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 (Text with EEA relevance)

TITLE III

LIQUIDITY OUTFLOWS AND INFLOWS

CHAPTER 1

Net Liquidity outflows

Article 20

Definition of net liquidity outflows

1 The net liquidity outflows shall be the sum of liquidity outflows in point (a) reduced by the sum of liquidity inflows in point (b), but shall not be less than zero, and shall be calculated as follows:

a the sum of the liquidity outflows as defined in Chapter 2;

b the sum of liquidity inflows as defined in Chapter 3, calculated as follows:

(i) the inflows exempted from the cap as referred to in Article 33(2) and (3);

(ii) the lower of the inflows referred to in Article 33(4) and 90 % of the outflows referred to in (a) reduced by the exempt inflows in Article 33(2) and (3), but not less than zero;

(iii) the lower of the inflows other than those referred to in Article 33(2), (3) and (4) and 75 % of the outflows referred to in (a) reduced by the exempt inflows in Article 33(2) and (3) and the inflows in Article 33(4) divided by 0,9 to allow for the effect of the 90 % cap, but not less than zero.

2 Liquidity inflows and liquidity outflows shall be assessed over a 30 calendar day stress period, under the assumption of a combined idiosyncratic and market-wide stress scenario as referred to in Article 5.

3 The calculation laid down in paragraph 1 shall be performed in accordance with the formula set out in Annex II.

Article 21

Requirements for assessing the effect of collateral received in derivatives transactions

Credit institutions shall calculate liquidity outflows and inflows expected over a 30 calendar day period for the contracts listed in Annex II of Regulation (EU) No 575/2013 on a net basis by counterparty subject to the existence of bilateral netting agreements in accordance with Article 295 of that Regulation. For the purposes of this Article, net basis shall be considered to be net of collateral to be received provided that it qualifies as a liquid asset under Title II of this Regulation. Cash outflows and inflows arising from foreign currency derivative transactions that involve a full exchange of principal amounts on a simultaneous basis (or within the same day) shall be calculated on a net basis, even where those transactions are not covered by a bilateral netting agreement.

CHAPTER 2

Liquidity outflows

Article 22

Definition of liquidity outflows

1 Liquidity outflows shall be calculated by multiplying the outstanding balances of various categories or types of liabilities and off-balance sheet commitments by the rates at which they are expected to run off or be drawn down as indicated in this Chapter.

2 Liquidity outflows referred to in paragraph 1 shall include, in each case multiplied by the applicable outflow rate:

- a the current outstanding amount for stable retail deposits and other retail deposits in accordance with Articles 24, 25 and 26;
- b the current outstanding amounts of other liabilities that become due, can be called for pay-out by the issuer or by the provider of the funding or entail an expectation by the provider of the funding that the credit institution would repay the liability during the next 30 calendar days determined in accordance with Articles 27 and 28;
- c the additional outflows determined in accordance with Article 30;
- d the maximum amount that can be drawn down during the next 30 calendar days from undrawn committed credit and liquidity facilities determined in accordance with Article 31;
- e the additional outflows identified in the assessment in accordance with Article 23.

Article 23

Additional liquidity outflows for other products and services

1 Credit institutions shall regularly assess the likelihood and potential volume of liquidity outflows during 30 calendar days for products or services which are not referred to in Articles 27 to 31 and which they offer or sponsor or which potential purchasers would consider associated with them. Those products or services shall include, but not be limited to, the liquidity outflows resulting from any of the contractual arrangements referred to in Article 429 and in Annex I of Regulation (EU) No 575/2013, such as:

- a other off-balance sheet and contingent funding obligations, including, but not limited to uncommitted funding facilities,
- b undrawn loans and advances to wholesale counterparties;
- c mortgage loans that have been agreed but not yet drawn down;
- d credit cards;
- e overdrafts;
- f planned outflows related to renewal or extension of new retail or wholesale loans;

g planned derivatives payables;

h trade finance off-balance sheet related products.

2 The outflows referred to in paragraph 1 shall be assessed under the assumption of a combined idiosyncratic and market-wide stress as referred to in Article 5. For that assessment, credit institutions shall particularly take into account material reputational damage that could result from not providing liquidity support to such products or services. Credit institutions shall report at least once a year to the competent authorities those products and services for which the likelihood and potential volume of the liquidity outflows referred to in paragraph 1 are material and the competent authorities shall determine the outflows to be assigned. The competent authorities may apply an outflow rate of up to 5 % for trade finance off-balance sheet related products as referred to in Article 429 and Annex I of Regulation (EU) No 575/2013.

3 The competent authorities shall at least once a year report to the EBA the types of products or services for which they have determined outflows on the basis of the reports from credit institutions, and shall include in that report an explanation of the methodology applied to determine the outflows.

Article 24

Outflows from stable retail deposits

1 Unless the criteria for a higher outflow rate under Article 25(2), (3) or (5) are fulfilled, the amount of retail deposits covered by a deposit guarantee scheme in accordance with Directive 94/19/EC of the European Parliament and of the Council[1] or Directive 2014/49/EU or an equivalent deposit guarantee scheme in a third country shall be considered as stable and multiplied by 5 % where the deposit is either:

a part of an established relationship making withdrawal highly unlikely; or

b held in a transactional account.

2 For the purpose of paragraph 1(a) a retail deposit shall be considered to be part of an established relationship where the depositor meets at least one of the following criteria:

a has an active contractual relationship with the credit institution of at least 12 months duration;

b has a borrowing relationship with the credit institution for residential loans or other long term loans;

c has at least one other active product, other than a loan, with the credit institution.

3 For the purposes of paragraph 1(b) a retail deposit shall be considered as being held in a transactional account where salaries, income or transactions are regularly credited and debited respectively against that account.

4 By way of derogation from paragraph 1, from 1 January 2019 competent authorities may authorise credit institutions to multiply by 3 % the amount of the stable retail deposits referred to in paragraph 1 covered by a deposit guarantee scheme in accordance with Directive 2014/49/EU up to a maximum level of EUR 100 000 as specified in Article 6(1) of that Directive, provided that the Commission has confirmed that the officially recognised deposit guarantee scheme meets all of the following criteria:

a the deposit guarantee scheme has available financial means, as referred to in Article 10 of Directive 2014/49/EU, raised *ex ante* by contributions made by members at least annually;

b the deposit guarantee scheme has adequate means of ensuring ready access to additional funding in the event of a large call on its reserves, including access to extraordinary contributions from member credit institutions and adequate alternative funding arrangements to obtain short-term funding from public or private third parties;

c the deposit guarantee scheme ensures a seven working day repayment period as referred to in Article 8(1) of Directive 2014/49/EU from the date of application of the 3 % outflow rate.

5 Competent authorities shall only grant the authorisation referred to in paragraph 4 after having obtained prior approval from the Commission. Such approval shall be requested by means of a reasoned notification, which shall include evidence that the run-off rates for stable retail deposits would be below 3 % during any stress period experienced consistent with the scenarios referred to in Article 5. The reasoned notification shall be submitted to the Commission at least three months prior to the date from which authorisation is requested. The Commission shall assess the compliance of the relevant deposit guarantee scheme with the conditions set out in paragraph 4(a), (b) and (c). Where those conditions are fulfilled, the Commission shall approve the competent authority's request to grant authorisation unless there exist overriding grounds for withholding approval having regard to the functioning of the internal market for retail deposits. All credit institutions affiliated to such an approved deposit guarantee scheme shall be entitled to apply the 3 % outflow rate. The Commission shall seek the opinion of the EBA on the conformity of the relevant deposit guarantee scheme with the conditions set out in paragraph 4(a), (b) and (c).

6 Credit institutions may be authorised by their competent authority to multiply by 3 % the amount of the retail deposits covered by a deposit guarantee scheme in a third country equivalent to the scheme referred to in paragraph 1 if the third country allows this treatment.

Article 25

Outflows from other retail deposits

1 Credit institutions shall multiply by 10 % other retail deposits, including that part of retail deposits not covered by Article 24, unless the conditions laid down in paragraph 2 apply.

2 Other retail deposits shall be subject to higher outflow rates, as determined by the credit institution, in accordance with paragraph 3, where the following conditions are met:

a the total deposit balance, including all the client's deposit accounts at that credit institution or group, exceeds EUR 500 000;

b the deposit is an internet only account;

c the deposit offers an interest rate that fulfils any of the following conditions:

(i) the rate significantly exceeds the average rate for similar retail products;

(ii) its return is derived from the return on a market index or set of indices;

(iii) its return is derived from any market variable other than a floating interest rate;

d the deposit was originally placed as fixed-term with an expiry date maturing within the 30 calendar day period or the deposit presents a fixed notice period shorter than 30 calendar days, in accordance with contractual arrangements, other than those deposits that qualify for the treatment provided for in paragraph 4;

e for credit institutions established in the Union, the depositor is resident in a third country or the deposit is denominated in a currency other than the euro or the domestic currency of a Member State. For credit institutions or branches in third countries, the depositor is a non-resident in the third country or the deposit is denominated in another currency than the domestic currency of the third country;

3 Credit institutions shall apply a higher outflow rate determined as follows:

a where the retail deposits fulfil the criterion in point (a) or two of the criteria in points (b) to (e) of paragraph 2, an outflow rate of between 10 % and 15 % shall be applied;

b where the retail deposits fulfil point (a) of paragraph 2 and at least another criterion referred to in paragraph 2, or three or more criteria of paragraph 2, an outflow rate of between 15 % and 20 % shall be applied.

On a case by case basis, competent authorities may apply a higher outflow rate where justified by the specific circumstances of the credit institution. Credit institutions shall apply the outflow rate referred to in paragraph 3(b) to retail deposits where the assessment referred to paragraph 2 has not been carried out or is not completed.

4 Credit institutions may exclude from the calculation of outflows certain clearly circumscribed categories of retail deposits as long as in each and every instance the credit institution rigorously applies the following provisions for the whole category of those deposits, unless an exception can be justified on the basis of circumstances of hardship for the depositor:

a within 30 calendar days, the depositor is not allowed to withdraw the deposit; or

b for early withdrawals within 30 calendar days, the depositor has to pay a penalty that includes the loss of interest between the date of withdrawal and the contractual maturity date plus a material penalty that does not have to exceed the interest due for the time that elapsed between the date of deposit and the date of withdrawal.

If a portion of the deposit referred to in the first subparagraph can be withdrawn without incurring such a penalty, only that portion shall be treated as a demand deposit and the remaining balance shall be treated as a term deposit as referred to in this paragraph. An outflow rate of 100 % shall be applied to cancelled deposits with a residual maturity of less than 30 calendar days and where pay-out has been agreed to another credit institution.

5 By derogation from paragraphs 1 to 4 and Article 24, credit institutions shall multiply retail deposits that they have taken in third countries by a higher percentage outflow rate if such a percentage is provided for by the national law establishing liquidity requirements in that third country.

Article 26

Outflows with inter-dependent inflows

Subject to prior approval of the competent authority, credit institutions may calculate the liquidity outflow net of an interdependent inflow which meets all the following conditions:

(a) the interdependent inflow is directly linked to the outflow and is not considered in the calculation of liquidity inflows in Chapter 3;

(b) the interdependent inflow is required pursuant to a legal, regulatory or contractual commitment;

(c) the interdependent inflow meets one of the following conditions:

(i) it arises compulsorily before the outflow;

(ii) it is received within 10 days and is guaranteed by the central government of a Member State.

Article 27

Outflows from operational deposits

1 Credit institutions shall multiply by 25 % liabilities resulting from deposits that are maintained as follows:

a by the depositor in order to obtain clearing, custody, cash management or other comparable services in the context of an established operational relationship from the credit institution;
b in the context of common task sharing within an institutional protection scheme meeting the requirements of Article 113(7) of Regulation (EU) No 575/2013 or within a group of cooperative credit institutions permanently affiliated to a central body meeting the requirements of Article 113(6) of that Regulation, or as a legal or contractually established deposit by another credit institution that is a Member of the same institutional protection scheme or cooperative network, provided those deposits are not recognised as liquid assets for the depositing credit institution as referred to in paragraph 3 and Article 16;
c by the depositor in the context of an established operational relationship other than that mentioned in point (a);
d by the depositor to obtain cash clearing and central institution services and where the credit institution belongs to one of the networks or schemes referred to in Article 16.

2 By derogation from paragraph 1, credit institutions shall multiply by 5 % the portion of liabilities resulting from deposits referred to in paragraph 1(a) which is covered by a deposit guarantee scheme in accordance with Directive 94/19/EC or Directive 2014/49/EU or an equivalent deposit guarantee scheme in a third country.

3 Deposits from credit institutions placed at the central institution that are considered as liquid assets for the depositing credit institution in accordance with Article 16 shall be multiplied by a 100 % outflow rate for the central institution on the amount of these liquid assets after haircut. These liquid assets shall not be counted to cover outflows other than the outflow referred to in the first sentence of this paragraph and shall be disregarded for the purposes of the calculations of the composition of the remaining liquidity buffer under Article 17 for the central institution at individual level.

4 Clearing, custody, cash management or other comparable services referred to in points (a) and (d) of paragraph 1 only cover such services to the extent that they are rendered in the context of an established relationship which is critically important to the depositor. Deposits referred to in points (a), (c) and (d) of paragraph 1 shall have significant legal or operational limitations that make significant withdrawals within 30 calendar days unlikely. Funds in excess of those required for the provision of operational services shall be treated as non-operational deposits.

5 Deposits arising out of a correspondent banking relationship or from the provision of prime brokerage services shall not be treated as an operational deposit and shall receive a 100 % outflow rate.

6 In order to identify the deposits referred to in point (c) of paragraph 1, a credit institution shall consider that there is an established operational relationship with a non-financial customer, excluding term deposits, savings deposits and brokered deposits, where all of the following criteria are met:

a the remuneration of the account is priced at least 5 basis points below the prevailing rate for wholesale deposits with comparable characteristics, but need not be negative;
b the deposit is held in specifically designated accounts and priced without creating economic incentives for the depositor to maintain funds in the deposit in excess of what is needed for the operational relationship;
c material transactions are credited and debited on a frequent basis on the account considered;
d one of the following criteria is met:

(i) the relationship with the depositor has existed for at least 24 months;

(ii) the deposit is used for a minimum of 2 active services. These services may include direct or indirect access to national or international payment services, security trading or depository services.

Only that part of the deposit which is necessary to make use of the service of which the deposit is a by-product shall be treated as an operational deposit. The excess shall be treated as non-operational.

Article 28

Outflows from other liabilities

1 Credit institutions shall multiply liabilities resulting from deposits by clients that are non-financial customers, sovereigns, central banks, multilateral development banks, public sector entities, credit unions authorised by a competent authority, personal investment companies or by clients that are deposit brokers, to the extent they do not fall under Article 27 by 40 %.

By derogation from the first subparagraph, where the liabilities referred to in that subparagraph are covered by a deposit guarantee scheme in accordance with Directive 94/19/EC or Directive 2014/49/EU or an equivalent deposit guarantee scheme in a third country they shall be multiplied by 20 %.

2 Credit institutions shall multiply liabilities resulting from the institution's own operating expenses by 0 %.

3 Credit institutions shall multiply liabilities resulting from secured lending and capital market-driven transactions maturing within 30 calendar days as defined in Article 192(2) and (3) of Regulation (EC) No 575/2013 by:
a 0 % if they are collateralised by assets that would qualify as level 1 assets in accordance with Article 10, with the exception of extremely high quality covered bonds referred to in Article 10(1)(f), or if the lender is a central bank;
b 7 % if they are collateralised by assets that would qualify as extremely high quality covered bonds referred to in Article 10(1)(f);
c 15 % if they are collateralised by assets that would qualify as level 2A assets in accordance with Article 11;
d 25 %:

(i) if they are collateralised by the assets referred to in points (i), (ii) or (iv) of Article 13(2)(g);

(ii) if they are collateralised by assets that would not qualify as liquid assets in accordance with Articles 10 and 11 and the lender is the central government, a public sector entity of the Member State or of a third country in which the credit institution has been authorised or has established a branch, or a multilateral development bank. Public sector entities that receive that treatment shall be limited to those that have a risk weight of 20 % or lower in accordance with Article 116(4) and (5) of Regulation (EU) No 575/2013;

e 35 % if they are collateralised by the subcategories of assets referred to in points (iii) or (v) of Article 13(2)(g);

f 50 % if they are collateralised by:

(i) corporate debt securities that would qualify as level 2B assets in accordance with Article 12(1)(b);

(ii) shares that would qualify as level 2B assets in accordance with Article 12(1)(c);

g 100 % where they are collateralised by assets that would not qualify as liquid assets in accordance with Title II, with the exception of transactions covered by point (d)(ii) of this paragraph or if the lender is a central bank.

4 Collateral swaps that mature within the next 30 days shall lead to an outflow for the excess liquidity value of the assets borrowed compared to the liquidity value of the assets lent unless the counterparty is a central bank in which case a 0 % outflow shall apply.

5 The offsetting balances held in segregated accounts related to client protection regimes imposed by national regulations shall be treated as inflows in accordance with Article 32 and shall be excluded from the stock of liquid assets.

6 Credit institutions shall apply a 100 % outflow rate to all notes, bonds and other debt securities issued by the credit institution, unless the bond is sold exclusively in the retail market and held in a retail account, in which case those instruments can be treated as the appropriate retail deposit category. Limitations shall be placed such that those instruments cannot be bought and held by parties other than retail customers.

Article 29

Outflows within a group or an institutional protection scheme

1 By way of derogation from Article 31 competent authorities may authorise the application of a lower outflow rate on a case by case basis for undrawn credit or liquidity facilities when all of the following conditions are fulfilled:

a there are reasons to expect a lower outflow even under a combined market and idiosyncratic stress of the provider;

b the counterparty is the parent or subsidiary institution of the credit institution or another subsidiary of the same parent institution or linked to the institution by a relationship within the meaning of Article 12(1) of Directive 83/349/EEC[(2)] or a member of the same institutional protection scheme referred to in Article 113(7) of Regulation (EU) No 575/2013 or the central institution or an affiliate of a network or cooperative group as referred to in Article 10 of that Regulation;

c the lower outflow rate does not fall below the inflow rate applied by the counterparty;

d the credit institution and the counterparty are established in the same Member State.

2 Competent authorities may waive the condition set out in point (d) of paragraph 1 where Article 20(1)(b) of Regulation (EU) No 575/2013 is applied. In that case, the following additional objective criteria have to be met:

a the liquidity provider and receiver shall present a low liquidity risk profile;
b there are legally binding agreements and commitments between the group entities regarding the undrawn credit or liquidity line;
c the liquidity risk profile of the liquidity receiver shall be taken into account adequately in the liquidity risk management of the liquidity provider,

Where such a lower outflow rate is permitted to be applied, the competent authority shall inform EBA about the result of the process referred to in Article 20(1)(b) of Regulation (EU) No 575/2013. Fulfilment of the conditions for such lower outflows shall be regularly reviewed by the competent authority.

Article 30

Additional outflows

1 Collateral other than cash and assets referred to in Article 10 which is posted by the credit institution for contracts listed in Annex II of Regulation (EU) No 575/2013 and credit derivatives, shall be subject to an additional outflow of 20 %.

Collateral in assets referred to in Article 10(1)(f) which is posted by the credit institution for contracts listed in Annex II of Regulation (EU) No 575/2013 and credit derivatives shall be subject to an additional outflow of 10 %.

2 Credit institutions shall calculate and notify to the competent authorities an additional outflow for all contracts entered into the contractual conditions of which lead within 30 calendar days and following a material deterioration of the credit quality of the credit institution to additional liquidity outflows or collateral needs. Credit institutions shall notify the competent authorities of this outflow no later than the submission of the reporting in accordance with Article 415 of Regulation (EU) No 575/2013. Where competent authorities consider such outflows material in relation to the potential liquidity outflows of the credit institution, they shall require the credit institution to add an additional outflow for those contracts corresponding to the additional collateral needs or cash outflows resulting from a material deterioration in the credit quality of the credit institution corresponding to a downgrade in its external credit assessment by three notches. The credit institution shall apply a 100 % outflow rate to those additional collateral or cash outflows. The credit institution shall regularly review the extent of this material deterioration in the light of what is relevant under the contracts it has entered into and shall notify the result of its review to the competent authorities.

3 The credit institution shall add an additional outflow corresponding to collateral needs that would result from the impact of an adverse market scenario on the credit institution's derivatives transactions, financing transactions and other contracts if material. This calculation shall be made in accordance with the delegated act to be adopted by the Commission pursuant to Article 423(3) of Regulation (EU) No 575/2013.

4 Credit institutions shall take outflows and inflows expected over 30 calendar days from the contracts listed in Annex II of Regulation (EU) No 575/2013 into account on a net basis in accordance with Article 21. In the case of a net outflow, the credit institution shall multiply the result by 100 % outflow rate. Credit institutions shall exclude from such calculations those liquidity requirements that would result from the application of paragraphs 1, 2 and 3.

5 The credit institution shall add an additional outflow corresponding to 100 % of the market value of securities or other assets sold short and to be delivered within 30 calendar days unless the credit institution owns the securities to be delivered or has borrowed them at terms requiring their return only after 30 calendar days and the securities do not form part of the liquid

assets of credit institutions. If the short position is being covered by a collateralised securities financing transaction, the credit institution shall assume the short position will be maintained throughout the 30 calendar day period and receive a 0 % outflow.

6 The credit institution shall add an additional outflow corresponding to 100 % of:

a the excess collateral the credit institution holds that can be contractually called at any times by the counterparty;

b collateral that is due to be posted to a counterparty within 30 calendar days;

c collateral that corresponds to assets that would qualify as liquid assets for the purposes of Title II that can be substituted for assets corresponding to assets that would not qualify as liquid assets for the purposes of Title II without the consent of the credit institution.

7 Deposits received as collateral shall not be considered as liabilities for the purposes of Article 27 or 29 but shall be subject to the provisions of paragraphs 1 to 6 of this Article where applicable.

8 Credit institutions shall assume a 100 % outflow for loss of funding on asset-backed securities, covered bonds and other structured financing instruments maturing within 30 calendar days, when these instruments are issued by the credit institution itself or by conduits or SPVs sponsored by the credit institution.

9 Credit institutions shall assume a 100 % outflow for loss of funding on asset-backed commercial papers, conduits, securities investment vehicles and other such financing facilities. This 100 % outflow rate shall apply to the maturing amount or to the amount of assets that could potentially be returned or the liquidity required.

10 For that portion of financing programs under paragraphs 8 and 9, credit institutions that are providers of associated liquidity facilities do not need to double count the maturing financing instrument and the liquidity facility for consolidated programs.

11 Assets borrowed on an unsecured basis and maturing within 30 calendar days shall be assumed to run-off in full, leading to a 100 % outflow of liquid assets unless the credit institution owns the securities and they do not form part of the credit institution's liquidity buffer.

12 In relation to the provision of prime brokerage services, where a credit institution has financed the assets of one client by internally netting them against the short sales of another client, such transactions shall be subject to a 50 % outflow for the contingent obligation, since in the event of client withdrawals the credit institution may be obliged to find additional sources of funding to cover these positions.

Article 31

Outflows from credit and liquidity facilities

1 For the purpose of this Article, a liquidity facility shall be understood to mean any committed, undrawn back-up facility that would be utilised to refinance the debt obligations of a customer in situations where such a customer is unable to rollover that debt in financial markets. Its amount shall be calculated as the amount of the debt issued by the customer currently outstanding and maturing within 30 calendar days that is backstopped by the facility. The portion of the liquidity facility that is backing a debt that does not mature within 30 calendar days shall be excluded from the scope of the definition of the facility. Any additional capacity of the facility shall be treated as a committed credit facility with the associated drawdown rate as specified in this Article. General working capital facilities for corporate entities will not be classified as liquidity facilities, but as credit facilities.

2 Credit institutions shall calculate outflows for credit and liquidity facilities by multiplying the amount of the credit and liquidity facilities by the corresponding outflow rates set out in paragraphs 3 to 5. Outflows from committed credit and liquidity facilities shall be determined as a percentage of the maximum amount that can be drawn down within 30 calendar days, net of any liquidity requirement that would be applicable under Article 23 for the trade finance off-balance sheet items and net of any collateral made available to the credit institution and valued in accordance with Article 9, provided that the collateral fulfils all of the following conditions:

- a it may be reused or hypothecated by the credit institution;
- b it is held in the form of liquid assets, but is not recognised as part of the liquidity buffer; and
- c it does not consist in assets issued by the counterparty of the facility or one of its affiliated entities.

If the necessary information is available to the credit institution, the maximum amount that can be drawn down for credit and liquidity facilities shall be determined as the maximum amount that could be drawn down given the counterparty's own obligations or given the pre-defined contractual drawdown schedule coming due over 30 calendar days.

3 The maximum amount that can be drawn down from undrawn committed credit facilities and undrawn committed liquidity facilities within the next 30 calendar days shall be multiplied by 5 % if they qualify for the retail deposit exposure class.

4 The maximum amount that can be drawn down from undrawn committed credit facilities within 30 calendar days shall be multiplied by 10 % where they meet the following conditions:

- a they do not qualify for the retail deposit exposure class;
- b they have been provided to clients that are not financial customers, including non-financial corporates, sovereigns, central banks, multilateral development banks and public sector entities;
- c they have not been provided for the purpose of replacing funding of the client in situations where the client is unable to obtain funding requirements in the financial markets.

5 The maximum amount that can be drawn down from undrawn committed liquidity facilities within the next 30 calendar days shall be multiplied by 30 % where they meet the conditions referred to in paragraph 4 points (a) and (b), and by 40 % when they are provided to personal investment companies.

6 The undrawn committed amount of a liquidity facility that has been provided to an SSPE for the purpose of enabling such an SSPE to purchase assets, other than securities from clients that are not financial customers, shall be multiplied by 10 % to the extent that it exceeds the amount of assets currently purchased from clients and where the maximum amount that can be drawn down is contractually limited to the amount of assets currently purchased.

7 The central institution of a scheme or network referred to in Article 16 shall multiply by a 75 % outflow rate the liquidity funding committed to a member credit institution where such member credit institution may treat the liquidity funding as a liquid asset in accordance with Article 16(2). The 75 % outflow rate shall be applied on the committed principal amount of the liquidity funding.

8 The credit institution shall multiply the maximum amount that can be drawn down from other undrawn committed credit and undrawn committed liquidity facilities within 30 calendar days by the corresponding outflow rate as follows:

a 40 % for credit and liquidity facilities extended to credit institutions and for credit facilities extended to other regulated financial institutions, including insurance undertakings and investment firms, CIUs or non-open ended investment scheme;

b 100 % for liquidity facilities that the credit institution has granted to SSPEs other than those referred to in paragraph 6 and for arrangements under which the institution is required to buy or swap assets from an SSPE;

c 100 % for credit and liquidity facilities to financial customers not referred to in points (a) and (b) and paragraphs 1 to 7.

9 By way of derogation from paragraphs 1 to 8, credit institutions which have been set up and are sponsored by the central or regional government of at least one Member State may apply the treatments set out in paragraphs 3 and 4 to credit and liquidity facilities that are extended to promotional lenders for the sole purpose of directly or indirectly funding promotional loans, provided that those loans meet the requirements for the outflow rates referred to in paragraphs 3 and 4.

By way of derogation from Article 32(3)(g), where those promotional loans are extended as pass through loans via another credit institution acting as an intermediary, a symmetric inflow and outflow may be applied by credit institutions.

The promotional loans referred to in this paragraph shall be available only to persons who are not financial customers on a non-competitive, not for profit basis in order to promote public policy objectives of the Union or that Member State's central or regional government. It shall only be possible to draw on such facilities following the reasonably expected demand for a promotional loan and up to the amount of such demand provided there is a subsequent reporting on the use of the funds distributed.

10 Credit institutions shall multiply by 100 % any liquidity outflows resulting from liabilities that become due in 30 calendar days other than those referred to in Articles 23 to 31.

CHAPTER 3

Liquidity inflows

Article 32

Inflows

1 Liquidity inflows shall be assessed over a period of 30 calendar days. They shall comprise only contractual inflows from exposures that are not past due and for which the credit institution has no reason to expect non-performance within 30 calendar days.

2 Liquidity inflows shall receive a 100 % inflow rate, including in particular the following inflows:

a monies due from central banks and financial customers. In relation to the latter, inflows from the following transactions in particular shall be regarded as subject to the 100 % inflow rate:

(i) securities maturing within 30 calendar days;

(ii) trade finance transactions referred to in point (b) of the second subparagraph of Article 162(3) of Regulation (EU) No 575/2013 with a residual maturity of less than 30 calendar days;

b monies due from positions in major indexes of equity instruments, provided there is no double counting with liquid assets. Those monies shall include monies contractually due within 30 calendar days, such as cash dividends from such major indexes and cash due from such equity instruments sold but not yet settled, if they are not recognised as liquid assets in accordance with Title II;

3 By derogation from paragraph 2, the inflows set out in this paragraph shall be subject to the following requirements:

a monies due from non-financial customers shall be reduced for the purposes of principal payment by 50 % of their value or by the contractual commitments to those customers to extend funding, whichever is higher. For the purposes of this point, non-financial customers shall include corporates, sovereigns, multilateral development banks and public sector entities; By derogation credit institutions that have received a commitment referred to in Article 31(9) in order for them to disburse a promotional loan to a final recipient, or have received a similar commitment from a multilateral development bank or a public sector entity, may take an inflow into account up to the amount of the outflow they apply to the corresponding commitment to extend those promotional loans.

b monies due from secured lending and capital market-driven transactions as defined in points (2) and (3) of Article 192 of Regulation (EU) No 575/2013 collateralised by liquid assets, shall not be taken into account up to the value of the liquid assets net of the haircuts applicable in accordance with Title II. Monies due for the remaining value or where they are collateralised by assets that do not qualify as liquid assets in accordance with Title II shall be taken into account in full. No inflow shall be allowed if the collateral is used to cover a short position according to Article 30(5);

c monies due from contractual maturing margin loans made against non-liquid assets collateral may receive a 50 % inflow rate. Such inflows may only be considered if the credit institution is not using the collateral it originally received against the loans to cover any short positions;

d monies due that the credit institution owing those monies treats in accordance with Article 27, with the exception of deposits at the central institution referred to in Article 27(3), shall be multiplied by a corresponding symmetrical inflow rate. Where the corresponding rate cannot be established, a 5 % inflow rate shall be applied;

e collateral swaps that mature within 30 calendar days shall lead to an inflow for the excess liquidty value of the assets lent compared to the liquidity value of the assets borrowed;

f if the collateral obtained through reverse repo, securities borrowing, or collateral swaps, which matures within the 30-day horizon, is rehypothecated and used to cover short positions that can be extended beyond 30 days, a credit institution shall assume that such reverse repo or securities borrowing arrangements will be rolled-over and will not give rise to any cash inflows reflecting its need to continue to cover the short position or to re-purchase the relevant securities. Short positions include both instances where in a matched book the credit institution sold short a security outright as part of a trading or hedging strategy and instances where the credit institution is short a security in the matched repo book and has borrowed a security for a given period and lent the security out for a longer period;

g any undrawn credit or liquidity facilities and any other commitments received from entities other than central banks and those referred to in Article 34 shall not be taken into account. Undrawn committed liquidity facilities from the central bank which are recognised as liquid assets in accordance with Article 14 shall not be taken into account as an inflow;

h monies due from securities issued by the credit institution itself or by a related entity shall be taken into account on a net basis with an inflow rate applied on the basis of the inflow rate applicable to the underlying asset pursuant to this Article;

i assets with an undefined contractual end date shall be taken into account with a 20 % inflow rate, provided that the contract allows the credit institution to withdraw or to request payment within 30 days.

4 Point (a) of paragraph 3 shall not apply to monies due from secured lending and capital market-driven transactions as defined in points (2) and (3) of Article 192 of Regulation (EU) No 575/2013 that are collateralised by liquid assets in accordance with Title II as referred to in point (b) of paragraph 3. Inflows from the release of balances held in segregated accounts in accordance with regulatory requirements for the protection of customer trading assets shall be taken into account in full, provided that those segregated balances are maintained in liquid assets as defined in Title II.

5 Outflows and inflows expected over 30 calendar days from the contracts listed in Annex II of Regulation (EU) No 575/2013 shall be calculated on a net basis as referred to in Article 21 and shall be multiplied by 100 % in the event of a net inflow.

6 Credit institutions shall not take into account any inflows from any of the liquid assets referred to in Title II other than payments due on the assets that are not reflected in the market value of the asset.

7 Credit institutions shall not take into account inflows from any new obligations entered into.

8 Credit institutions shall take liquidity inflows which are to be received in third countries where there are transfer restrictions or which are denominated in non-convertible currencies into account only to the extent that they correspond to outflows respectively in the third country or currency in question.

Article 33

Cap on Inflows

1 Credit institutions shall limit the recognition of liquidity inflows to 75 % of total liquidity outflows as defined in Chapter 2 unless a specific inflow is exempted as referred to in paragraphs 2, 3 or 4.

2 Subject to the prior approval of the competent authority, the credit institution may fully or partially exempt from the cap referred to in paragraph 1 the following liquidity inflows:

a inflows where the provider is a parent or a subsidiary of the credit institution or another subsidiary of the same parent or linked to the credit institution by a relationship within the meaning of Article 12(1) of Directive 83/349/EEC;

b inflows from deposits placed with other credit institutions within a group of entities qualifying for the treatment set out in Article 113(6) or (7) of Regulation (EU) No 575/2013;

c inflows referred to in Article 26, including inflows from loans related to mortgage lending, or promotional loans referred to in Article 31(9) or from a multilateral development bank or a public sector entity that the credit institution has passed-through.

3 Subject to the prior approval of the competent authority, specialised credit institutions may be exempted from the cap on inflows when their main activities are leasing and factoring business, excluding the activities described in paragraph 4, and the conditions laid down in paragraph 5 are met.

4 Subject to the prior approval of the competent authority, specialised credit institutions may be subject to a cap on inflows of 90 % when the conditions laid down in paragraph 5 are met and their main activities are the following:

a financing for the acquisition of motor vehicles;

b consumer credit as defined in Directive 2008/48/EC of the European Parliament and of the Council.

5 Credit institutions referred to in paragraph 3 may be exempted from the cap on inflows and credit institutions referred to in paragraph 4 may apply a higher cap of 90 % provided they meet the following conditions:

a the business activities exhibit a low liquidity risk profile, taking into account the following factors:

(i) the timing of inflows matches the timing of outflows;

(ii) at individual level the credit institution is not significantly financed by retail deposits;

b at individual level, the ratio of their main activities as referred to in paragraph 3 or 4 exceeds 80 % of the total balance sheet;

c the derogations are disclosed in annual reports.

Competent authorities shall inform the EBA which specialised credit institutions have been exempted or are subject to a higher cap along with a justification. The EBA shall publish and maintain a list of the specialised credit institutions exempted or subject to a higher cap. The EBA may request supporting documentation.

6 The exemptions laid down in paragraphs 2, 3 4, when approved by the competent authority, may be applied at both the individual and consolidated levels subject to Article 2(3)(e).

7 Credit institutions shall determine the amount of the net liquidity outflows under the application of the inflow cap in accordance with the formula laid down in Annex II to this Regulation

Article 34

Inflows within a group or an institutional protection scheme

1 By way of derogation from Article 32(3)(g), competent authorities may authorise the application of a higher inflow rate on a case by case basis for undrawn credit and liquidity facilities when all of the following conditions are fulfilled:

a there are reasons to expect a higher inflow even under a combined market and idiosyncratic stress of the provider;

b the counterparty is the parent or a subsidiary of the credit institution or another subsidiary of the same parent or linked to the credit institution by a relationship within the meaning of Article 12(1) of Directive 83/349/EEC or a member of the same institutional protection scheme referred to in Article 113(7) of Regulation (EU) No

575/2013 or the central institution or an affiliate of a network or cooperative group as referred to in Article 10 of Regulation (EU) No 575/2013;

c where the inflow rate exceeds 40 %, a corresponding symmetric outflow rate is applied by the counterparty by way of derogation from Article 31;

d the credit institution and the counterparty are established in the same Member State.

2 Where the credit institution and the counterparty credit institution are established in different Member States, competent authorities may waive the condition set out in point (d) of paragraph 1 where, in addition to the criteria in paragraph 1, the following additional objective criteria (a) to (c) are fulfilled:

a the liquidity provider and receiver present a low liquidity risk profile;

b there are legally binding agreements and commitments between group entities regarding the credit or liquidity line;

c the liquidity risk profile of the liquidity receiver has been adequately taken into account in the liquidity risk management of the liquidity provider.

The competent authorities shall work together in full consultation in accordance with Article 20(1)(b) of Regulation (EU) No 575/2013 to determine whether the additional criteria set out in this paragraph are met.

3 Where the additional criteria laid down in paragraph 2 are met, the competent authority of the liquidity receiver shall be allowed to apply a preferential inflow rate of up to 40 %. However, the approval of both competent authorities shall be required for any preferential rate higher than 40 %, which shall be applied on a symmetric basis.

Where the application of a preferential inflow rate above 40 % is authorised, the competent authorities shall inform EBA about the result of the process referred to in paragraph 2. The competent authorities shall review regularly that the conditions for such higher inflows continue to be fulfilled.

(**1**) Directive 94/19/EC of the European Parliament and of the Council of 30 May 1994 on deposit-guarantee schemes (OJ L 135, 31.5.1994, p. 5).

(**2**) Seventh Council Directive 83/349/EEC of 13 June 1983 based on the Article 54 (3) (g) of the Treaty on consolidated accounts (OJ L 193, 18.7.1983, p. 1).