

Single Rulebook Q&A

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Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Credit risk
Article	114
Paragraph	-
Subparagraph	-
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	Treatment of credit risk exposure for credit institutions accessing the overnight deposit facility via a national central bank
Question	Should a credit institution accessing the overnight deposit facility via a national central bank (NCB) treat its credit exposure as being to the relevant NCB pursuant to Capital Requirements Regulation (CRR) Article 114(4), or to the European Central Bank (ECB) pursuant to CRR Article 114(3)?
Background on the question	The overnight deposit facility is a standing facility that is part of the ECB's monetary policy operations. The standing facilities are administered in a decentralised manner by the NCBs. Credit institutions enter a contractual arrangement with the relevant NCB to facilitate access to the facility. Those contractual arrangements set out extensively the nature of and measures available to the Eurosystem and the European System of Central Banks (ESCB) in respect of credit institution default, but they are largely silent on the credit risk exposure of the credit institution. We are aware that Article 169(2) of Guideline (EU) 2015/510 of the European Central Bank specifies that "each NCB shall apply contractual or regulatory arrangements which provide that only the contracting or home NCB and the identified counterparty have rights and obligations arising under the transaction". Further, we are aware that under Article 6 of Guideline (EU) 2016/2249, the

deposit facility exposure is recognised as a liability on the balance sheet of the relevant NCB. However, neither the Treaty on the Functioning of the European Union, Protocol No. 4 (on the statute of the European System of Central Banks and of the European Central Bank) (the Protocol) nor the Guidelines referenced above consider in particular detail the counterparty credit risk posed to a credit institution should the NCB which carries the liability for its exposure to the overnight deposit facility experience an event of insolvency or default. We are seeking clarity on whether a credit institution's credit risk exposure under the overnight deposit facility should be treated as: a direct exposure to the relevant NCB, and that liability would therefore rest with that NCB; or a direct exposure to the ECB, on the basis that by facilitating access and operations to the overnight deposit facility as an NCB, such an NCB would be determined as carrying out the operations at the direction and based on the authority of the ECB due to it forming part of the tasks of the Eurosystem pursuant to the principle of decentralisation laid down in Article 12(1) of the Statute of the ESCB. Consequently, in an insolvency or default event of the relevant NCB (as counterparty to the credit institution in respect of access the overnight deposit facility), it could be argued that the ECB would be the appropriate body to consider from a credit risk exposure perspective, as it would ultimately meet any resultant exposure to the credit institution.

Final answer

Article 169(2) of Guideline (EU) 2015/510 of the European Central Bank requires that "each national central bank (NCB) shall apply contractual or regulatory arrangements which provide that only the contracting or home NCB and the identified counterparty have rights and obligations arising under the transaction". Consequently, where an overnight deposit facility of an NCB complies with this requirement, any deposits under such facilities constitute credit risk exposures to this NCB, because this is the only party that has obligations to the identified counterparty under these contractual or regulatory arrangements.

The fact that Article 32(4) of [Protocol No 4](#) on the Statute of the ESCB and the ECB allows "the Governing Council may decide that national central banks shall be indemnified against costs incurred in connection with the issue of banknotes or in exceptional circumstances for specific losses arising from monetary policy operations undertaken for the ESCB" does neither replace the obligations of the NCB under the contractual or regulatory arrangements of such overnight deposit facilities nor constitute a basis for a claim against the ECB, and therefore does not constitute a credit risk exposure to the ECB, irrespective whether this may affect the ability of the NCB to pay all credit obligations under the overnight deposit facility to the identified counterparty in full.

Therefore, a credit institution accessing the overnight deposit facility via a

	NCB shall treat its credit exposure as being to the relevant NCB pursuant to Article 114(4) Regulation (EU) No 575/2013 (CRR) where the requirements set in this Article are met.
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