

Single Rulebook Q&A

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Status	Final Q&A
Legal act	Regulation (EU) No 2019/2033 (IFR)
Topic	Liquidity risk
Article	43
Paragraph	3
Subparagraph	d
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	Competent authority
Subject matter	Inclusion of short term deposits in third country credit institutions as liquid assets
Question	Can unencumbered short-term deposits at third country credit institutions be included in the calculation of liquid assets?
Background on the question	Under Article 43(1) IFR investment firms are required to hold liquid assets equivalent to at least one third of the fixed overhead requirement. Subparagraph 3 sets out the list of assets deemed liquid for the purposes of this requirement. Article 43(1)(d) specifies that unencumbered short-term deposits at a credit institution are included as liquidity assets. However it is unclear whether this includes such deposits at third country credit institutions or if it is limited to deposits at EU based credit institutions. The definition of credit institution in IFR Article 4(8) refers to point (1) of Article 4(1) of Regulation (EU) No 575/2013 (CRR) which is silent as to any requirement for such a credit institution to be authorised in the Union. However in other articles in the IFR where third country exposure is envisaged (e.g. Article 35(2) & Article 54(2) 2nd paragraph) the text of the relevant Article explicitly envisages the inclusion of third country entities. Additionally the text of these articles refers to undertakings which would be credit institutions “as defined in this Regulation” were they

established in the Union thereby implying that the definition of credit institution refers only to credit institutions within the Union. Additionally Article 43(1)(a) IFR lists assets “referred to in Articles 10 to 13 of Delegated Regulation (EU) 2015/61, subject to the same conditions regarding eligibility criteria and the same applicable haircuts as those laid down in those Articles” in the list of assets deemed liquid for the purposes of IFR Article 43. Articles 10 to 13 of Delegated Regulation (EU) 2015/61 are more explicit in when third country exposures can be included.

Final answer

The answer is drafted considering the case of short-term deposits held at a credit institution that is located in a third country.

In accordance with Article 43(1) of the IFR, investment firms shall hold an amount of liquid assets equivalent to at least one third of their fixed overhead requirement.

Article 43(1), point (d), of the IFR specifies that, for the purpose of the liquidity requirement, unencumbered short-term deposits at a credit institution qualify as a liquid asset.

The definition of a credit institution set out in Article 4(1), point (8), of the IFR refers to the definition in Article 4(1), point (1), of the CRR. This definition is based on certain activities that an undertaking needs to perform to qualify as a “credit institution”; the location of the undertaking is not one of the criteria determining whether an undertaking qualifies as a “credit institution”. This implies that unencumbered short-term deposits held at credit institutions located in a third-country could also qualify as liquid assets.

However, an asset will generally be considered as liquid if it can be made readily available in times of stress without unduly affecting its market price.

In the context of short-term deposits, these conditions could be translated in the capacity for an investment firm to withdraw the needed amount of short-term deposits at any time in periods of stress without significant costs such as in relation to any currency conversion. This required timely availability explains why short-term deposits should be unencumbered.

In the context of third country credit institutions, such capacity could be additionally constrained by factors not limited to differences in time zones and in currencies. Those elements should also therefore be considered when assessing whether short-term deposits held with third country credit institutions could validly qualify as liquid assets. This assessment is to be made by investment firms and their supervisory authorities as part of the processes laid down in Articles 24 and 36 of Directive (EU) 2019/2034.

The answers clarify provisions already contained in the applicable legislation. They do not extend in any way the rights and obligations deriving from such legislation nor do they introduce any additional requirements for

	<p><i>the concerned operators and competent authorities. The answers are merely intended to assist natural or legal persons, including competent authorities and Union institutions and bodies in clarifying the application or implementation of the relevant legal provisions. Only the Court of Justice of the European Union is competent to authoritatively interpret Union law. The views expressed in the internal Commission Decision cannot prejudge the position that the European Commission might take before the Union and national courts.</i></p>
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