

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 (Text with EEA relevance)

[^{X1}PART TWO

[^{F1}OWN FUNDS AND ELIGIBLE LIABILITIES]

TITLE I

ELEMENTS OF OWN FUNDS

CHAPTER 6

[^{F1}General requirements for own funds and eligible liabilities]

[^{X1}[^{F1}Article 78a

Permission to reduce eligible liabilities instruments

- 1 The resolution authority shall grant permission for an institution to call, redeem, repay or repurchase eligible liabilities instruments where one of the following conditions is met:
- a before or at the same time as any of the actions referred to in Article 77(2), the institution replaces the eligible liabilities instruments with own funds or eligible liabilities instruments of equal or higher quality at terms that are sustainable for the income capacity of the institution;
 - b the institution has demonstrated to the satisfaction of the resolution authority that the own funds and eligible liabilities of the institution would, following the action referred to in Article 77(2) of this Regulation, exceed the requirements for own funds and eligible liabilities laid down in this Regulation and in Directives 2013/36/EU and 2014/59/EU by a margin that the resolution authority, in agreement with the competent authority, considers necessary;
 - c the institution has demonstrated to the satisfaction of the resolution authority that the partial or full replacement of the eligible liabilities with own funds instruments is necessary to ensure compliance with the own funds requirements laid down in this Regulation and in Directive 2013/36/EU for continuing authorisation.

Where an institution provides sufficient safeguards as to its capacity to operate with own funds and eligible liabilities above the amount of the requirements laid down in this Regulation and in Directives 2013/36/EU and 2014/59/EU, the resolution authority, after consulting the competent authority, may grant that institution a general prior permission to effect calls, redemptions, repayments or repurchases of eligible liabilities instruments, subject to criteria that ensure that any such future action will be in accordance with the conditions set out in points (a) and (b) of this paragraph. That general prior permission shall be granted only for a specified period, which shall not exceed one year, after which it may be renewed. The general prior permission shall be granted for a certain predetermined amount, which shall be set by the resolution

Status: Point in time view as at 27/06/2019. This version of this provision has been superseded.

Changes to legislation: Regulation (EU) No 575/2013 of the European Parliament and of the Council, Article 78a is up to date with all changes known to be in force on or before 07 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

authority. Resolution authorities shall inform the competent authorities about any general prior permission granted.

The resolution authority shall withdraw the general prior permission where an institution breaches any of the criteria provided for the purposes of that permission.

2 When assessing the sustainability of the replacement instruments for the income capacity of the institution referred to in point (a) of paragraph 1, resolution authorities shall consider the extent to which those replacement capital instruments or replacement eligible liabilities would be more costly for the institution than those they would replace.

3 EBA shall develop draft regulatory technical standards to specify the following:

- a the process of cooperation between the competent authority and the resolution authority;
- b the procedure, including the time limits and information requirements, for granting the permission in accordance with the first subparagraph of paragraph 1;
- c the procedure, including the time limits and information requirements, for granting the general prior permission in accordance with the second subparagraph of paragraph 1;
- d the meaning of ‘sustainable for the income capacity of the institution’.

For the purposes of point (d) of the first subparagraph of this paragraph, the draft regulatory technical standards shall be fully aligned with the delegated act referred to in Article 78.

EBA shall submit those draft regulatory technical standards to the Commission by 28 December 2019.

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.]]

Editorial Information

X1 Substituted by Corrigendum 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 648/2012 (OJ L 176, 27.6.2013, p. 1).

Textual Amendments

F1 Inserted by Regulation (EU) 2019/876 of the European Parliament and of the Council of 20 May 2019 amending Regulation (EU) No 575/2013 as regards the leverage ratio, the net stable funding ratio, requirements for own funds and eligible liabilities, counterparty credit risk, market risk, exposures to central counterparties, exposures to collective investment undertakings, large exposures, reporting and disclosure requirements, and Regulation (EU) No 648/2012 (Text with EEA relevance).

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