes of the general market risk calculation provided in Article 343 of Regulation (EU) No 575/2013, it is appropriate to consider that different equities are in the same market where they are subject to the same general market risk, that is, where price movements in the instrument result from local economic conditions. A "market" should therefore be defined for these purposes by reference to an integrated economy which will typically equate to a national jurisdiction.
- (3) Without prejudice to the above, the introduction of the single currency has eliminated significant elements of segmentation between equity markets in the euro area. For instance, it has eliminated foreign exchange currency risk between participating Member States and allows company results to be published in the same currency. Furthermore, the adoption of the euro has required extensive economic and legal convergence among participating Member States and is underpinned by an integrated market with common rules. These latter features are common to all Member States in the Union, but the single currency has brought about closer and deeper economic integration among participating Member States which, therefore, justifies a distinct treatment for the purposes of this Regulation. Accordingly, "market" should be defined by reference to all equity markets within the euro area, and in relation to non-euro equity markets, at a national jurisdiction level.
- (4) This Regulation is based on the draft regulatory technical standards submitted by the European Banking Authority to the Commission.

¹ OJ L 176, 27.6.2013, p. 1

- (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 opinion of the Banking Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council²,

HAS ADOPTED THIS REGULATION:

Article 1

Definition of ‘market’ for the purpose of calculating the overall net position in equity instruments referred to in Article 341(2) of Regulation (EU) No 575/2013

The term ‘market’ shall mean:

- (a) for the euro area, all equities listed in stock markets located in Member States that have adopted the euro as their currency;
- (b) for non-euro Member States and third countries, all equities listed in stock markets located within a national jurisdiction.

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*.

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

Done at Brussels, 12.3.2014

For the Commission
The President
José Manuel BARROSO

² 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).