COMMISSION DELEGATED REGULATION (EU) No 523/2014

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 determining what constitutes the close correspondence between the value of an institution's covered bonds and the value of the institution's assets

(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 investment firms and amending Regulation (EU) No 648/2012 ([1]), and in particular Article 33(4) thereof,

Whereas:

(1) Gains or losses on liabilities of an institution resulting from changes in its own credit risk should not, in principle, be included as an element of own funds. However, in business models based on the strict match funding or balance principle that rule is not applied, on the premise that a decline or an increase in value of a liability is fully offset by a corresponding decline or increase in value of the asset, with which that liability is fully matched.

(2) It is important to set the requirements for determining whether a close correspondence exists between the liabilities of an institution consisting in a covered bond as referred to in Article 52(4) of Directive 2009/65/EC of the European Parliament and of the Council ([2]) and the value of the institution's assets underlying the covered bonds.

(3) Close correspondence should be reflected in the accounting treatment of those bonds and the underlying mortgage loans, without which it would not be prudent to recognise gains and losses stemming from changes in own credit risk.

(4) A delivery option allows the borrower to buy back the specific covered bond financing the mortgage loan in the market and deliver the covered bond to the bank as an early prepayment of the mortgage loan. As a consequence of the availability of that option to the borrower, the fair value of the mortgage loans should at all times be equal to the fair value of the covered bonds financing those mortgages. This implies that the calculation of the fair value of the mortgage loans should include the fair valuation of the embedded delivery option according to established market practices.

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

(6) 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 opinion of the Banking Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council ([3]),

([1]) OJ L 176, 27.6.2013, p. 1.
([2]) Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS), (OJ L 302, 17.11.2009, p. 32).
([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).

HAS ADOPTED THIS REGULATION:

Article 1

Definitions

The following definitions shall apply:

(1) 'covered bond' means a bond as referred to in Article 52(4) of Directive 2009/65/EC;

(2) 'delivery option' means the possibility to redeem the mortgage loan by buying back the covered bond at market or at nominal value in accordance with Article 33(3)(d) of Regulation (EU) No 575/2013.

Article 2

Close correspondence

1. A close correspondence between the value of a covered bond and the value of an institution's assets shall be deemed to exist when all the following conditions are met:

(a) any changes in the fair value of the covered bonds issued by the institution results at all times in equal changes in the fair value of the assets underlying the covered bonds. The fair value shall be determined according to the applicable accounting framework as defined in Article 4(1)(77) of Regulation (EU) No 575/2013;

(b) the mortgage loans underlying the covered bonds issued by the institution to finance the loans may be at any time redeemed by buying back the covered bonds at market or nominal value through the exercise of the delivery option;

(c) there is a transparent mechanism for determining the fair value of the mortgage loans and of the covered bonds. Determining the value of the mortgage loans shall include calculating the fair value of the delivery option.

2. A close correspondence shall not be deemed to exist where, in accordance with paragraph 1, a net profit or loss arises from changes in the value of the covered bonds or of the underlying mortgage loans with the embedded delivery option.

Article 3

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, 12 March 2014.

For the Commission

The President

José Manuel BARROSO