EUROPEAN
COMMISSION

Brussels, 13.3.2024
C(2024) 1677 final

COMMISSION DELEGATED REGULATION (EU) …/...

of 13.3.2024

supplementing Regulation (EU) No 575/2013 of the European Parliament and of the Council with regard to regulatory technical standards specifying the conditions under which institutions are allowed to calculate K_{IRB} in relation to the underlying exposures of a securitisation transaction

(Text with EEA relevance)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

Article 255(9) of the Capital Requirements Regulation (Regulation (EU) No 575/2013) as amended by the Regulation on prudential requirements (Regulation (EU) No 2017/2401) empowers the Commission to adopt delegated acts to further specify the conditions under which credit institutions can calculate capital requirements for the pool of underlying exposures in securitisation ($K_{IRB)}$, which is the key input of the SEC-IRBA approach for calculation of the capital requirements on securitisation positions, in line with paragraph 4 of Article 255. The Commission can adopt these acts following the submission of draft technical standards (RTS) by the European Banking Authority (EBA), and in line with Articles 10-14 of the Regulation establishing the EBA (Regulation (EU) No1093/2010).

This delegated act further specifies the conditions to allow credit institutions to calculate K_{IRB} for the pools of underlying exposures in line with the Capital Requirements Regulation's provisions on the Internal Ratings Based (IRB) approach for the calculation of capital requirements for purchased receivables, in particular with regard to:

a) internal credit policy and models for calculating K_{IRB} for securitisations;

b) use of different risk factors relating to the underlying pool and, where sufficient accurate or reliable data on the underlying pool is not available, of proxy data to estimate probability of default (PD) and loss given default (LGD); and

c) due diligence requirements to monitor the actions and policies of sellers of receivables or other originators.

According to Articles 10-14 of the Regulation establishing the EBA, the Commission must decide within 3 months of receipt of the draft RTS whether to endorse the drafts submitted. The Commission may also endorse the draft RTS in part only, or with amendments, where the EU's interests so require, in line with the specific procedure laid down in those Articles.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

In line with the third subparagraph of Article 10(1) of the Regulation establishing the EBA, the EBA has carried out a public consultation on the RTS developed under Article 255(9) of the Capital Requirements Regulation as amended by the Regulation on prudential requirements. A consultation paper was published on 19 June 2018 and the consultation closed on 19 September 2018. In total, eight responses were received during the public consultation. In addition, a public hearing on the RTS was held on 4 September 2018.

EBA final report provides a full overview of the impact assessment and stakeholders responses received.[1]

3. LEGAL ELEMENTS OF THE DELEGATED ACT

The Regulation on prudential requirements amending the Capital Requirements Regulation together with the Securitisation Regulation (Regulation (EU) No 2017/2402) form the 'securitisation package', which introduces a new EU securitisation framework. This framework is a cornerstone of the Capital Markets Union, the Commission's pivotal project to

[1] EBA Final Draft RTS, published on 8 April 2019: Regulatory Technical Standards on the calculation of Kirb in accordance with the purchased receivables approach | European Banking Authority (europa.eu)

build a single market for capital in the EU. The Regulation on prudential requirements implements the Basel III revised securitisation framework and lays down a preferential treatment for simple, transparent and standardised securitisations.

The delegated regulation has been developed in line with 255(9) of the Capital Requirements Regulation, as amended by the Regulation on prudential requirements, to further specify the conditions to allow credit institutions to calculate K_{IRB} for the pools of underlying exposures in a securitisation in line with the provisions set out in the general IRB framework for the calculation of capital requirements for purchased receivables.

The regulation amending the Capital Requirements Regulation substantially reduces the reliance on external ratings within the securitisation framework. It places SEC-IRBA (the approach based on internal risk-based models) at the top of the hierarchy, and SEC-SA (based on standardised risk-weights) and SEC-ERBA (based on external ratings) as, respectively, second and third approach, unless specific conditions for the inversion of this hierarchy are verified, in which case SEC-ERBA may be used as a second approach.

However, the use of SEC-IRBA, which relies on the possibility for the credit institution to be able to apply the general IRB credit risk framework to calculate the capital requirements of the underlying pool of securitised exposures, would generally be limited to IRB originating credit institutions that service those securitised exposures because they have full control, as well as full access, to the necessary information in relation to the securitised exposures. IRB investing credit institutions would not generally be able to apply the SEC-IRBA due to a lack of control and a lack of sufficient information on the underlying pool. Consequently, the most risk sensitive approach would have limited use.

To mitigate this situation, Article 255 (4) of the Capital Requirements Regulation provides credit institutions lacking full control and access to the information in relation to the securitised exposures (mainly investing institutions) with the possibility to calculate K_{IRB} in line with the provisions on the IRB approach for the calculation of capital requirements for purchased receivables. This is to enable these credit institutions to calculate, in turn, the capital requirements under the SEC-IRBA for the securitisation positions they hold. K_{IRB} is the key input of the SEC-IRBA formula.

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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 Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and amending Regulation (EU) No 648/2012[2], and in particular Article 255(9), third subparagraph, thereof,

Whereas:

(1) Pursuant to Article 258(1) of Regulation (EU) No 575/2013 *juncto* Article 143(1) of that Regulation, institutions may calculate their risk-weighted exposure amounts in relation to a securitisation position using the Internal Ratings Based Approach ('SEC-IRBA'). Pursuant to Article 143(2) of Regulation (EU) No 575/2013, prior permission to use the Internal Ratings Based Approach ('IRB approach'), including own estimates of Loss Given Default ('LGD') and conversion factors, shall be required for each exposure class and for each rating system and for each approach to estimating LGDs and conversion factors used.

(2) Pursuant to Article 258 of Regulation (EU) No 575/2013, institutions are to apply SEC-IRBA where they are able to calculate 'K_{IRB}' in accordance with Article 255, (2) to (5) of that Regulation. Where the conditions of that Article are met, institutions may calculate K_{IRB} in relation to the securitised exposures in accordance with the provisions set out in Part Three, Title II, Chapter 3, of Regulation (EU) No 575/2013 for the calculation of capital requirements for purchased receivables. For those purposes, retail exposures are to be treated as purchased retail receivables and non-retail exposures as purchased corporate receivables. Due to the particular nature of the structure of securitisations and the exposures underlying those securitisations, it is necessary to adopt regulatory technical standards that further specify the conditions under which institutions can calculate K_{IRB} for pools of securitised exposures. The provisions set out in Part Three, Title II, Chapter 3, of Regulation (EU) No 575/2013 should, therefore, be tailored as much as necessary to suit the determination of the risk-weighted exposure amounts of the securitised exposures. The application of some other of those IRB provisions in the context of securitisation is, however, not appropriate, either because such rules are not relevant, because they do not lead to prudent outcomes, or because they would be too burdensome for institutions in the

[2] OJ L 321, 30.11.2013, p. 6.

context of securitisation. Therefore, for all such cases, alternative rules should be laid down that are appropriate in the context of securitisation.

(3) The application of SEC-IRBA as per the approach for the purchased receivables referred to in Article 255(4) of Regulation (EU) No 575/2013 should only be available for certain qualifying securitised exposures in relation to which institutions have limited control or access to information and data, or both, and, as a result of which institutions are unable to directly apply the provisions set out in Part Three, Title II, Chapter 3, of Regulation (EU) No 575/2013 to those exposures without the necessary adjustments. It should be considered that there is limited access to information and data on the securitised exposures where the institution is not servicing all those exposures, including the situation where the institution is either an investor in securitisation positions or a sponsor or an originator retaining securitisation positions in a securitisation transaction, and does not service all of the underlying exposures of that transaction. That may also be the case where the institution calculating K_{IRB} is the servicer of the securitisation, but was not involved in, or did not conclude, the original agreement that created the obligations or potential obligations giving rise to the securitised exposures. However, in securitisations with multiple originators, each originator retaining a securitisation position in the securitisation might be able to calculate K_{IRB} with respect to the securitised exposures it has contributed to the securitisation, in accordance with Part Three, Title II, Chapter 3, of Regulation (EU) No 575/2013. Therefore, originators should also be able to calculate K_{IRB} by applying that Chapter for exposures other than purchased receivables to the securitised exposures those originators service and in relation to which they were involved in the execution of the original agreement that created the obligations or potential obligations of the debtor or potential debtor giving rise to the securitised exposures.

(4) Part Three, Title II, Chapter 3, of Regulation (EU) No 575/2013 contains terminology that applies to purchased receivables only, and not to securitised exposures. To give full effect to the empowerment laid down in Article 255(9) of Regulation (EU) No 575/2013, it is necessary to tailor the terminology used in that Chapter to the specific context of securitisation transactions.

(5) To calculate K_{IRB} separately for each pool, institutions calculating K_{IRB} should be allowed to split the pools of qualifying securitised exposures into homogeneous sub-pools. That flexibility is necessary because the composition of the underlying exposures of a securitisation is often heterogeneous. However, each sub-pool should fully comply with those requirements laid down in Article 255(4) of Regulation (EU) No 575/2013 that apply to pools of qualifying securitised assets.

(6) The servicing of securitised exposures by third parties and the limited access to information and data relating to the time of origination of those exposures may have a material impact on the risk drivers considered relevant for risk differentiation, and on the quantification of the risk parameters assigned to individual grades or pools. Institutions calculating K_{IRB} in accordance with Article 255(4) of Regulation (EU) No 575/2013 should therefore use an internal model that is exclusively used to derive probability of default ('PD'), loss given default ('LGD'), expected loss ('EL'), or conversion factor estimates for the specific purpose of calculating K_{IRB} in accordance with that Article. That internal model should therefore not be used to calculate risk-weighted exposure amounts for exposures, either securitised or not securitised, that the institution services and in relation to which it is the originator, as defined in Article 2,

point (3)(a), of Regulation (EU) 2017/2402 of the European Parliament and of the Council[3], or an original lender, as defined in Article 2, point (20), of that Regulation. Such a separation between rating systems for general credit risk modelling and for internal models for calculating K_{IRB} in relation to holdings of qualifying securitised exposures in accordance with Article 255(4) of Regulation (EU) No 575/2013 is also necessary to ensure that the IRB estimation standards achieved on the exposures that the institution services and in relation to which it is the original lender or an originator are not biased, compromised or otherwise worsened by the different management standards and data used in relation to qualifying securitised exposures. Nevertheless, in the case of non-retail securitised exposures, the institution calculating K_{IRB} should be allowed to use for PD estimation the approved existing rating system used for its own originated exposures under whose range of application the non-retail securitised exposures would fall, provided that the institution has sufficient information to apply that rating system, which could be the case for exposures to large corporates. However, in such cases, because the recovery practices and servicing standards may differ, the institution calculating K_{IRB} should not be allowed to rely on the LGD estimation from the approved existing rating system used for its own originated exposures when it is not the servicer.

(7) Article 255(4) of Regulation (EU) No 575/2013 stipulates that institutions may calculate K_{IRB} in relation to the underlying exposures of a securitisation in accordance with, *inter alia*, Article 143 of that Regulation. That Article requires institutions, for each rating system, to obtain the permission of the competent authority concerned to use the IRB approach, and to obtain the permission for material changes to the range of application of a rating system that the institution has received permission to use. Commission Delegated Regulation (EU) No 529/2014[4] lays down the conditions for assessing the materiality of extensions and changes to the IRB approach, including the modalities of the notifications of such extensions and changes. It follows that Delegated Regulation (EU) No 529/2014 also applies where changes occur to an internal model for calculating K_{IRB} for qualifying securitised exposures. Furthermore, Article 143(2) of Regulation (EU) No 575/2013 requires prior permission from the competent authority to use the IRB approach for each rating system. However, in the context of calculating K_{IRB} for the purposes of this Regulation, an institution would be unable to comply with that requirement in relation to the pool of qualifying securitised exposures because such exposures could never be managed homogeneously under an ordinary IRB rating system as similar exposures, either securitised or not securitised, that are serviced and originated by the institution concerned. It is therefore necessary to provide that the permission to use the SEC-IRBA in accordance with an internal model for calculating K_{IRB} should only be subject to the condition that the institution calculating K_{IRB} has received permission to use the IRB approach in relation to at least

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[3] Regulation (EU) 2017/2402 of the European Parliament and of the Council of 12 December 2017 laying down a general framework for securitisation and creating a specific framework for simple, transparent and standardised securitisation, and amending Directives 2009/65/EC, 2009/138/EC and 2011/61/EU and Regulations (EC) No 1060/2009 and (EU) No 648/2012 (OJ L 347, 28.12.2017, p. 35, http://data.europa.eu/eli/reg/2017/2402/oj).

[4] Commission Delegated Regulation (EU) No 529/2014 of 12 March 2014 supplementing Regulation (EU) No 575/2013 of the European Parliament and of the Council with regard to regulatory technical standards for assessing the materiality of extensions and changes of the Internal Ratings Based Approach and the Advanced Measurement Approach (OJ L 148, 20.05.2014, p. 36, ELI: http://data.europa.eu/eli/reg_del/2014/529/oj).

one rating system within the exposure class to which the qualifying securitised exposures are assigned.

(8) Where an institution that meets the requirements of Article 258(1) of Regulation (EU) No 575/2013 applies for a permission to use an internal model for calculating K_{IRB} in relation to qualifying securitised exposures, the requirement laid down in Article 145(1) of that Regulation that the institution shall have been using that internal model for at least 3 years prior to applying for permission should not apply for the purposes of the SEC-IRBA, because the experience the institution has gained by using at least one rating system in the relevant IRB exposure class should be considered sufficient for those purposes.

(9) The requirements set out in Article 184 of Regulation (EU) No 575/2013 aim to ensure that, when quantifying risk parameters for purchased receivables, the purchasing institution exercises a sufficient minimum level of control over those receivables on an ongoing basis, has ongoing access to data and information related to the riskiness of the receivables, including from the seller and servicer of the receivables, and takes into account on an ongoing basis the seller's and servicer's characteristics and conduct that may affect the riskiness of the receivables. Those operational and due diligence requirements must be met to ensure a sufficiently prudent and accurate application of the IRB approach on the purchased receivables. To ensure that qualifying securitised exposures are subject to similar requirements, it is necessary to tailor the requirements of Article 184 of Regulation (EU) No 575/2013 to institutions calculating K_{IRB} in relation to those exposures. Where there is a securitisation special purpose entity ('SSPE'), the SSPE should have ownership over the securitised exposures and exercise control over the cash remittances, either directly or through a trustee or an entity that performs similar tasks on its behalf. The institution calculating K_{IRB} should conduct a due diligence on the servicer of the securitised exposures and, where the institution itself is not the originator of the transaction, on the securitisation's originator, as originator's and servicer's standards and behaviour are risk drivers in relation to the exposures underlying the securitisation transaction. It is possible that the institution calculating K_{IRB} holds, in accordance with Articles 153 and 154 of Regulation (EU) No 575/2013, purchased receivables on its balance sheet, and that it has received a refundable purchase discount, collateral or partial guarantees that provide first-loss protection for default losses, dilution losses, or both. In that case, institutions should be allowed to treat those purchased receivables as qualifying securitised exposures and, where they apply that option, they should be required to exercise due diligence on the servicer, where applicable, and on the seller, as the servicer's and seller's standards and behaviour are risk drivers in relation to those qualifying securitised exposures.

(10) In the context of securitisation transactions, the originator's or, where applicable, the original lender's lending standards and characteristics and the servicer's servicing standards and characteristics are essential risk drivers in relation to the exposures underlying the securitisation. Those risk drivers should therefore always be assessed as potential risk drivers when developing an internal model for calculating K_{IRB} in relation to qualifying securitised exposures, unless disregarding them is justified. The implications of such risk drivers could be reflected either by considering them when assigning the exposures to grades or pools, or by using different calibration segments for different originators and different servicers. Where the institution calculating K_{IRB} in relation to qualifying securitised exposures is itself the originator or the original lender or the servicer of the securitisation, it should not be required to take its own standards and characteristics into account as an additional risk driver.

(11) Article 259(6) of Regulation (EU) No 575/2013 allows institutions to set the exposure weighted-average LGD under the SEC-IRBA at 50% to calculate the p-parameter of the SEC-IRBA formula when the share of the largest underlying exposure in the pool is no more than 3%. To ensure consistency with that Article, institutions calculating K_{IRB} for qualifying securitised exposures should also be allowed to set the pool's exposure weighted-average LGD at 50% for retail securitised exposures. It is appropriate to apply a 50% LGD value in that case because retail securitised exposures typically exhibit high granularity levels. Article 161(1), points (e) and (f), of Regulation (EU) No 575/2013 specifies LGDs for senior and subordinated purchased corporate receivables where the institution is not able to estimate PDs or where those estimates do not meet certain requirements. In the context of a securitisation, those LGDs should be tailored to senior and subordinated qualifying securitised exposures, where the LGD of senior non-retail securitised exposures should not be lower than the set LGD of retail securitised exposures, considering the generally higher granularity level of pools of retail securitised exposures.

(12) Article 153(6) of Regulation (EU) No 575/2013 enables institutions to apply to their purchased corporate receivables the risk quantification standards for retail exposures where it would be unduly burdensome for those institutions to use the risk quantification standards for corporate exposures, provided the conditions set out in Article 154(5) of that Regulation are complied with. That same treatment should also be available for qualifying securitised exposures and, for those purposes, eligibility criteria that are appropriate for those exposures should be expressly laid down.

(13) According to Article 154(5) of Regulation (EU) No 575/2013, for purchased receivables to be eligible for the retail treatment laid down in paragraph 1 of that Article, it is *inter alia* necessary that the institution purchases those receivables from unrelated third parties, that the exposure of the institution to the obligor of the receivables does not include any exposures that are directly or indirectly originated by the institution itself, that the purchased receivables are generated on an arm's-length basis between the seller and the obligor, and that the portfolio is sufficiently diversified. Those requirements should be tailored to qualifying securitised exposures. It is therefore appropriate to require that institutions calculating K_{IRB} verify that the securitised exposures are purchased from unrelated third parties, are not directly or indirectly originated by the institution calculating K_{IRB}, and are generated on an arm's-length basis.

(14) As the risk quantification standards for retail exposures are less burdensome than for non-retail risk quantification standards, Article 154(5) of Regulation (EU) No 575/2013 prevents institutions from applying those less burdensome retail risk quantification standards to non-retail exposures that they have originated in the context of purchased receivables unless they fulfil a set of conditions. However, in the context of retail qualifying securitised exposures, the institution calculating K_{IRB} would be unable to meet Article 154(5), point (a), of Regulation (EU) No 575/2013, which requires that the exposures are not originated by the institution itself, thus preventing the originator from applying the retail risk quantification standards to securitised exposures that it does not service but has originated itself and classified as retail exposures in accordance with the credit risk framework of Regulation (EU) No 575/2013. It is therefore necessary to lay down eligibility criteria that enable an originator institution calculating K_{IRB} to apply the retail risk quantification standards to retail securitised exposures it does not service but has originated itself and classified as retail exposures in accordance with the credit risk framework of Regulation (EU)

No 575/2013. To that end, those exposures should only be required to meet the conditions set out in Article 154(5), points (b) to (d), and Article 184 of Regulation (EU) No 575/2013, tailored as appropriate to the specific features of qualifying securitised exposures. By contrast, where the conditions of Article 184 of Regulation (EU) No 575/2013, tailored to the peculiarities of securitised exposures, are met but the retail securitised exposures are not eligible for the retail risk quantification standards, the institution calculating K_{IRB} should be required to calculate risk-weighted exposure amounts in the manner specified for corporate exposures in Article 153 of Regulation (EU) No 575/2013.

(15) For non-retail qualifying securitised exposures that are eligible for the retail treatment, institutions calculating K_{IRB} should be required to verify and calculate the outstanding exposure values to a group of connected clients to comply with the requirement on pool diversification. Such a verification and calculation may, however, be difficult due to the lack of relevant data. The institution calculating K_{IRB} should, therefore, only be required to undertake such verification and calculation to the best of its knowledge, such as on the basis of information about the debtors that was obtained from the originator, the seller, or the original lender, at the time of the origination of the exposures, or information obtained from the servicer either when servicing the exposures or in the course of its risk-management procedure.

(16) For the accuracy of the quantification of the risk parameters to be associated with exposures underlying a securitisation, the population of exposures represented in the data used for estimation and the lending standards that generated those data should be comparable with the pool of qualifying securitised exposures and the lending standards that applied in the origination of those exposures. The comparability of the data used for estimation and the lending standards applied at origination should only be assessed against the exposures and standards of the institution calculating K_{IRB} where that institution was involved in, or has concluded, the original agreement that gave rise to the exposures underlying the securitisation, but is not the servicer of those exposures.

(17) Article 180(2), point (c), of Regulation (EU) No 575/2013 requires that, for retail exposures, institutions regard internal data for assigning exposures to grades or pools as the primary source of information for estimating loss characteristics. However, where the institution calculating K_{IRB} was not involved in, or did not conclude, the original agreement that gave rise to the qualifying securitised exposures, and is not the servicer of those exposures, the internal data of the institution calculating K_{IRB} should not be considered the best available data for the comparison with the qualifying securitised exposures to quantify risk parameters. Accordingly, external data related to the qualifying securitised exposures should instead be considered as the primary source of information for those purposes.

(18) Article 255(9), point (b), of Regulation (EU) No 575/2013 allows for the use of proxy data where sufficient accurate or reliable data on the pool of underlying exposures are not available. Proxy data for those purposes should be understood as any data that do not directly refer to the securitised exposures, or to the portfolio underwritten on the basis of similar underwriting standards of the originator or original lender from which they have been extracted. Furthermore, Part Three, Title II, Chapter 3, of Regulation (EU) No 575/2013 provides that internal, external and pooled data may be used for the calculation of capital requirements for purchased receivables under the credit risk approach. Those data should therefore also be allowed as proxy data for the calculation of K_{IRB} of qualifying securitised exposures.

(19) Pursuant to Article 171(2) of Regulation (EU) No 575/2013, the less information an institution has, the more conservative its assignment of exposures to obligor and facility grades or pools needs to be. The assignment of securitised exposures to grades or pools is thus of particular concern when using proxy data. That is even more relevant where there is a difference between the definition of default used by the institution calculating K_{IRB} in its internal model for calculating K_{IRB} and the definition of default used in the external data corresponding to the securitised exposures, to the portfolio underwritten on the basis of similar underwriting standards of the originator or original lender from which they have been extracted, or to the proxy data. It is therefore necessary to lay down rules about the adjustments to be made in the data, and about the margin of conservatism to be adopted when estimating the risk parameters in the context of calculating K_{IRB} for qualifying securitised exposures.

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

(21) The EBA 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[5],

HAS ADOPTED THIS REGULATION:

Article 1
Subject matter

This Regulation further specifies the conditions under which institutions may calculate K_{IRB} in relation to the underlying exposures of a securitisation pursuant to Article 255(4) of Regulation (EU) No 575/2013.

Article 2
Definitions

For the purposes of this Regulation, the following definitions shall apply:

(a) 'model development' means the part of the process of the estimation of risk parameters that leads to an appropriate risk differentiation by specifying relevant risk drivers, building statistical or mechanical methods to assign exposures to obligor or facility grades or pools, and estimating intermediate parameters of the model, where relevant;

(b) 'calibration segment' means a uniquely identified subset of the scope of application of the probability of default ('PD') or loss given default ('LGD') model that is jointly calibrated;

(c) 'qualifying securitised exposures' means any of the following types of securitised exposures:

[5] 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).

(i) securitised exposures for which the institution calculating K_{IRB} is not the servicer;

(ii) securitised exposures for which the institution calculating K_{IRB} is the servicer and fulfils both of the following conditions:

(1) the institution was not involved in, or did not conclude, the original agreement that created the obligations or potential obligations of the debtor or potential debtor;

(2) the institution has limited access to data and information on those securitised exposures;

(d) 'internal model for calculating K_{IRB}' means a rating system for the calculation of K_{IRB} referred to in Article 255(4) of Regulation (EU) No 575/2013.

For the purposes of the first subparagraph, point (b), the PD and LGD models shall comprise all data and methods used as part of a rating system that deal with, respectively:

(a) the differentiation and quantification of own estimates of PD, where such data and methods are used to assess the default risk for each obligor or exposure covered by the PD model;

(b) the differentiation and quantification of own estimates of LGD, and the expected loss best estimate ('EL_{BE}'), where such data and methods are used to assess the level of loss in the case of default for each facility covered by the LGD model.

Article 3
Common provisions

1. For the purposes of this Regulation, the term:

(a) 'seller of purchased receivables' and 'seller' shall, in provisions of Regulation (EU) No 575/2013 that relate to purchased receivables and provided there is a SSPE, be read as 'originator';

(b) 'purchasing institution' in Article 154(7), Article 162(2), point (e), and Article 179(1), point (e), of Regulation (EU) No 575/2013 shall be read as 'institution calculating K_{IRB} in accordance with Article 255(4) of this Regulation';

(c) 'institution's exposures and standards' in Article 179(1), point (d), of Regulation (EU) No 575/2013 shall be read as 'securitised exposures and standards applied to those exposures';

(d) 'type of exposures' in Article 142(1), point (2), of Regulation (EU) No 575/2013 shall be read as groups of securitised exposures that would have been homogeneously managed by the institution calculating K_{IRB} if they had not been securitised.

2. For pools of non-homogeneous securitised exposures, institutions calculating K_{IRB} in accordance with this Regulation may need to split such pools into sub-pools of homogeneous securitised exposures to determine the risk-weighted exposure amount separately for each sub-pool for the calculation of K_{IRB} in accordance with Article 255(4) of Regulation (EU) No 575/2013. References to 'pools' in this Regulation shall be construed to include sub-pools, where appropriate.

Article 4

Conditions for calculating K_{IRB} using K_{IRB}-specific rating systems

For the purposes of Article 143 and Article 255(4) of Regulation (EU) No 575/2013, competent authorities may only grant an institution the permission to calculate K_{IRB} for securitised exposures using K_{IRB}-specific rating systems as part of the institution's IRB approach where all of the following conditions are met:

(a) the range of application of the K_{IRB}-specific rating system includes only qualifying securitised exposures;

(b) the institution has received permission to use the IRB approach in relation to at least one rating system within the exposure class to which the qualifying securitised exposures are assigned;

(c) all requirements of Part Three, Title II, Chapter 3, of Regulation (EU) No 575/2013 relating to rating systems are met, subject to point (d) of this Article;

(d) the institution complies with the conditions set out in Articles 5 to 15 of this Regulation instead of the corresponding conditions set out in Regulation (EU) No 575/2013, as set out in each of those Articles of this Regulation.

Article 5

Conditions under which institutions may calculate K_{IRB} using a rating system that has been approved for the use for own-originated exposures

An institution may calculate K_{IRB} in accordance with Article 255(4) of Regulation (EU) No 575/2013 using a rating system that has been approved for use for its own-originated exposures where all of the following conditions are met:

(a) the rating system is used only for calculating the PD of non-retail qualifying securitised exposures;

(b) if not being securitised, the non-retail qualifying securitised exposures would fall within the range of application of the rating system that will be used;

(c) the institution calculating K_{IRB} uses the LGD values set out in Article 8(3) of this Regulation;

(d) all requirements of Part Three, Title II, Chapter 3 of Regulation (EU) No 575/2013 relating to rating systems are met, subject to point (e) of this Article;

(e) the requirements laid down in Article 7 and Article 12(3) of this Regulation are met with regard to the application of the purchased receivable requirements of Regulation (EU) No 575/2013 in the particular context of securitisation, instead of the corresponding requirements laid down in that Regulation, as set out in each of those Articles of this Regulation;

(f) the requirements laid down in Articles 14 and 15 of this Regulation are met with regard to the use of data.

Article 6

Prior experience when calculating K_{IRB}

For the purposes of this Regulation, an institution that has received permission to apply the IRB approach for at least one rating system for own-originated exposures within the exposure

class to which the qualifying securitised exposures are assigned shall be considered to have gained the experience required by Article 145 of Regulation (EU) No 575/2013.

Article 7
Requirements for qualifying securitised exposures

1. For the purposes of this Regulation, when quantifying the risk parameters to be associated with rating grades or pools for qualifying securitised exposures, institutions calculating K_{IRB} shall be considered to comply with the requirements laid down in Article 184 of Regulation (EU) No 575/2013 where they comply with the requirements laid down in paragraphs 2 to 7 of this Article.

   Institutions calculating K_{IRB} may ensure compliance with paragraphs 2 to 7 through a party to the securitisation acting for and in the interest of the investors in the securitisation in accordance with the terms of the related securitisation documents.

2. For the purposes of this Regulation, when quantifying the risk parameters to be associated with rating grades or pools for qualifying securitised exposures, institutions calculating K_{IRB} shall ensure that the structure of the securitisation meets all of the following requirements:

   (a) the SSPE or the institution calculating K_{IRB} has effective ownership and control of all cash remittances from the securitised exposures;

   (b) the ownership of the securitised exposures and cash receipts is protected against bankruptcy stays or legal challenges that could materially impair the ability of the SSPE or the institution calculating K_{IRB} to liquidate or assign the securitised exposures or retain control over cash receipts.

3. Where an obligor makes payments directly to an originator or servicer, the institution calculating K_{IRB} shall have in place procedures to verify regularly that those payments are forwarded completely and within the contractually agreed terms.

4. The institution calculating K_{IRB} shall monitor both the quality of the qualifying securitised exposures and the financial condition of the originator, seller, and servicer. For that purpose, the institution shall in particular:

   (a) assess the correlation between the quality of the qualifying securitised exposures, including the potential of recovery in the case of default, and the financial condition of the originator, seller, and servicer;

   (b) have in place internal policies and procedures that provide adequate safeguards to protect against any contingencies, including the assignment of an internal risk rating to the originator, seller, and servicer;

   (c) have clear and effective policies and procedures for determining the eligibility of an originator, a seller and a servicer;

   (d) conduct periodic reviews of originators, sellers and servicers to verify whether the reports of those originators, sellers or servicers are accurate, to detect fraud or operational weaknesses and to verify the quality of the originator's or seller's credit policies and servicer's collection policies and procedures, and shall document the findings of those periodic reviews;

   (e) assess:

      (1) the characteristics of the pools of qualifying securitised exposures, including over-advances;

(2) the history of the originator's or seller's arrears, bad debts and bad debt allowances;

(3) the payment terms and potential contra accounts of the pools of qualifying securitised exposures;

(f) have in place effective policies and procedures for monitoring, on an aggregate basis, single-obligor concentrations both within and across pools of qualifying securitised exposures;

(g) ensure that it receives from the originator, seller, or servicer timely and sufficiently detailed reports of securitised exposures' ageings and dilutions;

(h) have in place systems and procedures for detecting at an early stage deteriorations in the originator's or seller's financial condition and the qualifying securitised exposures' quality and for addressing emerging problems pro-actively.

For the purposes of the first subparagraph, point (g), the reports shall provide all the necessary information on the qualifying securitised exposures:

(a) to assess the exposures' compliance with the securitisation's eligibility criteria and with the advancing policies governing such qualifying securitised exposures;

(b) to monitor and confirm the originator's or seller's terms of sale and dilution.

5. The institution calculating K_{IRB} shall have in place clear and effective policies, procedures, and information systems to monitor covenant violations, to initiate legal actions and to deal with problematic qualifying securitised exposures.

6. The institution calculating K_{IRB} shall have clear and effective policies and procedures for the monitoring or, where applicable, the control of the qualifying securitised exposures, credit, and cash, including all of the following:

(a) written internal policies specifying all material elements of the securitisation, including the advancing rates, eligible collateral, the required documentation, concentration limits, and the way cash receipts are to be handled;

(b) effective policies and procedures to ensure that the material elements referred to in point (a) take account of all relevant and material factors, including the originator's, seller's and servicer's financial condition, risk concentrations and trends in the quality of the qualifying securitised exposures and the originator's customer base;

(c) internal systems to ensure that funds are advanced only against specified supporting collateral and documentation.

7. The institution calculating K_{IRB} shall have in place an internal process to assess compliance with the internal policies and procedures referred to in paragraphs 3 to 6, including all of the following:

(a) regular audits of all critical phases of the securitisation;

(b) verification of the separation of duties for the assessments of the originator, seller, and servicer, referred to in paragraph 4, on the one hand, and of the obligor, on the other hand;

(c) verification of the separation of the respective duties for the assessments of the originator, seller and servicer, referred to in paragraph 4 from the field audit of the originator, seller and servicer;

(d) evaluations of the institution's back-office operations, including their qualifications, experience, staffing levels and supporting IT systems.

Article 8
General conditions for risk differentiation

1. When assigning exposures to grades or pools, institutions calculating K_{IRB} shall consider the originator's or, where the originator acquired the securitised exposures from the original lender, the original lender's underwriting standards and the servicer's recovery practices and servicing standards, as potential risk drivers, unless those institutions use, for the quantification of the risk parameters associated with those grades or pools, different calibration segments for different originators, original lenders, and servicers.

2. Institutions calculating K_{IRB} may set LGD at 50 % for retail qualifying securitised exposures.

3. Institutions calculating K_{IRB} may set the following values for LGD, instead of the values laid down in Article 161(1), points (e) and (f), of Regulation (EU) No 575/2013:

(a) 50 % for non-retail senior qualifying securitised exposures;

(b) 100 % for non-retail subordinated qualifying securitised exposures.

Article 9
Eligibility for the retail treatment of non-retail qualifying securitised exposures

1. An institution calculating K_{IRB} may, for non-retail qualifying securitised exposures, use the risk quantification standards for retail exposures laid down in Part Three, Title II, Chapter 3, Section 6, of Regulation (EU) No 575/2013 where all of the following conditions are met:

(a) it would be unduly burdensome for the institution to use the risk quantification standards for corporate exposures laid down in Part Three, Title II, Chapter 3, Section 6, of Regulation (EU) No 575/2013;

(b) the following requirements are met, instead of the requirements laid down in Article 154(5), points (a) to (d), of Regulation (EU) No 575/2013:

(i) the SSPE or the institution calculating K_{IRB} has purchased the non-retail qualifying securitised exposures from third-party originators or sellers unrelated to the institution calculating K_{IRB}, and the exposure of the SSPE or the institution calculating K_{IRB} to the obligors in the pool of qualifying securitised exposures does not include any exposures that are directly or indirectly originated by the institution calculating K_{IRB}

(ii) the non-retail qualifying securitised exposures have been generated on an arm's-length basis between the originator or seller and the obligor and, accordingly, do not contain inter-company accounts receivables and receivables subject to contra-accounts between firms that buy and sell to each other;

(iii) the SSPE or the institution calculating KIRB has a claim on all or part of the proceeds from the non-retail qualifying securitised exposures or a pro-rata interest in the proceeds;

(iv) the pool of qualifying securitised exposures is sufficiently diversified.

2. For the purposes of paragraph 1, point (a), when assessing whether the use of the risk quantification standards for corporate exposures laid down in Part Three, Title II, Chapter 3, Section 6, of Regulation (EU) No 575/2013 is unduly burdensome, institutions shall take into account all of the following factors:

(a) whether the cost of using the risk quantification standards for corporate exposures on non-retail qualifying securitised exposures is disproportionate;

(b) whether the institution's access to and control of the relevant data on the securitised exposures is subject to significant impediments when compared to the ease of access to and control of data on retail exposures;

(c) whether the institution has limited capability to integrate any external or proxy data into existing risk and reporting systems;

(d) whether the pool of securitised exposures to which the risk quantification standards for retail exposures are to be applied is sufficiently granular to justify the assessment of undue burden in relation to the factors referred to in points (a), (b) and (c);

(e) whether the size and frequency of the institution's exposures to securitisations do not pose a material risk to that institution.

For the purposes of the first subparagraph, point (a), an institution may take into account the costs of developing a non-retail internal model for calculating K_{IRB}, integrating a new calibration segment into an existing one, or integrating the data into the institution's existing risk and reporting systems.

For the purposes of the first subparagraph, point (d), a pool of qualifying securitised exposures shall be deemed to be sufficiently granular where the number of underlying exposures of the securitisation to which the retail treatment is to be applied exceeds 100 and the aggregate exposure value of all such exposures to a single obligor in the pool does not exceed 2 % of the aggregate outstanding exposure values of the pool of qualifying securitised exposures. For the purposes of that calculation, loans or leases to a group of connected clients that have been funded by the SSPE or the institution calculating K_{IRB} shall be considered as exposures to a single obligor.

Article 10

Eligibility for the retail treatment of retail qualifying securitised exposures

For the purposes of this Regulation, for retail qualifying securitised exposures to be eligible for the risk quantification standards for retail exposures as set out in Part Three, Title II, Chapter 3, Section 6, of Regulation (EU) No 575/2013, all of the following requirements shall be met instead of the requirements laid down in Article 154(5) of that Regulation:

(a) the qualifying securitised exposures have been generated on an arm's-length basis between the originator and the obligor and, accordingly, those exposures do not contain inter-company accounts receivables and receivables subject to contra-accounts between firms that buy and sell to each other;

(b) the SSPE, or the institution calculating K_{IRB}, have a claim on all proceeds from the qualifying securitised exposures or a pro-rata interest in those proceeds;

(c) the pool of qualifying securitised exposures is sufficiently diversified.

Article 11

Determination of relationship between parties, arm's-length and connected clients

For the purposes of Article 9(1), points(b)(i) and (b)(ii), Article 9(2), point (d), and Article 10, point (a), institutions calculating K_{IRB} shall, as applicable, assess the relationship between parties, the arm's-length requirement, or the connectedness of clients, as referred to in those points, to the best of their knowledge, on the basis of either of the following types of information:

(a) information on the debtors, obtained at the time of the origination of the exposures from the originator, the seller or the original lender;

(b) information obtained from the servicer in the course of its servicing the exposures or in the course of its risk-management procedure.

Article 12

Calculation of risk-weighted exposure amounts for credit risk of qualifying securitised exposures

1. For retail qualifying securitised exposures that meet the requirements set out in Article 10, institutions calculating K_{IRB} shall calculate risk-weighted exposure amounts for credit risk in accordance with Articles 154 of Regulation (EU) No 575/2013, and, where applicable, Article 156, point (b), of that Regulation.

2. For retail qualifying securitised exposures that do not meet the requirements set out in Article 10, institutions calculating K_{IRB} shall calculate risk-weighted exposure amounts for credit risk in accordance with Article 153 of Regulation (EU) No 575/2013, and, where applicable, Article 156, point (b), of that Regulation.

3. To calculate K_{IRB} for non-retail qualifying securitised exposures, irrespective of whether the conditions of Article 9 of this Regulation for applying retail risk quantification standards are met in respect of such exposures, institutions shall calculate risk-weighted exposure amounts for credit risk in accordance with Article 153 of Regulation (EU) No 575/2013, and, where applicable, Article 156, point (b), of that Regulation.

Article 13

Requirements on data and primary data

1. Where the qualifying securitised exposures and the obligors of those exposures were not exposures or obligors of the institution calculating K_{IRB} before the transfer of such exposures to the SSPE or to the institution calculating K_{IRB}, instead of the requirement of representativeness of the data used for model development laid down in Article 174, point (c), of Regulation (EU) No 575/2013, the representativeness of the data shall be assessed in relation to the qualifying securitised exposures.

2. Instead of the requirement laid down in the first sentence of Article 180(2), point (c), of Regulation (EU) No 575/2013, institutions shall regard the data relating to the qualifying securitised exposures, the data of the portfolio of the originator or original lender based on similar underwriting standards from which they have been extracted,

and the data relating to the collection and recovery policies adopted by the servicer as the primary source of information for estimating risk parameters for the model development, for the quantification of risk parameters, and for the application of the internal model for calculating K_{IRB}.

Article 14
Use of proxy data

1. For the model development, for the quantification of risk parameters, for the application of the internal model for calculating K_{IRB}, and for the completion of the data referred to in Article 13(2), institutions calculating K_{IRB} may use any relevant data other than the data referred to in that Article as proxy data.

2. The proxy data referred to in paragraph 1 can be internal, external, or pooled data in the sense used in Part Three, Title II, Chapter 3, Section 6, of Regulation (EU) No 575/2013.

3. When institutions calculating K_{IRB} make use of proxy data in the course of the estimation of risk parameters, the requirements of Article 179(1), point (f), of Regulation (EU) No 575/2013 on conservatism shall also apply when institutions use proxy data for the model development, the quantification of risk parameters, and the application of the internal model for calculating K_{IRB}.

4. Institutions calculating K_{IRB} that use proxy data shall assess the representativeness of those proxy data with regard to the data referred to in Article 13(2) and make the necessary adjustments to the proxy data to align the quality of those data to the quality of the data referred to in that Article 13(2).

5. Where it is not possible to overcome the difference in quality by adjustments in the proxy data, institutions calculating K_{IRB} shall adopt an appropriate margin of conservatism in the estimation of risk parameters in accordance with Article 179(1), point (f), of Regulation (EU) No 575/2013.

6. Institutions calculating K_{IRB} may, for the model development, the quantification of risk parameters, and the application of the internal model for calculating K_{IRB}, use the data on static and dynamic historical default and loss performance made available by originators and sponsors in accordance with Article 22, Article 24(14) and Article 26d(1) of Regulation (EU) 2017/2402, irrespective of whether those data meet the requirements for simple, transparent and standardised securitisations laid down in that Regulation.

Article 15
Use of data that are not consistent with the definition of default as referred to in Article 178(1) of Regulation (EU) No 575/2013

1. The calibration of risk parameters shall be based on the institution's definition of default that is applicable to the respective internal model for calculating K_{IRB} in accordance with Article 255(4) of Regulation (EU) No 575/2013. Institutions calculating K_{IRB} that use external data or proxy data for the calibration of risk parameters shall meet all of the following requirements:

   (a) they shall ensure that the definition of default used in the data is consistent with Article 178(1) of Regulation (EU) No 575/2013;

(b) they shall ensure that the definition of default used in the data is consistent with the definition of default as implemented by the institution calculating K_{IRB} in accordance with Article 255(4) of Regulation (EU) No 575/2013 for the relevant portfolio of qualifying securitised exposures, including all of the following:

(i) the counting and number of days past due that triggers default;

(ii) the structure and level of the materiality threshold for past due credit obligations;

(iii) the definition of distressed restructuring that triggers default;

(iv) the type and level of specific credit risk adjustments that triggers default;

(v) the criteria to return to non-defaulted status;

(c) they shall document sources of the data, the default definition used in those data, the analysis performed, and all identified differences.

2. For each of the differences identified in the definition of default resulting from the assessment on the consistency of the definition of default referred to in paragraph 1, institutions calculating K_{IRB} shall:

(a) assess whether the adjustment to the internal definition of default would lead to an increased or a decreased default rate, or whether that is impossible to determine;

(b) depending on the outcome of the assessment referred to in point (a), either adjust the data accordingly, or be able to demonstrate that the difference is negligible in terms of the impact on all risk parameters and own funds requirements, as appropriate.

3. With regard to the totality of the differences identified in the definition of default resulting from the assessment referred to in paragraph 1,institutions calculating K_{IRB} shall, and taking into account the adjustments performed in accordance with paragraph 2, point (b), achieve a broad equivalence with the internal definition of default used within the internal model for calculating K_{IRB}, including, where possible, by comparing the default rate in internal data on a relevant type of exposures with external or proxy data.

4. Where the assessment referred to in paragraph 1 identifies differences in the definition of default that are non-negligible but not possible to overcome by adjustments in the data, institutions calculating K_{IRB} shall adopt an appropriate margin of conservatism in the estimation of risk parameters in accordance with Article 179(1), point (f), of Regulation (EU) No 575/2013. In that case, institutions calculating K_{IRB} shall ensure that such additional margin of conservatism reflects the materiality of the remaining differences in the definition of default and their possible impact on all risk parameters.

Article 16
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, 13.3.2024

For the Commission
The President
Ursula VON DER LEYEN