EUROPEAN
COMMISSION

Brussels, 20.4.2023
C(2023) 2585 final

# COMMISSION DELEGATED REGULATION (EU) …/...

**of 20.4.2023**

**supplementing Regulation (EU) No 575/2013 of the European Parliament and of the Council with regard to regulatory technical standards on the calculation of the own funds requirements for market risk for non-trading book positions subject to foreign exchange risk or commodity risk and the treatment of those positions for the purposes of the regulatory back-testing requirements and the profit and loss attribution requirement under the alternative internal model approach**

(Text with EEA relevance)

# EXPLANATORY MEMORANDUM

## 1. CONTEXT OF THE DELEGATED ACT

Article 325(9) of Regulation (EU) No 575/2013 ('the Regulation') 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 how institutions are to calculate the own funds requirements for market risk for non-trading book positions that are subject to foreign exchange risk or commodity risk in accordance with the alternative standardised approach and alternative internal model approach. Articles 325bf and 325bg of the Regulation empower the Commission to adopt delegated acts specifying the technical elements to be included in the actual and hypothetical changes to the value of the portfolio of an institution for the purposes of the back-testing and profit and loss attribution requirements.

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 has carried out a public consultation on the draft technical standards submitted to the Commission in accordance with Articles 325(9), 325bf, 325bg of Regulation (EU) No 575/2013 ('the Regulation'). A consultation paper was published on the EBA internet site on 13 January 2020, and the consultation closed on 10 June 2020. 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 on them. 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 technical standards, and in accordance with the third subparagraph of Article 10(1) of Regulation No (EU) 1093/2010, the EBA has submitted its Impact Assessment, including its analysis of the costs and benefits, related to the draft technical standards submitted to the Commission. This analysis is available at Regulatory Technical Standards (RTS) on the treatment of non-trading book positions subject to foreign-exchange risk or commodity risk | European Banking Authority (europa.eu), pages 24-28 of the Final Draft Regulatory Technical Standards package.

## 3. LEGAL ELEMENTS OF THE DELEGATED ACT

The TS specify that institutions are to use either the last available fair value or the accounting value as a basis for computing the own funds requirements for foreign-exchange risk positions in the non-trading book. Once the basis is identified, institutions are required to update the foreign-exchange risk components of the instrument attracting the foreign-exchange risk on a monthly basis under the alternative standardised approach, and on a daily basis under the alternative internal model approach. The TS specify that institutions are to use the fair value as a basis for computing the own funds requirements for commodity risk positions in the non-trading book. Consistently with the framework envisaged for foreign-exchange risk positions, institutions are required to fair value positions attracting commodity risk on a monthly basis under the alternative standardised approach and on a daily basis under the alternative internal model approach. Furthermore, the TS specify the treatment for items that may be impaired due to the foreign-exchange risk they bear so as to ensure an harmonised treatment in the Union in their capitalisation. Finally the TS set out, under the alternative internal model approach, a specific treatment on the calculation of the hypothetical and actual changes in the portfolio's value related to non-trading book positions so as to make the back-testing and profit and loss attribution requirements referred to in Articles 325bf and 325bg of Regulation (EU) No 575/2013 operational also for non-trading book positions.

**COMMISSION DELEGATED REGULATION (EU) …/...**

**of 20.4.2023**

**supplementing Regulation (EU) No 575/2013 of the European Parliament and of the Council with regard to regulatory technical standards on the calculation of the own funds requirements for market risk for non-trading book positions subject to foreign exchange risk or commodity risk and the treatment of those positions for the purposes of the regulatory back-testing requirements and the profit and loss attribution requirement under the alternative internal model approach**

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 575/2013 of 26 June 2013 of the European Parliament and of the Council on prudential requirements for credit institutions and amending Regulation (EU) No 648/2012[1], and in particular Article 325(9), third subparagraph, Article 325bf(9), third subparagraph, and Article 325bg(4), third subparagraph, thereof,

Whereas:

(1) Considering the different value measures applicable for non-trading book positions, it is necessary to specify whether institutions should use the accounting value or the fair value of those positions as a basis to calculate, in accordance with the alternative standardised approach or the alternative internal model approach set out in Part Three, Title IV, Chapter 1a and Chapter 1b, respectively, of Regulation (EU) No 575/2013, the own funds requirements for market risk for non-trading book positions subject to foreign exchange risk, commodity risk or both.

(2) Since the value of non-trading book positions is not driven only by market risk factors, institutions should not be required to perform a daily valuation of those positions for the calculation of own funds requirements for foreign exchange risk under the alternative standardised approach. Instead, institutions should reflect in the value of those positions used as a basis for calculation only those changes that are associated with the foreign exchange risk components of those positions.

(3) To ensure consistency with accounting practices, institutions should use the last available accounting value of a non-trading book position as a basis for calculating the own funds requirement for foreign exchange risk in accordance with the alternative standardised approach. However, the fair value of those positions is also deemed an appropriate basis for the calculation of the own funds requirements. Therefore, institutions should be allowed to use the fair value instead of the last available accounting value as a basis for that calculation if they measure all their non-trading book positions at fair value at least quarterly.

(4) In order to limit any potential misrepresentation of the foreign exchange risk in the non-trading book, the frequency at which institutions are required to update the basis

[1] OJ, L176, 27.6.2013, p. 1.

used to reflect the changes in the foreign exchange risk factors should be monthly. That frequency is proportionate, in particular compared to the daily frequency at which institutions are required to update the foreign exchange risk factors under the alternative internal model approach.

(5) Considering that some foreign exchange positions in the non-trading book might stem from non-monetary items whose value is not updated at each reporting date to reflect changes in the exchange rate, it is necessary to lay down a specific treatment to harmonise the calculation of the own funds requirements for foreign exchange risk for those items in accordance with the sensitivity-based method laid down in Part Three, Title IV, Chapter 1a, Section 2, of Regulation (EU) No 575/2013.

(6) In line with the international accounting standards, institutions are in general required to measure their financial instruments bearing commodity risk at fair value for the calculation of own funds requirements. However, where an institution physically holds a commodity and does not use the fair value of that position for accounting purposes, the fair value of that position should be used as a basis for calculating the own funds requirements for market risk, since it ensures an accurate and simple implementation of the alternative standardised approach. In addition, using the fair value as a basis allows institutions to accurately recognise hedges and diversification effects between the positions that are held in the non-trading book and those held in the trading book. That basis should be updated monthly, thereby ensuring a proportionate approach, in particular compared with the daily frequency at which institutions are required to update the commodity risk factors under the alternative internal model approach.

(7) The overarching regulatory framework for the valuation of positions in the non-trading book subject to foreign exchange or commodity risk under the alternative internal model approach should be aligned to the regulatory framework under the alternative standardised approach, considering that there could be trading desks the positions of which are capitalised using the alternative standardised approach in one quarter and the alternative internal model approach in another quarter. However, it is necessary to lay down that, differently from the alternative standardised approach, the alternative internal model approach requires the calculation of daily figures.

(8) For the purposes of the back-testing and the profit and loss attribution requirement as set out in Articles 325bf and 325bg of Regulation (EU) No 575/2013 under the alternative internal model approach, it is necessary to specify how institutions are to calculate actual and hypothetical changes in the value of the portfolio, specifically in relation to the value of their non-trading book positions. Therefore, to address specific characteristics of non-trading book positions subject to foreign exchange risk or commodity risk, it is necessary to specify how Commission Delegated Regulation (EU) 2022/2059[2] should be applied for those positions.

(9) In order to ensure consistency with the scope of risks captured in the risk-measurement model, the actual and hypothetical changes in the value of the portfolio should generally only reflect the changes related to market risk factors. However, as it could be challenging to isolate changes related to foreign exchange and commodity risk for non-trading book positions subject to commodity risk and non-trading book positions that do not change linearly with movements in the exchange rate, institutions

[2] Commission Delegated Regulation (EU) 2022/2059 of 14 June 2022 supplementing Regulation (EU) No 575/2013 of the European Parliament and of the Council with regard to regulatory technical standards specifying the technical details of back-testing and profit and loss attribution requirements under Articles 325bf and 325bg of Regulation (EU) No 575/2013 (OJ L 276, 26.10.2022, p. 47).

should be allowed to reflect in the actual and hypothetical changes in the value of the portfolio the changes related to all components determining the value of those non-trading book positions.

(10) The provisions in this Regulation are closely linked, since they all deal with the treatment of non-trading book positions that are subject to foreign exchange risk, commodity risk, or both. To ensure coherence between those provisions, which should enter into force at the same time, and to facilitate access and a comprehensive view of those provisions by persons subject to the obligations set out therein, it is appropriate to include all those provisions in a single Regulation.

(11) This Regulation is based on the draft regulatory technical standards submitted to the Commission by the European Banking Authority.

(12) The European Banking Authority has conducted open public consultations on the draft regulatory technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the advice of the Banking Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council[3],

HAS ADOPTED THIS REGULATION:

*Article 1*

**Calculation of the own funds requirements for market risk for non-trading book positions subject to foreign exchange risk in accordance with the alternative standardised approach**

1. When calculating the own funds requirements for non-trading book positions subject to foreign exchange risk under the sensitivities-based method in accordance with Part Three, Title IV, Chapter 1a, Section 2, of Regulation (EU) No 575/2013, institutions shall use as a basis the last available accounting value of those positions.

2. By way of derogation from paragraph 1, institutions may use the last available fair value of a non-trading book position that is subject to foreign exchange risk, provided that they measure all their non-trading book positions at fair value at least on a quarterly basis. When using this derogation, institutions shall apply it consistently to all non-trading book positions subject to foreign exchange risk.

3. Institutions shall update the last available value that is used as a basis for calculating the own funds requirements for foreign exchange risk in accordance with paragraphs 1 and 2 at least on a monthly basis, by reflecting the changes in the value of the foreign exchange risk factors.

4. Institutions shall identify the currency of denomination of the item as the foreign currency whose depreciation against their reporting currency would lead to the highest impairment of the item, where all of the following conditions are met:

   (a) the item is not measured at fair value;

   (b) the item is subject to the risk of impairment due to foreign exchange risk;

[3] 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).

(c) the accounting value of the item is not updated at each reporting date to reflect the changes in the exchange rate between the foreign currency and the reporting currency.

Where institutions calculate the own funds requirements for market risk on a consolidated basis, they shall identify the currency of denomination of an item as the reporting currency of the institution which recognises that item in its individual financial statement, where all of the following conditions are met:

(a) the item is not measured at fair value;

(b) the item is subject to the risk of impairment due to foreign exchange risk;

(c) the institution's reporting currency differs from the reporting currency of the institution that recognises the item in its individual financial statement;

(d) the accounting value of the item is not updated at each reporting date to reflect the changes in the exchange rate between the foreign currency and the reporting currency of the institution recognising the item in its individual financial statement.

5. The value of the delta foreign exchange risk sensitivity calculated in accordance with Article 325r(5) of Regulation (EU) No 575/2013 corresponding to the items referred to in paragraph 4 of this Article shall be equal to the value which those items have in the currency of denomination identified in accordance with that paragraph, multiplied by the spot exchange rate between the currency of denomination and the institution's reporting currency.

*Article 2*

**Calculation of the own funds requirements for market risk for non-trading book positions subject to commodity risk in accordance with the alternative standardised approach**

When calculating the own funds requirements for non-trading book positions subject to commodity risk under the sensitivities-based method in accordance with Part Three, Title IV, Chapter 1a, Section 2, of Regulation (EU) No 575/2013, institutions shall use as a basis the latest available fair value of those positions.

Institutions shall measure those positions at fair value at least on a monthly basis.

*Article 3*

**Calculation of the own funds requirements for market risk for non-trading book positions subject to foreign exchange risk in accordance with the alternative internal model approach**

1. When calculating the own funds requirements for non-trading book positions subject to foreign exchange risk in accordance with the alternative internal model approach set out in Part Three, Title IV, Chapter 1b, of Regulation (EU) No 575/2013, institutions shall use as a basis the last available accounting value of those positions.

2. By way of derogation from paragraph 1, institutions may use the last available fair value of a non-trading book position that is subject to foreign exchange risk, provided that they measure all their non-trading book positions at fair value at least on a quarterly basis. When using this derogation, the institutions shall apply it consistently to all non-trading book positions subject to foreign exchange risk.

3. Institutions shall update the last available value that is used as a basis for calculating the own funds requirements for foreign exchange risk in accordance with paragraphs 1 and 2 on a daily basis, by reflecting changes in the value of the foreign exchange risk factors.

4. When updating the last available value of a non-trading book position on a daily basis, institutions shall update the value of all risk factors for a position for which they used the derogation laid down in Article 5(1), second subparagraph.

5. When calculating the expected shortfall risk measure referred to in Article 325bb of Regulation (EU) No 575/2013 and the stress scenario risk measure referred to in Article 325bk of that Regulation in relation to non-trading book positions subject to foreign exchange risk, institutions shall apply scenarios of future shocks or extreme scenarios of future shock, respectively, only to risk factors that belong to the foreign exchange broad risk factor category referred to in Article 325bd(1) of that Regulation.

6. Institutions shall capture in their risk-measurement model the risk of impairment due to changes in the relevant exchange rates posed by items that are subject to that risk, where those items are not measured at fair value and their accounting values are not updated at each reporting date to reflect the changes in the exchange rate between the foreign currency and the reporting currency of the institution recognising the item in its individual financial statement.

*Article 4*

**Calculation of the own funds requirements for market risk for non-trading book positions subject to commodity risk or both to commodity and foreign exchange risk in accordance with the alternative internal model approach**

1. When calculating the own funds requirements for non-trading book positions subject either to commodity risk or both to commodity and foreign exchange risk in accordance with the alternative internal model as set out in Part Three, Title IV, Chapter 1b, of Regulation (EU) No 575/2013, institutions shall use as a basis the last available fair value of those positions. Institutions shall measure those positions at fair value on a daily basis.

2. In relation to non-trading book positions subject to commodity risk only, when calculating the expected shortfall risk measure referred to in Article 325bb of Regulation (EU) No 575/2013 or the stress scenario risk measure referred to in Article 325bk of that Regulation, institutions shall apply scenarios of future shocks or extreme scenarios of future shock, respectively, only to risk factors that belong to the commodity broad risk factor category referred to in Article 325bd(1) of that Regulation.

3. In relation to non-trading book positions subject to commodity risk and foreign exchange risk, when calculating the expected shortfall risk measure referred to in Article 325bb of Regulation (EU) No 575/2013 or the stress scenario risk measure referred to in Article 325bk of that Regulation, institutions shall apply scenarios of future shocks or extreme scenarios of future shock, respectively, to the risk factors that belong to the commodity or foreign exchange broad risk factor categories referred to in Article 325bd(1) of that Regulation.

*Article 5*

**Computation of the hypothetical and actual changes in the value of the portfolio related to non-trading book positions subject to foreign exchange risk or commodity risk or both to commodity and foreign exchange risk in accordance with Article 325bf and Article 325bg of Regulation (EU) No 575/2013**

1. By way of derogation from Articles 1 to 4 of Delegated Regulation (EU) 2022/2059, institutions calculating the hypothetical and the actual changes in the value of the portfolio referred to in Articles 325bf and 325bg of Regulation (EU) No 575/2013 in relation to a non-trading book position which is subject to foreign exchange risk shall calculate the value of that non-trading book position at the end of the day following the computation of the value-at-risk number referred to in Article 325bf of that Regulation by using the value of that non-trading book position at the end of the previous day and updating the component reflecting the foreign exchange risk of that position.

   Where the value of a non-trading book position does not change linearly with movements in an exchange rate to which it is subject, institutions may calculate the value of that non-trading book position at the end of the day following the computation of the value-at-risk number referred to in Article 325bf of Regulation (EU) No 575/2013 by using the value of that non-trading book position at the end of the previous day and updating all the components the institution uses to value that non-trading book position.

   When applying the second subparagraph, institutions shall apply it consistently to all positions in the trading desk that do not change linearly with movements in an exchange rate to which those positions are subject.

2. By way of derogation from Articles 1 to 4 of Delegated Regulation (EU) 2022/2059, institutions calculating the hypothetical and the actual changes in the value of the portfolio referred to in Articles 325bf and 325bg of Regulation (EU) No 575/2013 in relation to a non-trading book position which is subject to commodity risk or both to commodity and foreign exchange risk shall calculate the value of that non-trading book position at the end of the day following the computation of the value-at-risk number referred to in Article 325bf of that Regulation in accordance with one of the following methods:

   (a) institutions shall use the value of that non-trading book position at the end of the previous day and update only the components reflecting the foreign exchange and commodity risk;

   (b) institutions shall use the value of that non-trading book position at the end of the previous day and update all the components the institution uses to value that non-trading book position.

   When applying the first subparagraph, institutions shall apply it consistently for all positions subject to commodity risk in the trading desk.

3. Institutions shall apply paragraphs 1 and 2 only to non-trading book positions that are included both in the portfolio on the day of the computation of the value-at-risk number referred to in Article 325bf of Regulation (EU) No 575/2013, and in the portfolio on the day following the computation of that value-at-risk number.

*Article 6*

**Entry into force**

This Regulation shall enter into force on the twentieth 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.

Done at Brussels, 20.4.2023

*For the Commission*
*The President*
*Ursula VON DER LEYEN*