



Brussels, 17.5.2016
C(2016) 2815 final

COMMISSION DELEGATED REGULATION (EU) No .../..

of 17.5.2016

amending Delegated Regulation (EU) No 1222/2014 with regard to regulatory technical standards for the specification of the methodology for the identification of global systemically important institutions and for the definition of subcategories of global systemically important institutions

(Text with EEA relevance)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

Article 131(18) of Directive (EU) No 2013/36/EU empowers the Commission to adopt, following submission of draft standards by the European Banking Authority (EBA), and in accordance with Articles 10 to 14 of Regulation No (EU) 1093/2010, delegated acts specifying the methodology for identifying Global Systemically Important Institutions (G-SIIs), the methodology for the definition of sub-categories and the allocation of G-SIIs in sub-categories based on their systemic significance, taking into account internationally agreed standards.

On 8 October 2014, the Commission adopted the Commission Delegated Regulation (EU) No 1222/2014 specifying the methodology for the identification of G-SIIs. In line with Directive 2013/36/EU, which requires the methodology to take into account internationally agreed standards, the methodology closely follows the approach of the Basel Committee on Banking Supervision (BCBS) for identifying global systemically important banks (G-SIBs, in BCBS terminology). The list of EU G-SIBs identified by the BCBS and the G-SIIs identified by Member States' authorities are identical. The template with ancillary data, indicators and memorandum items is updated by the BCBS with minor changes on an annual basis. Most recently, the BCBS published a new reporting template and reporting instructions for the year 2016 identification exercise, based on end-2015 business year data. The data collection starts in the first quarter of 2016.

In accordance with Article 10(1) of Regulation No (EU) 1093/2010 establishing the EBA, the Commission shall decide within three months of receipt of the draft standards whether to endorse the drafts submitted. The Commission may also endorse the draft standards in part only, or with amendments, where the Union's interests so require, having regard to the specific procedure laid down in those Articles.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

In accordance with the third subparagraph of Article 10(1) of Regulation No (EU) 1093/2010, the EBA launched on 29 April 2015 a public consultation on the draft standards amending Commission Delegated Regulation (EU) No 1222/2014. The consultation was closed on 20 May 2015. Moreover, the EBA invited the EBA's Banking Stakeholder Group set up in accordance with Article 37 of Regulation No (EU) 1093/2010 to provide advice. Together with the draft technical standards, the EBA has submitted an explanation on how the outcome of these consultations has been taken into account in the development of the final draft technical standards submitted to the Commission.

Together with the draft standards, and in accordance with the third subparagraph of Article 10(1) of Regulation No (EU) 1093/2010, the EBA has submitted its cost-benefit analysis/impact assessment¹.

¹ <https://www.eba.europa.eu/documents/10180/1333789/EBA-RTS-2016-01+%28Final+draft+RTS+on+G-SII+identification%29.pdf/0c22fb99-e3c5-41a4-ae96-26080a5737a5>
page 8 of the Final Report on the draft regulatory technical standards.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

The amendment to Commission Delegated Regulation (EU) No 1222/2014 aims at ensuring consistency between the methodology specified in the Regulation and the BCBS framework, as updated from time to time.

Commission Delegated Regulation (EU) No 1222/2014 as amended contains the complete methodology including the indicators to identify G-SIIs. However, the Annex with the detailed technical specifications of the indicator values is deleted from the Regulation. Article 6 of Delegated Regulation (EU) No 1222/2014 as amended sets out the indicators in a general manner. Along the same lines, Commission Implementing Regulation (EU) No 1030/2014 on the uniform formats and date for the disclosure of the values used to identify G-SIIs, which contains a data template, will be amended to the effect that it will still contain a template with the indicators but without the technical specifications of the underlying data points.

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(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC², and in particular Article 131(18) thereof,

Whereas:

- (1) Commission Delegated Regulation (EU) No 1222/2014³ specifies the methodology for the identification of global systemically important institutions (G-SIIs) outlined in Directive 2013/36/EU. Delegated Regulation (EU) No 1222/2014 provides in particular the quantifiable indicators forming the five categories measuring systemic significance of a bank set out in Directive 2013/36/EU. The Annex to Delegated Regulation (EU) No 1222/2014 contains detailed technical specifications of the indicator values.
- (2) Delegated Regulation (EU) No 1222/2014 takes into account the international standards developed by the Basel Committee on Banking Supervision (BCBS) on the methodology to assess global systemically important banks and on the higher loss absorbency requirement, including the technical specifications of the indicators used for the identification of global systemically important banks.
- (3) The BCBS methodology to assess global systemically important banks and on the higher loss absorbency requirement is regularly updated. Most recently, the BCBS published a slightly revised reporting template and reporting instructions for the data collection exercise for 2016, based on end-2015 data. Further updates are expected in the future.
- (4) In order to reflect current developments in the global banking system and minimise the administrative burden for institutions, it is important to ensure that the values of the

² OJ L 176, 27.6.2013, p. 338.

³ Commission Delegated Regulation (EU) No 1222/2014 of 8 October 2014 supplementing Directive 2013/36/EU of the European Parliament and of the Council with regard to regulatory technical standards for the specification of the methodology for the identification of global systemically important institutions and for the definition of subcategories of global systemically important institutions (OJ L 330, 15.11.2014, p. 27).

indicators are determined in line with the internationally-agreed standards established by the BCBS. Relevant national authorities should therefore ensure that the values of the quantifiable indicators provided in Delegated Regulation (EU) No 1222/2014 are determined in line with the applicable set of data provided by the BCBS.

- (5) In order to ensure consistency with the updated methodology used by the BCBS, Article 5(6) of Delegated Regulation (EU) No 1222/2014 should provide that decisions referred to in Articles 5(4) and 5(5) may be supported by ‘ancillary data’ instead of ‘ancillary indicators’.
- (6) In order to ensure that the values of the indicators provided in Delegated Regulation (EU) No 1222/2014 are determined in line with the up-to-date specifications applied by the BCBS, the Annex to Delegated Regulation (EU) No 1222/2014 should be deleted.
- (7) Delegated Regulation (EU) No 1222/2014 should therefore be amended accordingly.
- (8) Given that the data collection for the identification process in 2016 has started in the first quarter of 2016 and institutions need clarity as to which data must be disclosed, this Regulation should enter into force immediately.
- (9) This Regulation is based on the draft regulatory technical standards submitted by the European Banking Authority (EBA) to the Commission.
- (10) The EBA has conducted open public consultations on the draft regulatory technical standards on which this Regulation is based, has analysed the potential related costs and benefits and requested the opinion of the Banking Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council⁴.

HAS ADOPTED THIS REGULATION:

Article 1

Delegated Regulation (EU) No 1222/2014 is amended as follows:

- (1) In Article 5, paragraph 6 is replaced by the following:

'6. The decisions referred to in paragraphs 4 and 5 may be supported by ancillary data, which shall not be indicators of the probability that the relevant entity fails. Such decisions shall comprise well documented and verifiable quantitative and qualitative information.'
- (2) Article 6 is replaced by the following:

'Article 6
Indicators

 1. The category measuring the size of the group shall consist of one indicator equal to the total exposure of the group.
 2. The category measuring the interconnectedness of the group with the financial system shall consist of all of the following indicators:

⁴ 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 (OJ L 331, 15.12.2010, p. 12).

- (a) intra-financial system assets;
 - (b) intra-financial system liabilities;
 - (c) securities outstanding.
3. The category measuring the substitutability of the services or of the financial infrastructure provided by the group shall consist of all of the following indicators:
- (a) assets under custody;
 - (b) payments activity;
 - (c) underwritten transactions in debt and equity markets.
4. The category measuring the complexity of the group shall consist of all of the following indicators:
- (a) notional amount of over-the-counter derivatives;
 - (b) assets included in the level 3 of fair-value measured in accordance with Delegated Regulation (EU) No 1255/2012⁵;
 - (c) trading and available-for-sale securities.
5. The category measuring the cross border activity of the group shall consist of the following indicators:
- (a) cross-jurisdictional claims;
 - (b) cross-jurisdictional liabilities.
6. For data reported in currencies other than the Euro, the relevant authority shall use an appropriate exchange rate taking into account the reference exchange rate published by the European Central Bank applicable on 31 December and international standards. For the payment activity indicator as referred to in paragraph 3(b), the relevant authority shall use the average exchanges rates for the relevant year.'
- (3) The last sentence of Article 7 is deleted.
- (4) The Annex is deleted.

Article 2
Entry into force

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

⁵ Commission Regulation (EU) No 1255/2012 of 11 December 2012 amending Regulation (EC) No 1126/2008 adopting certain international accounting standards in accordance with Regulation (EC) No 1606/2002 of the European Parliament and of the Council as regards International Accounting Standard 12, International Financial Reporting Standards 1 and 13, and Interpretation 20 of the International Financial Reporting Interpretations Committee (OJ L 360, 29.12.2012, p. 78).

Done at Brussels, 17.5.2016

*For the Commission
The President
Jean-Claude JUNCKER*