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Guidelines

on retail deposits subject to different outflows for purposes of liquidity reporting under Regulation (EU) No 575/2013, on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (Capital Requirements Regulation – CRR)

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1. Executive Summary

The CRR/CRD IV texts[1] (Capital Requirements Regulation ('CRR') and the Capital Requirements Directive ('CRD') set out prudential and reporting requirements for liquidity.

Under Article 421(3) CRR the EBA is required, taking into account the behaviour of local depositors as advised by competent authorities, to issue guidelines (GL) to institutions and competent authorities on the criteria to determine the conditions of application of paragraphs 1 and 2 of that Article in relation to the identification of retail deposits subject to different outflows and the definitions of those products for purposes of liquidity reporting. The GL are to take account of the likelihood of these deposits to lead to outflows of liquidity during the next 30 days and the outflows are to be assessed under the assumption of a combined idiosyncratic and market-wide stress scenario. In this regard, the GL seek to provide criteria to identify less stable retail deposits, for the purposes of liquidity reporting, by defining the characteristics that can lead to higher outflows during the next 30 days under stress conditions. These higher outflows are considered to be exceptions to the outflow rates of at least 5% and 10% respectively prescribed in Article 421(1) and (2). Furthermore, to provide greater harmonisation for the purposes of reporting stable deposits in accordance with Article 421(1), these GL also set out criteria to aid in the identification of 'established relationships' and 'transactional accounts'.

On 21 February 2013 the EBA published a discussion paper (DP) on retail deposits subject to higher outflows for the purposes of liquidity reporting under the draft CRR which was being negotiated at that time. The EBA's mandate extended to the definition of criteria to identify retail deposits subject to higher outflows together with the determination of appropriate outflows. The DP sought to define such criteria ranked into two groups of very high and high risk. The DP allocated these deposits to one of three categories, or 'buckets', differentiated by the number and riskiness of criteria a given product would meet. Three outflow rates of 15%, 20% and 25% were considered for each category. The DP was informed by an EBA survey of competent authorities based upon their experience and judgement regarding outflows observed during the financial crisis, taking into account the behaviour of local depositors.

On 1 August 2013, the EBA published a consultation paper (CP) on the draft GL according to the mandate under Article 421(3) CRR. This consultation was supplemented by a public hearing on 4 September 2013. In line with the draft GL as used for the consultation, these GL continue to propose a three-tiered 'bucket' approach to allocating retail deposits subject to higher outflows for purposes of liquidity reporting. The allocation of every retail deposit to one of these categories will continue to depend on the risk factors inherent in that retail deposit. The GL continue to set these risk factors in line with the results from the survey of competent authorities and, where appropriate, they have been amended to incorporate public feedback from the consultation process. The GL do not prescribe the outflow rates for the three categories. Instead, the GL stipulate that institutions are to report retail deposit amounts allocated to each of the three categories together with their own estimates of expected outflows under stress conditions.

[1] http://eur-lex.europa.eu/JOHtml.do?uri=OJ:L:2013:176:SOM:EN:HTML

2. Background and rationale

Legal background to the draft GL

The CRR is intended to implement the Basel III framework on liquidity in the EU. In particular, with a view to improving the short-term resilience of the liquidity risk profile of institutions, Part Six CRR introduces a liquidity coverage requirement and outlines a number of items subject to liquidity reporting. The liquidity coverage requirement will require institutions to hold liquid assets, the sum of the values of which covers the liquidity outflows less the liquidity inflows under stressed conditions so as to ensure that institutions maintain levels of liquidity buffers which are adequate to face any possible imbalance between liquidity inflows and outflows under gravely stressed conditions over a period of thirty days. In accordance with Article 460 CRR the Commission is expected to adopt a delegated act in 2014 to specify in detail the liquidity coverage requirement.

Under Article 421(3) CRR, the EBA is required, taking into account the behaviour of local depositors as advised by competent authorities, to issue GL by 1 January 2014 on the criteria to determine the conditions of application of paragraphs 1 and 2 of Article 421 in relation to the identification of retail deposits subject to different outflows and the definitions of those products for purposes of liquidity reporting. As required by Article 421(3), those GL are to take account of the likelihood of these deposits to lead to outflows of liquidity during the next 30 days. These outflows are to be assessed under the assumption of a combined idiosyncratic and market-wide stress scenario.

Legal and economic rationale for the content of the draft GL

Higher outflow rates

Article 420 CRR sets out the liquidity outflows to be reported for the purposes of the liquidity coverage requirement. Article 421(1) considers the amount of retail deposits covered by a Deposit Guarantee Scheme ('DGS') which are either 'part of an established relationship making withdrawal highly unlikely', or 'held in a transactional account'. In principle, these retail deposits are considered the most stable and will be subject to the lowest outflow rates of at least 5%. Article 421(2) CRR groups the remaining retail deposits in a broad bucket that is subject to an outflow rate of at least 10%. Article 421(3) concerns any retail deposit which, owing to the behaviour of local depositors, is subject to different outflow rates in excess of the minima defined in paragraphs 1 and 2. Therefore such deposits are subject to higher outflow rates.

Under a combined idiosyncratic and market-wide stress scenario, Article 421(3) focuses explicitly on the behaviour of depositors as an additional risk factor to be evaluated, to determine the liquidity risk profile of an institution, over and above those factors implicitly considered in the definitions of stressed outflows in paragraphs 1 and 2. As deposit outflows are to be considered under the assumption of a combined idiosyncratic and market-wide stress scenario, it logically follows in theory that an add-on to the minima outflow rates will arise. In practice, the EBA's survey of competent authorities corroborates higher outflow rates during the financial crisis. Therefore, while Article 421(1) and (2) concerns minimum outflow rates, Article 421(3) relates exclusively to higher outflows.

Risk factors and tiered buckets of retail deposits subject to higher outflow rates

A set of risk factors are set down in the GL to identify retail deposits subject to higher outflows. These risk factors are derived from the feedback of the EBA's survey of competent supervisors. The prominent characteristics displayed by retail deposits that can lead to higher outflows include factors such as volatility, volume of the deposit, relationship with the customer, distribution channel, currency of the deposit and yield. As stated in Article 421(3) CRR, these deposit outflows are to be assessed under the assumption of a combined idiosyncratic and market-wide stress scenario. Therefore, the criteria to identify retail deposits subject to higher outflows seek to capture volatility observed by institutions during stress periods and assumed in stress scenarios.

In order to avoid potential cliff effects, the three-tiered bucket approach is defined on the basis of the risk factors the corresponding retail deposit will meet. Retail deposits subject to higher outflow rates will be assigned to one of the buckets depending on the number of risk factors displayed.

Determination of outflow rates

The initial DP was based on the draft CRR versions of the European Commission Proposal of July 2011, the Council of the European Union (Presidency compromise of May 2012) and the European Parliament, which expressly included the identification of appropriate higher outflow rates in the EBA's mandate. Unlike the previous versions, the final CRR text does not contain this part of the original mandate. Even without this specific mandate, the EBA could, on its own initiative, stipulate rates for retail deposits subject to higher outflows in the GL in order to harmonise reporting of liquidity coverage requirements further. However, in view of the current wording of the CRR mandate, it seems reasonable to gather further empirical evidence which can be used to develop appropriate outflow rates in future regulatory measures, if deemed appropriate.

Accordingly, the GL provide the methodology for institutions to identify retail deposits subject to higher outflows and to report, as part of reporting on liquidity coverage requirements in accordance with Article 415 CRR, the resultant estimate of outflows in the relevant bucket. These outflows should reflect the responsiveness of deposits to the criteria outlined in the paper to determine higher outflows under the assumption of a combined idiosyncratic and market-wide stress scenario.

Established relationships and transactional accounts

In identifying retail deposits under Article 421(1), particular emphasis is placed on the conditions that the amount of retail deposit is covered by a DGS and that the deposit is either 'part of an established relationship making withdrawal highly unlikely', or 'held in a transactional account including accounts to which salaries are regularly credited'. To contribute to a harmonised process here the GL propose some criteria to aid the identification of these deposits.

Conclusions

At this juncture, three groups of retail deposits are to be considered for the purposes of reporting liquidity outflows in the supervisory reports on liquidity requirements under Article 415(3) CRR:

- Retail deposits subject to Article 421(3), including all retail deposits that, taking into account specific characteristics of depositors behaviour, should be subject to outflow rates over and above those provided for as minima in Article 421(1) and (2) CRR and for which identification criteria are set out in these GL. These deposits will be assigned, in turn, to one of the three categories set out in the GL depending on which risk factors they meet.

- Retail deposits as provided for by Article 421(1), with respect to the amount covered by a DGS and which are either 'part of an established relationship making withdrawal highly unlikely', or 'held in a transactional account, including accounts to which salaries are regularly credited'. These will be subject to an outflow rate of 5% in so far as they do not meet the criteria applicable to identifying retail deposits subject to higher outflow rates under Article 421(3)

- Retail deposits, as established by Article 421(2), which do not meet the criteria either to be categorised under Article 421(1) or identified as subject to higher outflow rates under Article 421(3). These are subject to a 10% outflow rate.

For each deposit group, institutions are to report the outstanding balance together with the applicable outflow amount. Specifically for retail deposits subject to higher outflows, they are also to allocate deposits to one of the three categories, having applied the criteria outlined in the GL to identify these higher outflows.

It is envisaged that as part of the supervisory review process, competent authorities will review the assessment process completed by institutions to implement these GL and report deposits subject to higher outflows.

The approach outlined in these GL will allow the necessary data to be collected on deposits subject to higher outflows and inform the Commission's calibration of the liquidity coverage requirement.

Stages prior to the GL

Survey of Supervisors

To address the mandate outlined in Article 421(3) CRR the EBA surveyed national competent authorities regarding the behaviour of local depositors, in particular during stress periods. Competent authorities responded on the basis of a sample of institutions deemed to be representative for the sectors in each country.

In this survey, the EBA also considered the supervisory experience of the parties involved and institutions' practices. In this respect, the results of the survey suggested that practices vary to a significant extent from one country to another. With regard to the definition of deposits, the majority of competent authorities (but not all) categorise retail deposits. Some competent authorities prescribe quantitative and/or qualitative requirements to determine outflow rates for retail deposits, while others require institutions to use the results of internal assessments. In general, among EU jurisdictions, outflow rates are required for a number of purposes, including quantitative supervisory liquidity ratios, prudential requirements, stress tests, reporting/monitoring and liquidity management. The outflow rates prescribed by supervisors tend to take into account or reflect the stress scenario assumptions. The majority of competent authorities, however, rely on either the institutions' methodologies for risk management purposes or on quantitative liquidity requirements.

Regarding institutions' experience of retail depositors' behaviour during stress events, the EBA's analysis found that most institutions experienced increased outflows during periods of stress, ranging from a low to a moderate level of retail deposit withdrawals. However, a minority of institutions, perceived as 'safe havens', experienced deposit inflows and others experienced changes in funding behaviour. The latter related to both inter-product transfer as customers exited debt instruments perceived as entailing a higher risk than deposits, and a deposit migration from short-term and sight accounts to longer-term products.

The experience of competent authorities and the increased volatility observed during stress periods provided the basis for the criteria outlined in the draft GL to identify retail deposits subject to higher outflows. Their experience also supports the application of higher retail deposit outflow rates to certain products.

Discussion Paper

On 21 February 2013 the EBA published the DP on retail deposits subject to higher outflows for the purposes of liquidity reporting under the draft CRR. 25 responses were received, of which 21 were published on the EBA website.
According to feedback, respondents were of the view that risk factors should be based particularly on the characteristics of the 'depositor' rather than the 'deposit' and specific consideration should be given to the financial position of the countries and institutions where deposits are placed. Furthermore, respondents noted that the existence of a possible correlation between risk factors within the proposed methodology should be mitigated. Finally, clarification was sought on some references to specific definitions or treatment of particular risk factors such as Internet accounts, non-resident deposits and rate-driven deposits. The draft GL as consulted upon sought to address the feedback received, where deemed feasible and prudent, following the discussion process.

Consultation Paper and public hearing

On 1 August 2013, the EBA published the CP on retail deposits subject to different outflows for purposes of liquidity reporting under Regulation (EU) No 575/2013 (Capital Requirements Regulation – CRR). A total of 21 responses were received, 17 of which were published on the EBA website. Part 4.3 of this document provides the detailed feedback and the EBA's response thereto. In parallel to this CP the EBA organised a public hearing on 4 September 2013.

A considerable number of respondents supported the criteria proposed to identify an established relationship and a transactional account, while highlighting specific issues for the practical implementation thereof. A number of respondents questioned the appropriateness of some risk factors proposed in the CP to identify retail deposits subject to different outflows. Others, while broadly supportive of the risk factors, raised some issues regarding the practical implementation thereof and about some features of the risk factor definitions.

3. EBA Guidelines on retail deposits subject to different outflows for purposes of liquidity reporting under Regulation (EU) No 575/2013 (Capital Requirements Regulation – CRR)

Status of these Guidelines

1. This document contains guidelines issued pursuant to Article 16 of 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 (the EBA Regulation). In accordance with Article 16(3) of the EBA Regulation, competent authorities and financial institutions must make every effort to comply with the guidelines.

2. Guidelines set out the EBA's view of appropriate supervisory practices within the European System of Financial Supervision or of how Union law should be applied in a particular area. The EBA therefore expects all competent authorities and financial institutions to whom guidelines are addressed to comply with them. Competent authorities to whom guidelines apply should comply by incorporating them into their supervisory practices as appropriate (e.g. by amending their legal framework or their supervisory processes), including where guidelines are directed primarily at institutions.

Reporting requirements

3. According to Article 16(3) of the EBA Regulation, competent authorities must notify the EBA as to whether they comply or intend to comply with these guidelines, or otherwise with reasons for non-compliance, by 06.02.2014. In the absence of any notification by this deadline, competent authorities will be considered by the EBA to be non-compliant. Notifications should be sent by submitting the form provided at Section 5 to compliance@eba.europa.eu with the reference 'EBA/GL/2013/01'. Notifications should be submitted by persons with appropriate authority to report compliance on behalf of their competent authorities.

4. Notifications will be published on the EBA website, in line with Article 16(3) of the EBA Regulation.

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Title I – Subject matter, scope and definitions

In accordance with Article 421(3) CRR, these Guidelines are intended to harmonise the criteria for identifying and categorising retail deposits subject to different outflows from those specified in Article 421(1) and (2) CRR as minima, as well as the criteria for defining these products for purposes of liquidity reporting. Accordingly, the scope of application of these GL focuses on deposits subject to higher outflows.

These Guidelines are applicable to the solo and consolidated liquidity requirements of institutions in accordance with Part One, Title II CRR.

The scope of the GL covers all retail deposits under Article 421 CRR, including deposits that meet the conditions specified in Article 421(1), that is, those which are covered by a deposit guarantee scheme and are either part of an established relationship or held in transactional accounts, which display criteria linked with higher outflows.

Title II – Guidance regarding the identification of retail deposit products subject to higher outflows

Part 1 –General considerations

1. Determination of 'established relationship making withdrawal highly unlikely'

A retail deposit should be considered to be part of an established relationship for purposes of liquidity reporting under a combined idiosyncratic and market-wide stress scenario when the depositor meets at least one of the following criteria:

(a) has an active contractual relationship with the institution of a minimum duration,
(b) has a borrowing relationship with the institution for mortgage loans or other long term loans, or
(c) has a minimum number of active products, other than loans, with the institution.

2. Determination of 'transactional account, **including accounts to which salaries are regularly credited'**

A retail deposit should be considered as being held in a transactional account when salaries, income or transactions are regularly credited and debited respectively against that account.

3. For both considerations in paragraph **1** and **2** of this Title II, Part 1, institutions should have historical data available, including on depositors behaviour, to substantiate the classification of their deposits.

4. Methodology for the identification of retail deposit products subject to higher outflows

4.1. Retail deposits should be grouped in three buckets of deposits subject to higher outflows on the basis of the number and riskiness of risk factors they meet, among those described in Part 2 of the Guidelines below. Nevertheless, the list of factors provided therein is non-exhaustive and institutions that identify additional criteria leading to higher outflows should include these in their analysis.

4.2. Institutions should estimate, for purposes of liquidity reporting, the appropriate higher outflows for each of these buckets in accordance with Part 3 of the Guidelines below.

Part 2 - Factors affecting the stability of retail deposit products

5. The value of the retail deposit

5.1. Institutions should consider as high value deposits those which fulfil all the following requirements:

(a) they exceed the lower of one of the following two amounts:

(i) EUR 100 000 or

(ii) the local deposit guarantee scheme amount

(a) they are lower than EUR 500 000.

5.2. Institutions should consider as very high value deposits those of at least EUR 500 000.

5.3. For the purposes of calculating the value of a client's deposits, institutions should include all the client's deposit accounts at that institution in the calculation.

5.4. In addition, institutions should carry out a concentration analysis of their deposit base; adequate thresholds and/or limits to define high value retail deposits need to be introduced for internal purposes.

5.5. There are a number of methods that may be employed to identify the concentration of the deposit base. For example, institutions might identify a 'certain number' of large retail deposits or identify the 'number of largest retail deposits' that represent a certain percentage of the retail deposit base. To identify high value retail deposits institutions may use the threshold tailored to the local market for the deposit guarantee amount, the amount above which the interest rate is negotiated or any special arrangement agreed with the depositor that may limit the risk of outflows.

6. Products that are rate-driven or have preferential conditions

6.1. A deposit should be considered to be rate-driven where an institution offers an interest rate:

(a) that significantly exceeds the average rate for similar retail products offered by their peers, given the specificities of the local deposit market,

(b) or whose return is derived from the return on a market index or set of indices,

(c) or whose return is derived from any market variable other than a floating interest rate.

6.2. Institutions can identify 'rate-driven' products by comparing the rate that applies to each deposit to the average paid by their peers for similar products. The term 'peers' refers to institutions with a comparable business model and size, to be defined by the institution and verified by the competent authority if deemed necessary.

7. Maturing fixed-term or notice period deposits

7.1. Deposits which should be considered as falling within this category are:

(a) deposits originally placed as fixed-term with an expiry date maturing within the 30-day period or

(b) deposits with fixed notice periods shorter than 30 days, in accordance with contractual arrangements, other than those that qualify for the treatment provided for in Article 421(5).

7.2. When assessing retail deposit outflows, institutions should consider the impact of:

(a) withdrawal limits or notice periods;

(b) the cost of withdrawal for retail deposit products which can legally be terminated prior to their original maturity date.

(c) the consequence, on the reputation of the institution, of not allowing deposit withdrawals, where institutions have developed a practice of allowing early redemption of such deposit products.

8. High risk distribution channels, including internet only access banks, other forms of remote access and brokered deposits

Institutions should assign retail deposits accessed via high risk distribution channels such as internet only access banks, other forms of remote access and brokered deposits (where brokers collect funds from a natural person or SME) to higher outflows, taking account of the following:

(a) plausible existing contractual limits to withdrawals;

(b) the consequence, for the reputation of the institution, of not allowing deposit withdrawals, where institutions have developed a practice of allowing higher redemption levels for these products.

9. The currency of deposits

Institutions should distinguish between local and foreign currency denominated retail deposits.

10. Non-resident deposits

Institutions should distinguish between resident and non-resident retail deposits. This distinction should be defined in terms of non-EU resident and EU resident deposits with respect to deposits with institutions whose headquarters are based in the EU. The definition of 'residence' for the purposes of liquidity coverage requirements should generally follow the statistical or tax definition applicable.

Institutions should identify the residency of the depositor at the solo entity level.

11. Product-linked deposits

Institutions should identify retail deposit products with linkages to other factors which may change during the 30-day period and result in a higher outflow risk.

12. Other characteristics

12.1. Institutions should consider their retail deposit base to identify any other characteristics that indicate or might indicate a retail deposit type with higher outflow rates than those specified in Article 421(1) and (2) CRR. The identification or non-existence of other characteristics should be documented.

12.2. In order to identify such characteristics, institutions should assess the observed (historical) and expected stability/volatility for the specific retail deposit products offered and identify product types that proved, or are believed might prove, to be unstable.

12.3. For this purpose, institutions should conduct a stress test scenario assuming a combined severe idiosyncratic and market-wide event. Internal statistical and mathematical models could be used to assess the volatility of retail deposit products. The inputs for these methods should generally comprise data derived from the past behaviour of deposits and from hypothetical assumptions based on stress scenarios.

12.4. Small and less sophisticated institutions could use simplified methods based on statistical models, such as models identifying the maximum decrease observed in a 30-day period for a given deposit on a given time horizon including a stressed period.

12.5. The use of expert judgement is encouraged in order to include factors not taken into account by a model, especially in the case of innovative products without a long history.

12.6. A ranking of retail deposit products in terms of volatility or perceived volatility would be a very useful tool in the analysis. This would assist in consistent implementation across an institution's retail deposit products. The comparison of the results obtained for different products and the identification of outliers may help identify less stable deposits.

12.7. The assumptions underpinning these methods should comprise a 30-day prediction and be frequently reviewed, in particular to capture any material change in market conditions. In addition, institutions should consider correlation, contagion effects and seasonal effects to improve the quality of this assessment.

Part 3

13. Determining higher outflows

13.1. Institutions should apply the following methodology in categorising deposits subject to higher outflows:

13.2. Factors described above in Part 2 of these Guidelines should be divided into two categories:

(a) High Risk, comprising the following risk factors:

- (i) the currency of deposits;
- (ii) product-linked deposits;
- (iii) products that are rate-driven or have preferential conditions;
- (iv) high-risk distribution channels, including Internet only access and brokered deposits;
- (v) high value deposits;
- (vi) other characteristics that the institution considers of high risk in accordance with paragraph 13 of the Guidelines above.

(b) Very High Risk, comprising the following risk factors:

- (i) maturing fixed-term or notice period deposits;
- (ii) non-resident deposits;
- (iii) very high value of the deposit.

13.3. Institutions should assess retail deposits against the set of factors described above.

13.4. Institutions should assign retail deposits to one of the three following tiered buckets defined on the basis of the number of risk factors attributed to the underlying deposit:

- (a) deposits with two factors from category 1;
- (b) deposits with three factors from category 1, or with one factor from category 1 and one factor from category 2;
- (c) deposits with two factors from category 2, or with two factors from category 1 and one factor from category 2, or with any other mix of factors.

13.5. Institutions should estimate the corresponding higher outflow rates for each bucket according to the historical and expected volatility assessment.

Title III – Final provisions and implementation

14. Date of application

National competent authorities should implement these Guidelines by incorporating them in their supervisory procedures within three months of publication. Thereafter, national competent authorities should ensure that institutions comply with them effectively.

4. Accompanying documents

4.1 Cost-benefit analysis / impact assessment

Introduction

5. In accordance with Article 16(2) of the EBA Regulation (Regulation (EU) No 1093/2010 of the European Parliament and of the Council), any draft Guidelines developed by the EBA are to be accompanied by a separate analysis on 'the potential related costs and benefits'. Such analysis shall be proportionate to the scope, nature and impact of the Guidelines. Moreover, this analysis in the present contributes, inter alia, to an overall impact assessment which provides the reader with an overview of the problems, the options to address and resolve them and the potential impact of each option.

6. This IA deals with the incremental impact of the EBA's Guidelines to determine criteria for identifying retail deposits subject to different outflows and the definitions of those products.

Problem definition

Issues addressed by the European Commission regarding liquidity management

7. In its impact assessment of the CRD IV framework, the European Commission noted that the existing liquidity risk management approaches and supervisory regimes did not adequately capture risks inherent in the underlying market practices and trends. These shortcomings had contributed to the failure of several institutions and strongly undermined the financial resilience of many others, threatening financial stability and leading to unprecedented levels of central bank liquidity and government support.

8. To address this issue, the Commission proposed the liquidity coverage requirement, which is intended to ensure that an institution maintains levels of liquidity buffers which are sufficient to counter any possible imbalance between liquidity inflows and outflows under gravely stressed conditions over a period of thirty days.

Issues addressed by the guidance

9. The liquidity coverage requirement is based on a specified scenario involving circumstances experienced in the global financial crisis that began in 2007. The scenario entails both institution-specific and systemic shocks and assumes among other things a significant loss of retail deposits. Two buckets of deposits have to be defined in the base scenario, a 'stable deposits' bucket and a 'less stable deposits' bucket, with respective run-off rates of 5% and 10%. The EBA is to consider lower outflow rates in accordance with Article 509(2) and as part of its assessment of introducing liquidity coverage requirements in EU. In this regard, the EBA is to report to the Commission, inter alia, on the need to introduce a new retail deposit category with a lower outflow based on specific characteristics of such deposits that could justify a lower outflow rate and taking into account international developments.

10. In order to provide a more realistic indicator of the short-term liquidity resilience of a credit institution, the scenario on which the calculation of the liquidity coverage ratio (LCR) is based needs to be a good proxy of depositor behaviour in stressed market conditions. This guidance ensures that this is the case by providing a methodology for identifying retail deposits subject to higher outflow risk and for which a higher outflow rate is warranted.

Objectives of the Guidelines

11. These Guidelines will help institutions and the EU's national competent authorities reach a common understanding of the approach to identifying retail deposits subject to higher outflows rates by determining the characteristics that negatively affect their stability. They will also ensure a minimum of harmonisation and consistent practice in this area.

Technical options considered

12. This section explains the rationale behind some of the choices that the EBA has made when designing the Guidelines.

Identification of retail deposits with higher outflows

13. The EBA considered first whether to provide a list of characteristics to identify retail deposits with a higher outflow rate or to allow national authorities the discretion to define these characteristics themselves. The following options were considered:

    - Option A.1 - To provide a list of criteria to identify retail deposits subject to higher outflow rates.

    - Option A.2 - Not to provide any list of criteria and let the national authorities develop their own methodology to identify the retail deposits subject to higher outflows.

14. Option A.1 provides a higher level of harmonisation. Pre-specified criteria will involve lower regulatory costs as the national competent authorities will not have to develop their own criteria independently. A consistent application across the EU jurisdictions will also reduce costs for cross border groups.

15. Option A.2 will involve higher regulatory and/or compliance costs as national competent authorities or credit institutions themselves will have to determine which factors, or combination of factors, would lead to the classification of a retail deposit as being at a high or very high risk of withdrawal. If competent authorities are responsible for developing the methodologies, the regulatory cost would be higher than the first option. This approach leaves some leeway for the NSA to adjust the criteria according to its judgement of stress market conditions but it also reduces the degree of harmonisation between Member States.

16. After evaluating the trade-off between the positive and negative attributes associated with each option, the EBA favoured Option A.1, as it is more likely to ensure harmonisation, comparability, transparency and a level playing field among institutions.

Comprehensiveness of the criteria

17. The objective of the Guidelines is to provide, to the maximum possible extent, precise definitions of criteria to facilitate harmonised practices among national authorities / institutions to identify retail deposits that are subject to higher outflow rates. The definition of the criteria has been difficult owing to the lack of uniform definitions of the various retail products. However, the EBA did its best to avoid excessively wide or narrow definitions for identifying retail deposits with higher outflow rates. To this end, the EBA, after consulting the national authorities on the deposit characteristics in their countries and after publishing a DP and a CP, has drawn up a detailed list of characteristics covering most of the products subject to the higher outflow rates. This list will ensure a consistent identification of the less stable deposits across jurisdictions and that the criteria are exhaustive enough to cover all retail deposit products.

Whether or not to prescribe a methodology to estimate the level of the higher outflow rates

18. The EBA considered whether to propose concrete levels of higher outflow rates for retail deposits or to request institutions to report their best estimate of outflow rates. In both cases these rates should be applied to those retail deposits allocated to any of the three pre-defined tiered categories of retail deposits subject to higher outflow rates on the basis of the risk factors the deposits would meet. The following alternatives were considered:

    - Option B.1 - To provide concrete levels of rates that should be used for deposits identified as having higher outflow rates.

    - Option B.2 – To request institutions to identify their best estimates of rates to be reported for deposits identified as having higher outflow rates.

19. Option B.1 will provide a fully harmonised methodology for producing standardised results on outflow rates which will ensure comparability, transparency and a level playing field among institutions. Option B.2 will reinforce the empirical substantiation for the next regulatory stage, while maintaining a minimum degree of harmonisation, by respecting the existence of the three pre-specified tiered categories of retail deposits subject to higher outflow rates.

20. The EBA favours Option B.2 as it achieves the operational objective of the Commission of developing a sufficiently harmonised EU regime for liquidity at this stage of the regulatory process, for purposes of liquidity reporting, while reinforcing the empirical substantiation of outflows stemming from retail deposits subject to higher outflow rates for future regulatory steps.

Impact

Costs

21. The application of higher outflow rates will cause operational and compliance costs for institutions. It has not been possible to estimate the extent to which the methodology proposed here will impact institutions. Some credit institutions might have to increase their stock of liquid assets after the implementation of the changes, depending on the level of the new LCR

compared to the target LCR. This may require changes to the institutions' business models and product pricing as well as to their structure and the nature of their distribution channels.

22. The proposed methodology will also increase compliance costs, other than LCR-related compliance costs, such as IT and staff costs. The additional compliance costs will result from the need to identify deposits subject to higher outflow rates.

Benefits

23. The benefit to be derived from the Guidelines is that they will help provide a more precise assessment of the retail deposit outflows, make the impact on the LCR quantifiable and consequently provide a more accurate estimation of the liquidity buffer needed for any institution. The requirement to estimate the potential deposit outflows should also compel institutions to focus more on funding liquidity risk when structuring and pricing retail products; this constitutes a behavioural change that could reduce systemic liquidity risk.

4.2 Feedback on the public consultation

The EBA publicly consulted on a CP on a draft version of these Guidelines.

The consultation period lasted for two months and ended on 1 October 2013. A total of 21 responses were received, of which 17 were published on the EBA website.

Below are a summary of the key points and other comments arising from the consultation, the analysis and discussion triggered by these comments, and the actions taken to address them if deemed necessary.

In many cases, several industry bodies made similar comments or the same body repeated its comments in response to different questions. The comments and EBA analysis are included in the 'Summary of responses' below..

Changes to the draft Guidelines were made as a result of the responses received during the public consultation.

Summary of key issues and the EBA's response

The responses received to the CP related primarily to the questions therein, although views on other aspects of the GL were also provided.

Regarding questions on the criteria proposed for the identification of an established relationship and a transactional account, the EBA noted that a considerable number of respondents agreed with the criteria proposed while also requesting further clarification, particularly about the quantitative aspects of the criteria to determine what constitutes an established relationship and a transactional account. For an established relationship, clarification was sought on criteria (a) relating to the 'active' nature of an established relationship and its 'duration'; and criteria (c) relating to the number of active products to be considered within an established relationship. For the determination of 'transactional account', clarification was sought about the regularity of transactions and what is included in 'salaries'. As an alternative, some respondents proposed that these assessments should fall under the remit of the institutions because of the specific nature of different business models which must be considered to determine whether there is an established relationship.

The EBA recognises the operational limits that may result from a lack of certainty about these identification criteria. Nevertheless, the EBA does not have an empirical set of data with which to corroborate or quantify estimates of appropriate and actual numbers for these criteria. It remains the responsibility of institutions to make estimates based on their specific business models and experience. The estimates should then be subject to supervisory review by the competent authorities.

Concerning the risk factors for high-value deposits, rate-driven deposits and non-resident deposits included in the CP, some respondents questioned whether they should be explanatory factors for expected higher outflow rates, arguing that there is a lack of practical evidence and correlation between them.

These explanatory factors stem from the survey of competent authorities concerning, inter alia, observations about retail deposit outflows in times of stress during the recent crisis. The EBA will therefore retain these risk factors to help in identifying those retail deposits subject to higher outflows. The GL also provide a set of risk factors and the methodology to help identify those retail deposits subject to higher outflows. As part of reporting on liquidity coverage requirements in accordance with Article 415 CRR, institutions will report the resultant estimate of outflows in the relevant bucket. These outflows should reflect the responsiveness of deposits to the criteria outlined in the GL for determining higher outflows under the assumption of a combined idiosyncratic and market-wide stress scenario.

There was also disagreement between respondents on other aspects, including, amongst other things, the thresholds proposed for identifying high and very high value deposits, and operational difficulties in devising references for rate-driven deposits. The EBA believes that it will not always be possible to provide further specification due to the lack of supporting evidence in certain cases. It will be the responsibility of institutions to apply and consider these GL in terms of assessing the stability of retail deposits and determining the retail deposits subject to higher outflows.

The EBA also received comments about the difficulties of assessing the precise impact of these GL. Institutions anticipate higher costs in terms of investment in areas such as IT and personnel. Further costs associated with maintaining a liquidity buffer to cushion the higher retail deposits identified were also noted, together with the potential for negative spill-over to lending to the real economy. The respondents think that these costs are unlikely to be offset by the expected benefits of the GL.

The EBA is of view that these GL will play an essential role in enabling a prudent assessment of institutions' retail deposit outflows and will allow for a more accurate estimation of the liquidity buffer needed. As part of reporting on liquidity coverage requirements in accordance with Article 415 CRR, institutions will report the resultant estimate of outflows once they have applied these GL. The estimated outflows should reflect the historical and expected volatility.

Other aspects raised in the consultation were as follows:

Many respondents were of view that the deposit amounts covered by the DGS should not be subject to higher rates.

Many respondents thought that in the case of high value deposits, the higher rate should only be applied to the amount in excess of the threshold set rather than the whole amount.

Some respondents favoured a specific treatment in the GL for trusts and wrapper structures as depositors.

Regarding internet deposits, some respondents considered that these types of deposits should not be subject to higher outflows as these deposits were not particularly affected during the crisis.

Comments	Summary of responses	EBA analysis	Amendments to the proposals
General comments			
Internet deposits	• Some respondents would like a clarification in the GL about the scope of the definition of internet deposits.	• Clarification needed.	• New drafting included.
Trust and wrapper structures	• A number of respondents ask the EBA to consider these structures ultimately as retail deposits when reviewing the liquidity coverage requirements according to Article 509 in order for them to benefit from a lower outflow rate than set down in the CRR.	• The definition of retail deposits is a level 1 issue. • The EBA is not mandated by Article 509 to assess whether these structures must be considered as retail deposits. Therefore that assessment will not form part of the reports referred to in that Article.	
Deposits meeting Article 421(1) CRR criteria	• Some respondents think that deposits meeting the criteria established in Article 421(1) CRR should not be subject to different outflow rates. Furthermore, some respondents question the application of the GL to the amounts covered by the DGS irrespective of the compliance with the existence of an established relationship or a transactional account.	• Retail deposits meeting the criteria of Article 421(1) CRR are set to be subject to an outflow rate of at least 5%. Accordingly they are also subject to potential risk factors which can trigger a higher outflow.	
Responses to questions in Consultation Paper EBA/CP/2013/34			

Question 1. **Do you agree with these criteria for assessing the existence of an 'established relationship'? In your view, what other criteria could be considered to qualify deposits as being part of an 'established relationship making withdrawal highly unlikely' under a combined idiosyncratic and market-wide stress scenario?**	• The main concerns relate to the concept of 'active' in the context of an established relationship and clarification is sought. • Some respondents also propose eliminating the text 'active' as they believe there is no correlation between an active deposit and a stable deposit. • Some respondents also propose removing a 'minimum duration' as a criterion. In their view, retail depositors seldom change their financial services provider. Others propose specifying the duration. • Some respondents seek clarification about the 'number of products' to be held by the depositor. • One respondent asks for clarification about the duration of long-term loans while another respondent proposes extending it to every loan regardless of maturity. • Other respondents propose leaving it to institutions to determine if there is an established relationship, arguing that this is something to be based on the specific business model or the underlying product type. They ask whether this is the basic idea behind the GL.	• The GL provide criteria to identify what constitutes 'an established relationship'. The EBA, at this stage, does not have an empirical set of data with which to corroborate or quantify estimates of appropriate and actual numbers for these criteria. It remains the responsibility of institutions to make estimates based on their specific business models and experience. The estimates should then be subject to supervisory review by the competent authorities. • The EBA is of view that the criteria included in the GL for the identification of an established relationship are necessary to aid in the prudent determination of what constitutes such a relationship. A retail deposit should be considered part of an established relationship for the purposes of liquidity reporting if the depositor meets at least one of the criteria proposed. • It is the EBA's view that short-term loans granted to a depositor in the same institution do not guarantee stability in deposits.	No change.
Question 2. **Do you agree with this criterion for identifying a**	• Some respondents suggest that the criteria to identify a transactional account should be limited to either credited salaries or debited transactions instead of including both. These respondents argue that,	• Clarification would be useful to cover other forms of income properly and to include SMEs.	• New drafting included.

transactional account?	according to the wording of the CRR, credited salaries are considered a sufficient but not a necessary condition. • This would also permit consideration in the scope of SMEs where all regular payment activity should be taken into account (salaries, rents, direct debits, business payments…) and not credited salaries. • Some request for clarification of 'regularly'. • Some respondents propose using the definition of payment account as in the Payment Services Directive. • Some argue that performing a detailed analysis of movements at account level during a significant period of time is too burdensome. It should be based on the account functionality.	• The GL provide criteria to identify what constitutes 'a transactional account'. EBA, at this stage, does not have an empirical set of data with which to corroborate or quantify estimates of appropriate and actual numbers for these criteria. It remains the responsibility of institutions to make estimates based on their specific business models and experience. The estimates should then be subject to supervisory review by the competent authorities.	
Question 3. Regarding established relationships, how would you assess that the contractual relationship with the institution and the minimum number of products are	• Respondents do not suggest any definitions of 'active'. Only one respondent supports the view that 'active' means 'not dormant'. • Some respondents propose discarding this text as it is complex to define and will create confusion. Furthermore, it is not clear that an active deposit implies stability. • Some respondents argue that they have an internal definition of active products (products with recent transactions) which should be used for this purpose.	• The GL provide criteria to identify what constitutes 'an established relationship' and 'a transactional account'. EBA, at this stage, does not have an empirical set of data with which to corroborate or quantify estimates of appropriate and actual numbers for these criteria. It remains the responsibility of institutions to make estimates based on their specific business models and experience. The estimates should then be subject to supervisory review by the competent authorities. It is necessary to	No change.

active in the sense of being actively managed?	• Some respondents propose leaving it to each institution to determine the existence of an established relationship based on their business models and internal risk management.	set some objective criteria to guarantee a minimum level of homogeneity and harmonisation and to cover what are considered minimum features of these deposit types. Nevertheless, the criteria also provide institutions with some degree of flexibility for identifying aspects related to the criteria which reflect the nature of their specific business models, the underlying retail products and the volatility/stability of retail deposits.	
Question 4. **What is your view concerning the threshold proposed for high and very high value deposits? Please give your reasons.**	• Some respondents disagree that high value deposits behave in a less stable fashion than lower value deposits. • Some respondents propose changing the thresholds for high and very high value deposits to EUR 200k and EUR 1m respectively to mitigate cliff effects and be in line with Basel, given that banks have already adapted to these limits for reporting purposes. • Some respondents suggest that the potential impact of applying a different outflow rate on a deposit as a consequence of it becoming high value should be limited exclusively to the amount exceeding the threshold and not extended to the whole deposit. • Some respondents question the EUR 100k level as the definition of deposits subject to rates higher than 10% when the CRR already sets a 10% rate for deposits exceeding the DGS amount.	• High value deposits proved more volatile during the crisis according to the survey of competent authorities. • EBA considers that according to the survey the thresholds set are appropriate for identifying the stability of depositor behaviour. • The survey concluded that high value deposits experienced higher outflows during the crisis without the withdrawal necessarily being limited to only part of the deposit. • The identification of the deposit as a high or very high value deposit will not automatically push the deposit into a higher outflow category. The methodology for determining higher outflows indicates that other risk factors	No change.

	• With respect to this EUR 100k limit, one respondent argues that if the risk factor is applied to the whole deposit, high value deposits will provoke higher and unnecessary liquidity buffers as the deposits included in the DGS amount would be stable in a crisis.	must be present.	
Question 5. **Do you agree with the criterion for considering a deposit to be rate driven?**	• Some respondents find it very difficult to set a market benchmark for rates or a proper definition of peer groups. They ask for precise definition of these terms and of the term 'significantly'. • Some respondents question whether there is a correlation between rate-driven deposits and 'non-sticky' deposits. • A number of respondents consider that under the current situation of low interest rates, only a small basis point difference could trigger the application of this risk factor.	• We understand that institutions regularly monitor market and competitor/peer rates as part of their business management. Furthermore, some institutions offer deposits that are based on a market index or set of indices. • The definition of this risk factor is quite flexible and leaves the institution to provide the best interpretation of the benchmark in line with its risk management and business processes. • There is an explicit supervisory verification process that, if deemed necessary, aims to provide a balance between flexibility and objectivity.	Change to cover supervisory verification process if this is deemed necessary.
Question 6. **Do you agree with the criteria to identify this risk factor?**	• Some respondents think that this risk factor should only be applicable to locally operating banks focusing on their home country and not for global operating banks where the same client may have a number of accounts in different branches of the same institution in different countries. • One respondent does not agree with distinguishing between EU and non-EU residents, arguing that during the crisis most of the withdrawals from	• The risk factors derive from the conclusions of the survey of supervisors. • Within the scope of consolidation, the application of residency should be considered at the solo entity level.	Amended to provide clarification.

	European banks ended up in other European banks. • The same respondent thinks that this risk factor will endanger the competitive position of international European banking groups as they will be subject to higher liquidity buffers in third countries than local banks for the same kind of non-resident deposit. This respondent recommends the use of local rules when the third country has implemented Basel III. • Within the scope of consolidation, one respondent asks how depositors in a non-EU subsidiary of an EU banking group should be considered resident or non-resident.		
Question 7. **Do you agree with the above analysis of the cost and benefit impact of the proposals?**	• Respondents do not have a very strong view on the impact assessment in the GL. • In general terms, they argue that it is too early to assess the impact.		
Question 8. **Please provide any evidence or data that would further inform the analysis of the likely cost-benefit impact of the proposals.**	• Respondents think that it is early to estimate costs. • They foresee high IT and staff costs for implementation and compliance with the GL. • They believe it will be particularly difficult and time-consuming to apply the GL retrospectively to existing products. They think it will be particularly expensive to backdate the rules to cover clients who already have deposits.		

	• To mitigate these costs, they recommend simplifying the methodology and reducing the number of risk factors.		

5. Confirmation of compliance with guidelines and recommendations

Date:

Member/EEA State:

Competent authority:

Guidelines/recommendations:

Name:

Position:

Telephone number:

E-mail address:

I am authorised to confirm compliance with the guidelines/recommendations on behalf of my competent authority: ☐ **Yes**

The competent authority complies or intends to comply with the guidelines and recommendations:

☒ **Yes** ☐ **No** ☐ **Partial compliance**

My competent authority does not, and does not intend to, comply with the guidelines and recommendations for the following **reasons**[2]:

Details of the partial compliance and reasoning:

Please send this notification to compliance@eba.europa.eu[3].

2 In cases of partial compliance, please include the extent of compliance and of non-compliance and provide the reasons for non-compliance for the respective subject matter areas.

3 Please note that other methods of communication of this confirmation of compliance, such as communication to a different e-mail address from the above, or by e-mail that does not contain the required form, shall not be accepted as valid.