

**THIS TEXT IS UNOFFICIAL TRANSLATION AND MAY NOT BE USED AS A BASIS FOR SOLVING ANY DISPUTE**

- Official Gazette of the Republic of Slovenia, No. 105/21 of 2 July 2021 – basic text (in force since 3 July 2021)
- Official Gazette of the Republic of Slovenia, No. 67/22 of 13 May 2022 – additions (in force since 28 May 2022)

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Pursuant to the first paragraph of Article 23 and the first paragraph of Article 31 of the Bank of Slovenia Act (Official Gazette of the Republic of Slovenia, Nos. 72/06 [official consolidated version], 59/11 and 55/17), and for the implementation of Articles 9 and 11 of the Banking Act (Official Gazette of the Republic of Slovenia, No. 92/21 and 123/21 – ZBNIP; hereinafter: the ZBan-3), in connection with Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (OJ L 176 of 27 June 2013, p 1; hereinafter: Regulation (EU) No 575/2013) with amendments and Commission Delegated Regulation (EU) 2015/61 of 10 October 2014 to supplement Regulation (EU) No 575/2013 of the European Parliament and the Council with regard to liquidity coverage requirement for credit institutions (OJ L 11 of 17 January 2015, p 1; hereinafter: Delegated Regulation (EU) 2015/61), the Governing Board of the Bank of Slovenia hereby issues the following

**REGULATION**  
**on the exercise of options and discretions under European Union law**

**Article 1**  
**(subject matter and scope)**

- (1) This regulation sets out in detail certain options and discretions under European Union law that are exercised by the Bank of Slovenia as the competent authority responsible for supervising banks and savings banks (hereinafter: banks), and the discretions exercised by the Bank of Slovenia as the designated authority responsible for implementing Article 124 of Regulation (EU) No 575/2013.
- (2) This regulation shall apply in connection with banks for whose supervision the Bank of Slovenia is responsible in accordance with Article 6(4) of Council Regulation (EU) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions (OJ L 287 of 29 October 2013, p 63) and Part IV and Article 147(1) of Regulation (EU) No 468/2014 of the European Central Bank of 16 April 2014 establishing a framework for cooperation within the Single Supervisory Mechanism between the European Central Bank and national competent authorities and with national designated authorities (OJ L 141 of 14 May 2014, p 1).
- (3) The previous paragraph notwithstanding, Article 4 of this regulation shall apply to all banks.
- (4) Whenever this regulation makes reference to the provisions of other regulations, these provisions shall apply in their valid wording at the time in question.

**Article 2**  
**(definition of terms)**

The terms used in this regulation shall have the same meaning as in the provisions of the ZBan-3, Regulation (EU) No 575/2013, Delegated Regulation (EU) 2015/61, and other regulations issued on their basis.

## **CHAPTER I**

### **Own funds**

#### **Article 3**

#### **(Article 89(3) of Regulation (EU) No 575/2013: risk weighting and prohibition of qualifying holdings outside financial sector)**

Without prejudice to Article 90 of Regulation (EU) No 575/2013 and for the purpose of calculating the capital requirements in accordance with Part Three of Regulation (EU) No 575/2013, banks shall apply a risk weight of 1 250 % to the greater of the following:

- (a) the amount of qualifying holdings in undertakings referred to in Article 89(1) of Regulation (EU) No 575/2013 in excess of 15 % of the eligible capital of the bank, and
- (b) the total amount of qualifying holdings in undertakings referred to in Article 89(2) of Regulation (EU) No 575/2013 that exceeds 60 % of the eligible capital of the bank.

## **CHAPTER II**

### **Capital requirements**

#### **Article 4**

#### **(Article 124(2) of Regulation (EU) No 575/2013: exposures secured by mortgages on residential property)**

In connection with Article 124(2) of Regulation (EU) No 575/2013, for exposures that are fully and completely secured by mortgages on residential immovable property located in the Republic of Slovenia, banks shall apply a risk weight of 35 % to the part of the loan that does not exceed 60 % of the market value of the immovable property in question.

#### **Article 5**

#### **(Article 178(1)(b) of Regulation (EU) No 575/2013: default of an obligor)**

Banks shall apply the “more than 90 days past due” standard for the categories of exposures specified in Article 178(1)(b) of Regulation (EU) No 575/2013.

#### **Article 6**

#### **(Article 178(2)(d) of Regulation (EU) No 575/2013: threshold for assessment of the materiality of a credit obligation past due for the purpose of definition of default)**

(1) For the purposes of Article 178(2)(d) of Regulation (EU) No 575/2013, banks shall assess the materiality of a credit obligation past due against the following threshold, which comprises two components:

- (a) the absolute component is the sum of all amounts past due owed by the obligor to the bank, the parent undertaking of that bank, or any of its subsidiaries (hereinafter: credit obligation past due), and is equal:
  - (i) for a retail exposures, to EUR 100;
  - (ii) for exposures other than retail exposures, to EUR 500; and
- (b) the relative component is the amount of the credit obligation past due in relation to the total amount of all on-balance sheet exposures to that obligor for the bank, its parent undertaking or any of its subsidiaries, excluding equity exposures, which is equal to 1 %.

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(2) For banks applying the definition of default laid down in points (a) and (b) of the first subparagraph of Article 178(1) of Regulation (EU) No 575/2013 for retail exposures at the level of an individual credit facility, the threshold laid down in paragraph (1) shall apply at the level of the individual credit facility granted to the obligor by the bank, its parent undertaking or any of its subsidiaries.

(3) A default shall be deemed to have occurred when the limit expressed as the absolute component of the threshold, as well as the limit expressed as the relative component of the threshold, have been exceeded for more than 90 consecutive days.

**Article 7**

**(Article 380 of Regulation (EU) No 575/2013: waiver)**

In the event of a system-wide failure of a settlement system, a clearing system or a central counterparty system within the meaning of Article 380 of Regulation (EU) No 575/2013, until the situation is rectified, the following provisions shall apply:

- (a) banks shall not be required to comply with the own funds requirements laid down in Articles 378 and 379 of Regulation (EU) No 575/2013; and
- (b) the failure of a counterparty to settle a trade shall not be deemed a default for the purposes of credit risk.

**CHAPTER III**

**Large exposures**

**Article 8**

**(Article 395(1) of Regulation (EU) No 575/2013: limits to large exposures)**

The limit on the value of a large exposure within the meaning of Article 395(1) of Regulation (EU) No 575/2013 shall not be lower than EUR 150 million.

**Article 9**

**(Article 400(2) of Regulation (EU) No 575/2013: exemptions)**

(1) The exposures listed in Article 400(2)(a) of Regulation (EU) No 575/2013 shall be exempted from the application of Article 395(1) of that Regulation for 80 % of the nominal value of the covered bonds, provided that the conditions set out in Article 400(3) of that Regulation 575/2013 are fulfilled.

(2) The exposures listed in Article 400(2)(b) of Regulation (EU) No 575/2013 shall be exempted from the application of Article 395(1) of that Regulation for 80% of their exposure value, provided that the conditions set out in Article 400(3) of that Regulation are fulfilled.

(3) The exposures listed in Article 400(2)(c) of Regulation (EU) No 575/2013 incurred by the bank to the undertakings referred to therein, **in so far as those undertakings are established in the Union**, shall be **fully or partially** exempted ~~in full~~ from the application of Article 395(1) of that Regulation, provided that the conditions set out in Article 400(3) of that Regulation, as further specified in Annex I of Regulation (EU) 2016/445 of the European Central Bank of 14 March 2016 on the exercise of options and discretions available in Union law (OJ L 78 of 24 March 2016, p 60; hereinafter: Regulation (EU) 2016/445) are fulfilled and in so far as those undertakings are covered by the same supervision on a consolidated basis in accordance with Regulation (EU) No 575/2013, Directive 2002/87/EC of the European Parliament and of the Council of 16 December 2002 on the supplementary supervision of

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credit institutions, insurance undertakings and investment firms in a financial conglomerate and amending Council Directives 73/239/EEC, 79/267/EEC, 92/49/EEC, 92/96/EEC, 93/6/EEC and 93/22/EEC, and Directives 98/78/EC and 2000/12/EC of the European Parliament and of the Council (OJ L 35 of 11 February 2003, p 1), or with equivalent standards in force in a third country, as further specified in Annex I to Regulation (EU) 2016/445.

(4) The exposures listed in Article 400(2)(d) of Regulation (EU) No 575/2013 shall be **fully or partially** exempted ~~in full~~ from the application of Article 395(1) of that Regulation, provided that the conditions set out in Article 400(3) of that Regulation, as further specified in Annex II to Regulation (EU) 2016/445, are fulfilled.

(5) The exposures listed in Article 400(2)(e) to (l) of Regulation (EU) No 575/2013 shall be exempted in full, or in the case of Article 400(2)(i) they shall be exempted up to the maximum allowed amount, from the application of Article 395(1) of that Regulation, provided that the conditions set out in Article 400(3) of that Regulation are fulfilled.

(6) Banks shall assess whether the conditions specified in Article 400(3) of Regulation (EU) No 575/2013, as well as the relevant Annex of Regulation (EU) 2016/445 applicable to the specific exposure, are fulfilled. The Bank of Slovenia may verify this assessment at any time and request banks to submit the documentation referred to in the relevant Annex for this purpose.

## **CHAPTER IV**

### **Liquidity**

#### **Article 10**

#### **(Article 12(1)(c)(i) of Delegated Regulation (EU) 2015/61: major stock indices in Member State or third country)**

For the purposes of Article 12(1)(c)(i) of Delegated Regulation (EU) 2015/61, in assessing whether shares meet the requirements to qualify as level 2B assets, banks shall take account of the following as major stock indices:

- (a) indices listed in Annex I to Commission Implementing Regulation (EU) 2016/1646 of 13 September 2016 laying down implementing technical standards with regard to main indices and recognised exchanges in accordance with Regulation (EU) No 575/2013 of the European Parliament and of the Council on prudential requirements for credit institutions and investment firms (OJ L 245 of 14 September 2016, p 5);
- (b) indices in a Member State or third country that are not included under point (a) and that the competent authority **of the relevant Member State** or the relevant third country public authority has identified as major stock indices;
- (c) indices that are not included under points (a) or (b) and are comprised of leading companies in the relevant jurisdiction.

#### **Article 11**

#### **(Article 12(3) of Delegated Regulation (EU) 2015/61: corporate debt securities as level 2B assets)**

(1) Banks that in accordance with their statutes of incorporation are unable for reasons of religious observance to hold interest-bearing assets may include corporate debt securities as liquid level 2B assets, provided they meet the conditions laid down in Article 12(1)(b) of Delegated Regulation (EU) 2015/61.

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(2) For banks referred to in the previous paragraph, the Bank of Slovenia may periodically review the requirement under the aforementioned paragraph, and may allow an exception from Article 12(1)(b)(ii) and (iii) of Delegated Regulation (EU) 2015/61 where the conditions laid down in Article 12(3) of Delegated Regulation (EU) 2015/61 have been met.

**Article 12**

**(Article 428p(10) of Regulation (EU) No 575/2013: required stable funding factors for off-balance-sheet exposures)**

Unless the Bank of Slovenia determines different required stable funding factors for off-balance-sheet exposures in the scope of Article 428p(10) of Regulation (EU) No 575/2013, banks shall apply required stable funding factors that correspond to the outflow rates applied to products referred to in Article 23 of Delegated Regulation (EU) 2015/61 to such exposures.

**Article 13**

**(Article 428q(2) of Regulation (EU) No 575/2013: determination of term of encumbrance for assets that have been segregated)**

For the term of encumbrance of assets that have been segregated in accordance with Article 11(3) of Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories (OJ L 201 of 27 July 2012, p 1) and with which banks are unable to freely dispose, the residual maturity of the liability is taken into account to which the segregation requirement relates.

**Article 14**

**(Article 428aq(10) of Regulation (EU) No 575/2013: required stable funding factors for off-balance-sheet exposures)**

Banks to whom the Bank of Slovenia has granted permission to apply the simplified net stable funding requirement referred to in Chapter 5 of Title IV of Part Six of Regulation (EU) No 575/2013 shall follow the approach specified in Article 12 of this regulation *mutatis mutandis* in the determination of the required stable funding factors for off-balance-sheet exposures referred to in Article 428aq(10) of Regulation (EU) No 575/2013.

**Article 15**

**(Article 428ar(2) of Regulation (EU) No 575/2013: determination of term of encumbrance for assets that have been segregated)**

Banks to whom the Bank of Slovenia has granted permission to apply the simplified net stable funding requirement referred to in Chapter 5 of Title IV of Part Six of Regulation (EU) No 575/2013 shall follow the approach specified in Article 13 of this regulation *mutatis mutandis* in the determination of the required stable funding factors for off-balance-sheet exposures referred to in Article 428aq(10) of Regulation (EU) No 575/2013.

**CHAPTER V**

**Transitional provisions**

**Article 16**

**(Article 429a of Regulation (EU) No 575/2013: temporary exclusion of exposures from total exposure measure)**

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(1) On the basis of an opinion by the European Central Bank, published on 18 June 2021, the Bank of Slovenia has determined that for the purposes of Article 429a(5) of Regulation (EU) No 575/2013 exceptional circumstances exist that warrant the exclusion of the central bank exposures listed in points (i) and (ii) of Article 429a(1)(n) of Regulation (EU) No 575/2013 from their total exposure measure in the period between 28 June 2021 and 31 March 2022.

(2) With regard to the exposures listed in point (ii) of Article 429a(1)(n) of Regulation (EU) No 575/2013, exposures to central banks of the Eurosystem that relate to deposits held in the deposit facility or to balances on reserve accounts, including funds held in order to meet minimum reserve requirement, may be excluded.

(3) The exceptional circumstances are deemed to have started on 31 December 2019.

(4) For the purposes of this article, the terms “Eurosystem”, “deposit facility”, “reserve accounts” and “minimum reserve requirement” shall have the same meaning as in Decision (EU) [2021/1074] of the European Central Bank of 18 June 2021 on the temporary exclusion of certain exposures to central banks from the total exposure measure in view of the COVID-19 pandemic and repealing Decision (EU) 2020/1306 (ECB/2021/27).

**Article 17**

**(Article 486(6) of Regulation (EU) No 575/2013: limits for grandfathering of items within Common Equity Tier 1, Additional Tier 1 and Tier 2 items)**

(1) For the purposes of Article 486 of Regulation (EU) No 575/2013, a percentage of 10% shall apply during the period between 1 January and 31 December 2021.

(2) The national measures for the transposition of Directive 2006/48/EC of the European Parliament and of the Council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions (OJ L 177 of 30 June 2006, p 1) and Directive 2006/49/EC of the European Parliament and of the Council of 14 June 2006 on the capital adequacy of investment firms and credit institutions (OJ L 177 of 30 June 2006, p 201), to which Regulation (EU) No 575/2013 refers, are the Banking Act (Official Gazette of the Republic of Slovenia, Nos. 99/10 [official consolidated version; 52/11 (corrigendum)], 9/11 [ZPlaSS-B], 35/11, 59/11, 85/11, 48/12, 105/12, 56/13, 63/13 [ZS-K] and 96/13) and the secondary legislation issued pursuant thereto.

**Article 18**

**(Article 500a(2) of Regulation (EU) No 575/2013: transitional provisions for large exposures)**

By way of derogation from Article 395(1) of Regulation (EU) No 575/2013, for exposures to central governments and central banks of Member States, where those exposures are denominated and funded in the domestic currency of another Member State, banks may incur exposures, up to the following limits:

- (a) 100% of the bank’s Tier 1 capital until 31 December 2023;
- (b) 75% of the bank’s Tier 1 capital between 1 January and 31 December 2024;
- (c) 50% of the bank’s Tier 1 capital between 1 January and 31 December 2025.

**CHAPTER VI**

**Final provisions**

**Article 19**

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**(entry into force of regulation)**

- (1) This regulation shall enter into force on the day after its publication in the Official Gazette of the Republic of Slovenia.
- (2) The previous paragraph notwithstanding, banks may apply this regulation as of 28 June 2021.

**Article 20  
(cessation of validity)**

On the day that this regulation enters into force, the Regulation on the exercise of options and discretions under European Union law (Official Gazette of the Republic of Slovenia, Nos. 28/16, 81/18 and 126/20) shall cease to be in force.

Ljubljana, 29 June 2021

Boštjan Vasle  
President,  
Governing Board of the  
Bank of Slovenia

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**Regulation supplementing the Regulation on the exercise of options and discretions under European Union law (Official Gazette of the Republic of Slovenia, No. 67/22 of 13 May 2022) also includes the following final provision:**

**"Article 2**

**(1) This regulation shall enter into force on the fifteenth day after its publication in the Official Gazette of the Republic of Slovenia."**