

(unofficial consolidated text)

- Official Gazette of the Republic of Slovenia, No. 28/16 of 15 April 2016 – basic text (in force since 1 October 2016)
- Official Gazette of the Republic of Slovenia, No. 81/18 of 14 December 2018 – amendments and additions (in force since 15 December 2018)
- Official Gazette of the Republic of Slovenia, No. 126/20 of 22 September 2020 – amendments and additions (in force since 23 September 2020)

Pursuant to Article 9 of the Banking Act (Official Gazette of the Republic of Slovenia, Nos. 25/15, 44/16 [ZRPPB], 77/16 [ZCKR], 41/17, 77/18 [ZTFI-1], 22/19 [ZIUDSOL] and 44/19 [constitutional court decision]), and the first paragraph of Article 23 and the first paragraph of Article 31 of the Bank of Slovenia Act (Official Gazette of the Republic of Slovenia, Nos. 72/06 [official consolidated version], 59/11 and 55/17) in connection with 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 of 27 June 2013, p 1; hereinafter: Regulation (EU) No 575/2013) with amendments and 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 of 17 January 2015, p 1; hereinafter: Delegated Regulation (EU) 2015/61), the Governing Board of the Bank of Slovenia hereby issues the following

REGULATION

on the implementation of options and discretionary rights arising from EU law

Article 1

Subject matter and scope

(1) This Regulation sets out in greater detail certain options and discretionary rights which are conferred on competent bodies under EU law on the prudential supervision of credit institutions, and which are exercised by the Bank of Slovenia when it is competent and responsible for conducting supervision.

(2) This Regulation shall be applied in connection with credit institutions designated as less significant under Article 6(4) of 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 (OJ L 287 of 29 October 2013, p 63; hereinafter: Regulation (EU) No 1024/2013) and part IV and Article 147(1) of Regulation (EU) No 468/2014 of the European Central Bank of 16 April 2014 establishing a framework for cooperation within the Single Supervisory Mechanism between the European Central Bank and national competent authorities and with national designated authorities (OJ L 141 of 14 May 2014, p 1); hereinafter: Regulation (EU) No 468/2014).

(3) Notwithstanding the second paragraph of this Article, the following Articles of this Regulation shall apply to credit institutions designated as significant credit institutions under Article 6(4) of Regulation (EU) No 1024/2013 and Part IV and Article 147(1) of Regulation (EU) No 468/2014:

(a) Article 4: Article 124(2) of Regulation (EU) No 575/2013: Exposures secured by mortgages on residential real estate;

(b) Article 8: Article 327(2) of Regulation (EU) No 575/2013: Netting;

(c) Article 23a: Article 493(4) of Regulation (EU) No 575/2013: Transitional provisions for large exposures.

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SOLVING ANY DISPUTE**

(4) Whenever this regulation makes reference to the provisions of other regulations, these provisions shall apply in their valid wording at the time in question.

**Article 2
Definition of terms**

(1) The terms used in this decision shall have the same meaning as in the provisions of Regulation (EU) No 575/2013, Regulation (EU) No 1024/2013, Article 2 of Regulation (EU) No 468/2014 and Delegated Regulation (EU) 2015/61.

(2) The national measures for the transposition of Directive 2006/48/EC of the European Parliament and of the Council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions (OJ L 177, 30.6.2006, p.1; hereinafter Directive 2006/48/EC) and Directive 2006/49/EC of the European Parliament and of the Council of 14 June 2006 on the capital adequacy of investment firms and credit institutions (OJ L 177, 30.6.2006, p. 201) to which the Regulation (EU) No 575/2013 refers, are the Banking Act (Official Gazette of the Republic Slovenia, Nos. 99/10 [official consolidated version; 52/11 (correction)], 9/11 [ZPlaSS-B], 35/11, 59/11, 85/11, 48/12, 105/12, 56/13, 63/13 [ZS-K] and 96/13) and the secondary legislation issued pursuant thereto.

CHAPTER I

Own funds

Article 3

Article 89(3) of Regulation (EU) No 575/2013: Risk weighting and prohibition of qualifying holdings outside the financial sector

Without prejudice to Article 90 of Regulation (EU) No 575/2013 and for the purpose of calculating the capital requirements in accordance with Part Three of Regulation (EU) No 575/2013, credit institutions shall apply a risk weight of 1 250 % to the greater of the following:

- (a) the amount of qualifying holdings in undertakings referred to in Article 89(1) of Regulation (EU) No 575/2013 in excess of 15 % of the eligible capital of the credit institution; and
- (b) the total amount of qualifying holdings in undertakings referred to in Article 89(2) of Regulation (EU) No 575/2013 that exceeds 60 % of the eligible capital of the credit institution.

CHAPTER II

Capital requirements

Article 4

Article 124(2) of Regulation (EU) No 575/2013: Exposures secured by mortgages on residential real estate

In connection with Article 124(2) of the Regulation (EU) No 575/2013, for exposures that are fully and completely secured by mortgages on residential real estate credit institutions shall apply the 35 % risk weight to the part of the loan that does not exceed 60 % of the market value of the real estate in question, or 60 % of the mortgage lending value of the real estate in question in those Member States that have laid down rigorous criteria for the assessment of the mortgage lending value in statutory or regulatory provisions.

Article 5

Article 178(1) of Regulation (EU) No 575/2013: Default of an obligor

Credit institutions shall apply the 'more than 90 days past due' standard for the categories of exposures specified in Article 178(1)(b) of Regulation (EU) No 575/2013.

Article 6

Article 178(2)(d) of Regulation (EU) No 575/2013: Threshold for the assessment of the materiality of a credit obligation past due for the purpose of definition of default

(1) For the purposes of Article 178(2)(d) of Regulation (EU) No 575/2013, credit institutions shall assess the materiality of a credit obligation past due against the following threshold, which comprises two components:

- (a) the absolute component is the sum of all amounts past due owed by the obligor to the institution, the parent undertaking of that institution or any of its subsidiaries (hereinafter: credit obligation past due), and is equal:
 - (i) for retail exposures, to EUR 100,
 - (ii) for exposures other than retail exposures, to EUR 500; and
- (b) the relative component is 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 institution, its parent undertaking or any of its subsidiaries, excluding equity exposures, which is equal to 1%.

(2) For 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, the threshold laid down in paragraph (1) shall apply at the level of the individual credit facility granted to the obligor by the credit institution, its parent undertaking or any of its subsidiaries.

(3) A default shall be deemed to have occurred when the limit expressed as the absolute component of the threshold and the limit expressed as the relative component of the threshold have both been exceeded for **more than** 90 consecutive days.

Article 7

Article 282(6) of Regulation (EU) No 575/2013: Hedging sets

For the transactions referred to in Article 282(6) of Regulation (EU) No 575/2013, credit institutions shall use the mark-to-market method set out in Article 274 of Regulation (EU) No 575/2013.

Article 8

Article 327(2) of Regulation (EU) No 575/2013: Netting

In connection with Article 327(2) of the Regulation (EU) No 575/2013, credit institutions may not undertake netting between a convertible security and the offsetting position in the instrument underlying it.

Article 9

Article 380 of Regulation (EU) No 575/2013: Waiver

In the event of a system-wide failure of a settlement system, a clearing system or a central counterparty system within the meaning of Article 380 of Regulation (EU) No 575/2013, until the situation is rectified, the following provisions shall apply:

- (a) credit institutions shall not be required to comply with the own funds requirements laid down in Articles 378 and 379 of Regulation (EU) No 575/2013; and

(b) the failure of a counterparty to settle a trade shall not be deemed a default for purposes of credit risk.

CHAPTER III

Large exposures

Article 10

Article 395(1) of Regulation (EU) No 575/2013: Limits to large exposures

The limit on the value of a large exposure within the meaning of Article 395(1) of Regulation (EU) No 575/2013 shall not be lower than EUR 150 million.

Article 11

Article 400(2) of Regulation (EU) No 575/2013: Exemptions

(1) The exposures listed in Article 400(2)(a) of Regulation (EU) No 575/2013 shall be exempted from the application of Article 395(1) of that Regulation for 80 % of the nominal value of the covered bonds, provided that the conditions set out in Article 400(3) of that Regulation are fulfilled.

(2) The exposures listed in Article 400(2)(b) of Regulation (EU) No 575/2013 shall be exempted from the application of Article 395(1) of that Regulation for 80 % of their exposure value, provided that the conditions set out in Article 400(3) of that Regulation are fulfilled.

(3) The exposures listed in Article 400(2)(c) of Regulation (EU) No 575/2013 incurred by a credit institution to the undertakings referred to therein shall be exempted in full from the application of Article 395(1) of that Regulation, provided that the conditions set out in Article 400(3) of that Regulation, as further specified in Annex I to Regulation (EU) 2016/445 of the European Central Bank of 14 March 2016 on the exercise of options and discretions available in Union law (OJ L 78, 24.3.2016, p. 60; hereinafter: Regulation (EU) 2016/445), are fulfilled and in so far as those undertakings are covered by the same supervision on a consolidated basis in accordance with Regulation (EU) No 575/2013, Directive 2002/87/EC of the European Parliament and of the Council of 16 December 2002 on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate and amending Council Directives 73/239/EEC, 79/267/EEC, 92/49/EEC, 92/96/EEC, 93/6/EEC and 93/22/EEC, and Directives 98/78/EC and 2000/12/EC of the European Parliament and of the Council (OJ L 35, 11.2.2003, p. 1), or with equivalent standards in force in a third country, as further specified in Annex I to Regulation (EU) 2016/445.

(4) The exposures listed in Article 400(2)(d) of Regulation (EU) No 575/2013 shall be exempted in full from the application of Article 395(1) of that Regulation, provided that the conditions set out in Article 400(3) of that Regulation, as further specified in Annex II to Regulation (EU) 2016/445, are fulfilled.

(5) The exposures listed in Article 400(2)(e) to (k) of Regulation (EU) No 575/2013 shall be exempted in full, or in the case of Article 400(2)(i) they shall be exempted up to the maximum allowed amount, from the application of Article 395(1) of that Regulation, provided that the conditions set out in Article 400(3) of that Regulation are fulfilled.

(6) Credit institutions shall assess whether the conditions specified in Article 400(3) of Regulation (EU) No 575/2013, as well as the relevant Annex of Regulation (EU) 2016/445 applicable to the specific exposure, are fulfilled. The Bank of Slovenia may verify this assessment at any time and

request credit institutions to submit the documentation referred to in the relevant Annex for this purpose.

CHAPTER IV

Liquidity

Article 12

Article 420(2) of Regulation (EU) No 575/2013 and Article 23(2) of Delegated Regulation (EU) No 2015/61: Liquidity outflows

When assessing liquidity outflows resulting from trade finance off-balance sheet items, as referred to in Article 420(2) of Regulation (EU) No 575/2013 and in Annex I to that Regulation, and in Article 23(2) of Delegated Regulation (EU) No 2015/61, credit institutions shall assume an outflow rate of 5%, as referred to in Article 420(2) of that Regulation and in Article 23(2) of Delegated Regulation (EU) 2015/61. The corresponding outflows shall be reported in accordance with 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)

Article 13

Article 24(4) and (5) of Delegated Regulation (EU) No 2015/61: Outflows from stable retail deposits

Credit institutions shall multiply by 3 % the amount of stable retail deposits covered by a deposit guarantee scheme as referred to in Article 24(4) of Delegated Regulation (EU) No 2015/61, provided that the Commission has given its prior approval in accordance with Article 24(5) of Delegated Regulation (EU) No 2015/61 certifying that all the conditions of Article 24(4) of Delegated Regulation (EU) No 2015/61 have been fulfilled.

CHAPTER V

Transitional provisions of Regulation (EU) No 575/2013

Article 14
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Article 15
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Article 16
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Article 17
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Article 18
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Article 19
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Article 20
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Article 21
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Article 22
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Article 23

Article 486(6) of Regulation (EU) No 575/2013: Limits for grandfathering items within Common Equity Tier 1, Additional Tier 1 and Tier 2 items

For the purposes of Article 486 of Regulation (EU) No 575/2013, the applicable percentages shall be:

- (a) 60 % during the period from 1 January 2016 to 31 December 2016;
- (b) 50 % during the period from 1 January 2017 to 31 December 2017;
- (c) 40 % during the period from 1 January 2018 to 31 December 2018;
- (d) 30 % during the period from 1 January 2019 to 31 December 2019;
- (e) 20 % during the period from 1 January 2020 to 31 December 2020;
- (f) 10 % during the period from 1 January 2021 to 31 December 2021.

Article 23a

Articles 493(4) and 500a(2) of Regulation (EU) No 575/2013: Transitional provisions for large exposures

(1) By way of derogation from Article 395(1) of Regulation (EU) No 575/2013, credit institutions may incur any of the exposures provided for in Article 493(5) of Regulation (EU) No 575/2013 that meet the conditions set out in Article 493(6) of Regulation (EU) No 575/2013, up to the following limits:

- (a) 100% of the credit institution's Tier 1 capital until 31 December 2018;
- (b) 75% of the credit institution's Tier 1 capital until 31 December 2019;
- (c) 50% of the credit institution's Tier 1 capital until 31 December 2020.

(2) The previous paragraph notwithstanding, credit institutions may incur exposures to the central governments and central banks of Member States, where those exposures are denominated and funded in the domestic currency of another Member State, up to the following limits:

- (a) 100 of the credit institution's Tier 1 capital until 31 December 2023;
- (b) 75 % of the credit institution's Tier 1 capital between 1 January and 31 December 2024;
- (c) 50 % of the credit institution's Tier 1 capital between 1 January and 31 December 2025.

Article 24
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Article 25
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Article 25a

Article 500b of Regulation (EU) No 575/2013: Temporary exclusion of certain exposures to central banks from the total exposure measure in view of the COVID-19 pandemic

(1) On the basis of an opinion by the European Central Bank of 17 September 2020, the Bank of Slovenia has determined that there exist exceptional circumstances that justify a derogation from Article 429(4) of Regulation (EU) No 575/2013, that allows credit institutions to exclude exposures to

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central banks defined in points (a) and (b) of Article 500b(1) of Regulation (EU) No 575/2013 from their total exposure measure until 27 June 2021.

(2) With regard to the exposures referred to in point (b) of Article 500b(1) of Regulation (EU) No 575/2013, exposures to Eurosystem central banks that relate to deposits held in the deposit facility or to balances held on the reserve account, including funds held in order to meet the minimum reserve requirements, may be excluded.

(3) The following definitions shall apply for the purposes of this Article:

(a) “Eurosystem” means the Eurosystem as defined in Guideline (EU) 2015/510 of the European Central Bank of 19 December 2014 on the implementation of the Eurosystem monetary policy framework (ECB/2014/60) (OJ L 91 of 2 April 2015, p 3; hereinafter: ECB Guideline (EU) 2015/510);

(b) “deposit facility” means the deposit facility as defined in ECB Guideline (EU) 2015/510;

(c) “reserve account” means the reserve account as defined in Regulation (EC) No 1745/2003 of the European Central Bank of 12 September 2003 on the application of minimum reserves (ECB/2003/9) (OJ L 250 of 2 October 2003, p 10; hereinafter: Regulation (EC) No 1745/2003);

(d) “minimum reserve requirements” means the minimum reserve requirements as calculated in accordance with Regulation (EC) No 1745/2003.”

CHAPTER VI

Final provisions

Article 26

Entry into force

(1) This regulation shall enter into force on 1 October 2016.

(2) Notwithstanding the first paragraph of this Article, Article 13 of this decision shall apply from 1 January 2019.

Article 27

Cessation of validity

On the date that this regulation enters into force, the Regulation on the implementation of the EU regulation on prudential requirements for credit institutions and investment firms with regard to the implementation of options and discretions and of other tasks of the competent authority for credit institutions (Official Gazette of the Republic of Slovenia, Nos. 5/14 and 19/15) shall cease to be in force, except for the third paragraph of Article 5 of that regulation, which shall be applied to credit institutions designated as significant credit institutions under Article 6(4) of Regulation (EU) No 1024/2013 and Part IV and Article 147(1) of Regulation (EU) No 468/2014, until 31 December 2016.

Ljubljana, 12 April 2016

Boštjan Jazbec
President
of the Governing Board of the

Bank of Slovenia

Regulation amending the Regulation on the exercise of options and discretions under European Union law (Official Gazette of the Republic of Slovenia, No. 81/18 of 14 December 2018) also includes the following final and transitional provision:

"Article 4

- (1) This regulation shall enter into force on the day after its publication in the Official Gazette of the Republic of Slovenia, and shall begin to be applied on 1 January 2019, with the exception of the second paragraph of Article 3, which may begin to be applied upon the entry into force of this regulation.
- (2) The first paragraph of this Article notwithstanding, Article 2 of this regulation shall begin to be applied by no later than 31 December 2020. Until the application of Article 2 of this regulation or until the beginning of the application of the threshold for the assessment of the materiality of a credit obligation past due as set out by 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, in the case of credit institutions classified as significant credit institutions in accordance with Article 6(4) of Regulation (EU) No 1024/2013 and Part Four and Article 147(1) of Regulation (EU) No 468/2014, the credit institution shall apply a definition of the threshold for assessing the materiality of a credit obligation past due in accordance with Article 6 of the Regulation on the exercise of options and discretions under European Union law (Official Gazette of the Republic of Slovenia, No. 28/16)."

Regulation amending the Regulation on the exercise of options and discretions under European Union law (Official Gazette of the Republic of Slovenia, No. 126/20 of 22 September 2020) also includes the following final and transitional provision:

"Article 5

- (1) This regulation shall enter into force on the day after its publication in the Official Gazette of the Republic of Slovenia.
- (2) The first paragraph of this Article notwithstanding, the provision referred to in point (c) of the third paragraph of Article 1 of the Regulation on the exercise of options and discretions under European Union law (Official Gazette of the Republic of Slovenia, No. 28/16 and 81/18) shall apply until 31 December 2020."