



Single Rulebook Q&A

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Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Credit risk
Article	178
Paragraph	1
Subparagraph	-
COM Delegated or Implementing Acts/RTS/ITS/GLs/Recommendations	EBA/GL/2016/07 - Guidelines on the application of the definition of default under Article 178 CRR
Article/Paragraph	paragraph 104
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Disclose name of institution / entity	No
Type of submitter	Credit institution
Subject matter	Obligor level
Question	<p>When applying the default at obligor level for retail, should a credit institution always consider a specific set of individual obligors that have a joint obligation towards an institution as a different obligor (the unit of default takes into consideration the JCO)?</p> <p>Or is this to be applied only for the materiality threshold?</p>
Background on the question	Paragraph 104 of EBA/GL/2016/07 (Guidelines on the application of the definition of default under Article 178 CRR) stipulates: "A joint obligor, i.e. a

specific set of individual obligors that have a joint obligation towards an institution, should be treated as a different obligor from each of the individual obligors." It is unclear whether - when we apply the default at obligor level for retail - we should always consider specific set of individual obligors that have a joint obligation towards an institution as a different obligor (the unit of default takes into consideration the JCO) or whether this is to be applied only for the materiality threshold. It can be argued that this is stipulated in the Background and rationale (paragraph 2.7.3, page 14) : "for the purpose of application of the materiality threshold a joint obligor, i.e. a specific set of individual obligors that commit to a joint exposure, should be treated as a different, separate obligor". This is to understand if the level of application of the default in case of joint credit obligation. For example, if we have Mister A and Miss B that are sharing a credit obligation and that have also credit alones, it is unclear if we have to consider 3 units: Mister A, Miss B and the couple, or only 2 units: Mister A and Miss B. More specifically, we believe there is a need to define the notion of obligor; and also to precise the context of the paragraph 104. In particular, the bankruptcy trigger (paragraph 56 of the Guidelines) is identified at the Legal person level and does not take into consideration this notion of separate set of obligors. Then, if the rules describes in paragraph 104 apply to everything, it is unclear how to handle the default at Legal person level. When considering paragraph 97, in case of JCO and only one Legal Person is in bankruptcy, if the other Legal Person has no difficulties, there would be no reason to identify it in default. Additionally, according to Article 1(4) of Commission Delegated Regulation (EU) No 1152/2014 it can be argued that the obligor is "the natural or legal person, who is the institution's counterparty to a general credit exposure or the issuer of a financial instrument not included in the trading book or the counterparty to a non-trading book exposure", but there is no explicit definition either in CRR or from the EBA. It should be noted that, it is not an issue to apply the materiality threshold for the default at the Legal Person level (all the Legal person that owned a group of obligation breaching the threshold should be considered and that will be consistent with the end of the paragraph 104). The application of the paragraph 104 to everything could be also inconsistent with paragraph 96, according to which "Institutions should consider a joint credit obligation as an exposure to two or more obligors that are equally responsible for the repayment of the credit obligation" in the sense that if the bank has only shared account on Legal Person A and Legal Person B (that happens on Retail- Person individuals), then only one obligor will be considered and not "two or more". So we will get Join Credit obligation linked to one "obligor".

EBA answer

The first sentence of paragraph 104 of the [Guidelines on the application of the definition of default under Article 178 of Regulation \(EU\) No 575/2013](#) (EBA/GL/2016/07) states: "A joint obligor, i.e. a specific set of individual obligors that have a joint obligation towards an institution, should be treated as a different obligor from each of the individual obligors." This sentence is

	<p>not limited to materiality of credit obligations past due for Article 178(1)(b) CRR and the materiality threshold according to Article 178(2)(d) CRR, thus this sentence also applies to unlikeliness to pay according to Article 178(1)(a) CRR.</p> <p>That the specific treatment of joint obligors is not limited to the materiality threshold but also applies for unlikeliness to pay is already made clear by paragraph 97 of EBA/GL/2016/07, which requires extending the default classification of individual exposures to the joint obligors not only arising from the material past due criterion according to point (b) but explicitly also from the unlikeliness-to-pay criterion according to point (a) of Article 178(1) CRR. Paragraph 99 of said Guidelines additionally clarifies that where the conditions of points (a) or (b) or both of Article 178(1) CRR are met with regard to the credit obligation of an individual obligor, the contagious effect of this default should not automatically spread to any joint credit obligations of that obligor but nevertheless, institutions should assess such joint credit obligations for possible indications of unlikeliness to pay related with the default of one of the obligors.</p>
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