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*Changes to legislation: Commission Delegated Regulation (EU) 2017/2295, Introductory Text is up to date with all changes known to be in force on or before 17 May 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)EUR 2017 No. 2295 may be subject to amendment by EU Exit Instruments made by both the Prudential Regulation Authority and the Financial Conduct Authority under powers set out in The Financial Regulators' Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018 (S.I. 2018/1115), regs. 2, 3, Sch. Pt. 4. These amendments are not currently available on legislation.gov.uk. Details of relevant amending instruments can be found on their website/s. (See end of Document for details) View outstanding changes*

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Commission Delegated Regulation (EU) 2017/2295 of 4 September 2017 supplementing Regulation (EU) No 575/2013 of the European Parliament and of the Council with regard to regulatory technical standards for disclosure of encumbered and unencumbered assets (Text with EEA relevance)

COMMISSION DELEGATED REGULATION (EU) 2017/2295

of 4 September 2017

supplementing Regulation (EU) No 575/2013 of the European Parliament and of the Council with regard to regulatory technical standards for disclosure of encumbered and unencumbered assets

(Text with EEA relevance)

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 648/2012<sup>(1)</sup>, and in particular the fourth subparagraph of Article 443 thereof,

Whereas:

- (1) Pursuant to the first subparagraph of Article 443 of Regulation (EU) No 575/2013, the European Banking Authority (EBA) issued guidelines on the disclosure of encumbered and unencumbered assets on 27 June 2014 (the 'EBA Disclosure Guidelines'<sup>(2)</sup>). The second subparagraph of Article 443 of Regulation (EU) No 575/2013 provides that EBA is to develop draft regulatory technical standards to specify disclosure of the balance sheet value per exposure class broken down by asset quality and the total amount of the balance sheet value that is unencumbered, taking into account Recommendation ESRB/2012/2 of the European Systemic Risk Board of 20 December 2012 on funding of credit institutions ('Recommendation ESRB/2012/2')<sup>(3)</sup> and conditional on EBA considering in its report that such additional disclosure offers reliable and meaningful information. The EBA report on asset encumbrance<sup>(4)</sup> concluded that disclosure of encumbrance in the Union is vitally important as it allows market participants to better understand and analyse the liquidity and solvency profiles of institutions and compare those profiles across Member States in a clear and consistent manner. Based on those conclusions, the EBA developed draft regulatory technical standards in order to ensure a fully harmonised approach to asset encumbrance disclosure.
- (2) The EBA Disclosure Guidelines cover both encumbered and unencumbered assets. This is because the first subparagraph of Article 443 of Regulation (EU) No 575/2013 requires that Recommendation ESRB/2012/2 and, in particular, Recommendation D — Market transparency on asset encumbrance ('Recommendation D') be taken into account. Point 1(a) of Recommendation D recommends disclosure of encumbered and

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- encumbered assets. The second subparagraph of Article 443 of Regulation (EU) No 575/2013 also provides that Recommendation ESRB/2012/2 is to be taken into account when developing the draft regulatory technical standards referred to in that subparagraph. Furthermore, encumbered assets need to be included in such standards to ensure that the disclosure offers reliable and meaningful information. Therefore, both encumbered and unencumbered assets should be disclosed.
- (3) The EBA was advised in Recommendation D to ensure, in developing the EBA Disclosure Guidelines, that the level and evolution of assets encumbered to central banks, as well as the amount of liquidity assistance given by central banks, cannot be detected. That advice has also been taken into consideration in this Regulation.
  - (4) Encumbered assets or collateral received and other off-balance-sheet items may be pledged to secure funding. Therefore, in order to allow market participants to better understand and analyse the liquidity and solvency profiles of institutions and access information about the availability of assets to secure funding, institutions should disclose the encumbrance of all on-balance-sheet assets and the encumbrance of all off-balance-sheet items separately. The disclosure should relate to all collateral received, arising from all on-balance-sheet and off-balance-sheet transactions regardless of their maturity, including all operations with central banks. While assets disclosed as encumbered assets include assets encumbered as a result of all operations with any counterparty (including central banks), it is not necessary to disclose the encumbrance resulting from operations with central banks separately from the encumbrance resulting from operations with other counterparties. This is without prejudice to the freedom for central banks to establish the modalities for the disclosure of emergency liquidity assistance.
  - (5) In order to ensure consistency and promote comparability and transparency, the provisions relating to the disclosure templates on encumbrance should be based on the reporting requirements on encumbrance provided for in Commission Implementing Regulation (EU) No 680/2014<sup>(5)</sup>. However, to avoid unintended consequences (such as the ability to identify emergency central bank funding) some deviations are needed. In particular, and taking into account Recommendation D, the disclosure of information relating to the amount of encumbered and unencumbered assets should be based on median values rather than point-in-time values as required in Annex XVII to Implementing Regulation (EU) No 680/2014. Similarly, the level of granularity of the information to be disclosed for specific values and transactions should be less than that of the reporting requirements set out in Implementing Regulation (EU) No 680/2014. Furthermore, since asset encumbrance depends heavily on the risk profile and business model of the institution concerned, the quantitative data should be supplemented with narrative information.
  - (6) The disclosure requirements for encumbered and unencumbered assets and, in particular, the disclosure requirements regarding transferred assets, pledged assets and off-balance sheet collateral received and posted, should apply in addition to any existing disclosure requirements under the applicable accounting framework.

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- (7) ~~In order to ensure the proportionate application of the disclosure requirements set out in Article 443 of Regulation (EU) No 575/2013 to smaller institutions which do not have material levels of asset encumbrance, information on the quality of encumbered and unencumbered assets should not be required from such smaller institutions. Information on the quality of encumbered and unencumbered assets ('asset quality indicators') is based on the asset quality properties attributed to assets of extremely high liquidity and credit quality and assets of high liquidity and credit quality, as defined in Commission Delegated Regulation (EU) 2015/61<sup>(6)</sup>. As investment firms that do not form part of a banking group are not covered by that Delegated Regulation and, given that, where investment firms form part of a banking group, the relevant information is disclosed on a consolidated basis, it is appropriate to also exempt investment firms from disclosing information on the quality of encumbered and unencumbered assets, to avoid incurring disproportionate costs.~~
- (8) Given the novelty of the requirement to provide information on the asset quality indicators, the application of the provisions on the disclosure of such indicators should be deferred by 1 year, to allow institutions to develop the necessary IT systems.
- (9) This Regulation is based on the draft regulatory technical standards submitted by the EBA to the Commission.
- (10) EBA 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 Council<sup>(7)</sup>,

HAS ADOPTED THIS REGULATION:

**Modifications etc. (not altering text)**

- C1** The "appropriate regulator" has power to make such provision as they consider appropriate by means of an instrument in writing to prevent, remedy or mitigate any failure of the provisions of this Regulation to operate effectively or any other deficiency arising from the withdrawal of the United Kingdom from the EU, see The Financial Regulators' Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018 (S.I. 2018/1115), [regs. 2, 3, Sch. Pt. 4](#) (with saving on IP completion day by S.I. 2019/680, [regs. 1\(2\), 11](#); 2020 c. 1, [Sch. 5 para. 1\(1\)](#))
- C2** Regulation: power to modify conferred (11.7.2023) by [Financial Services and Markets Act 2023](#) (c. 29), [ss. 3, 86\(3\)](#), [Sch. 1 Pts. 1, 3](#); S.I. 2023/779, [reg. 2\(d\)](#)

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- (1) [OJ L 176, 27.6.2013, p. 1](#)
- (2) Guidelines on disclosure of encumbered and unencumbered assets (EBA/GL/2014/03).
- (3) [OJ C 119, 25.4.2013, p. 1](#).
- (4) EBA Report on asset encumbrance, September 2015.
- (5) Commission Implementing Regulation (EU) No 680/2014 of 16 April 2014 laying down implementing technical standards with regard to supervisory reporting of institutions according to Regulation (EU) No 575/2013 of the European Parliament and of the Council ([OJ L 191, 28.6.2014, p. 1](#)).
- (6) 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 ([OJ L 11, 17.1.2015, p. 1](#)).
- (7) 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](#)).

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**Changes and effects yet to be applied to the whole legislation item and associated provisions**

- Pt. 2 revoked by [S.I. 2021/1078 reg. 13\(2\)\(g\)](#) (This amendment not applied to [legislation.gov.uk](#). The affected provision Pt. 2 (PRA) was modified by a non-legislative instrument (Technical Standards (Capital Requirements) (EU Exit) (No.3) Instrument 2019) and is not present in the text of the retained EU legislation on [legislation.gov.uk](#). Details of the non-legislative modifications can be found on the Bank of England's website on the page entitled "The Bank of England's amendments to financial services legislation under the European Union (Withdrawal) Act 2018".)