



**Single
Rulebook
Q&A**

Question ID	2020_5253
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Liquidity risk
Article	428h
Paragraph	1
Subparagraph	(c)
COM Delegated or Implementing Acts/RTS/ITS/GLs/Recommendations	Not applicable
Article/Paragraph	Not applicable
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Disclose name of institution / entity	No
Type of submitter	Credit institution
Subject matter	
Question	<p>Does Art. 428h (1) (c) of regulation 2019/876, amending Regulation No 575/2013, imply that the counterparty necessarily must be a bank?</p> <p>More specifically, would this condition also be met if the counterparty is a private limited liabilities company, which according to Regulation 575/2013 is not required to apply the NSFR?</p>
Background on the question	Article 428h(1) of Regulation No 575/2013 as amended by Regulation (EU) 2019/876 (CRR) specifies conditions for preferential treatment within a

	<p>group or within an institutional protection scheme. Of these four named conditions, (c) determines that “the counterparty applies a required stable funding factor that is equal to or higher than the higher available stable funding factor or applies an available stable funding factor that is equal to or lower than the lower required stable funding factor;”. As our institute has a private limited liabilities company as a counterparty, it is of great interest to understand better whether Article 428h (1) (c) applies to such a counterparty as well.</p>
EBA answer	<p>Article 428h(1) of Regulation (EU) No 575/2013 (CRR) requires that all conditions specified in Article 428h(1) CRR are met.</p> <p>While the list of eligible counterparties referred to in Article 428h(1)(a) CRR does not limit the application of this discretion to institutions, Article 428h(1)(c) CRR states that “the counterparty applies a required stable funding factor that is equal to or higher than the higher available stable funding factor or applies an available stable funding factor that is equal to or lower than the lower required stable funding factor”.</p> <p>A counterparty that is not subject to the net stable funding requirement as referred to in Article 413(1) CRR and further specified in Title IV of Part Six of the CRR cannot fulfill the requirement of Article 428h(1)(c) CRR. Hence, since the NSFR only applies to institutions, and, at consolidated level, to the entities referred to in Article 11(2) CRR, only these entities are effectively in the scope of counterparties referred to in Article 428h(1)(a) CRR, and the discretion more generally.</p>
Link	<p>https://www.eba.europa.eu/single-rule-book-qa/qna/view/publicId/2020_5253</p>

European Banking Authority, 22/10/2021

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