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2020/0066 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Regulations (EU) No 575/2013 and (EU) 2019/876 as regards adjustments in response to the COVID-19 pandemic

(Text with EEA relevance)

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(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Central Bank,

Having regard to the opinion of the European Economic and Social Committee,

Acting in accordance with the ordinary legislative procedure,

Whereas:

(1) Regulation (EU) No 575/2013 of the European Parliament and of the Council[1] establishes, together with Directive of the European Parliament and of the Council 2013/36/EU[2], the prudential regulatory framework for institutions operating in the Union. Adopted in the aftermath of the financial crisis that unfolded in 2007-2008 and largely based on international standards agreed in 2010 by the Basel Committee on Banking Supervision (BCBS), known as the Basel III framework, that prudential framework has contributed to enhancing the resilience of institutions operating in the Union and to making them better prepared to face potential difficulties, including difficulties stemming from possible future crises.

(2) Since its entry into force, Regulation (EU) No 575/2013 has been amended several times to address remaining weaknesses in the prudential regulatory framework and to implement some outstanding elements of the global financial services reform that are essential to ensure the resilience of institutions. Among the subsequent changes,

[1] 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, 27.6.2013, p. 1).

[2] Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.6.2013, p. 338).

Regulation (EU) 2017/2395 of the European Parliament and of the Council[3] has introduced in Regulation (EU) No 575/2013 transitional arrangements for mitigating the impact on own funds from the introduction of the International Financial Reporting Standard - Financial Instruments (IFRS 9). Regulation (EU) 2019/630 of the European Parliament and of the Council[4] has introduced in Regulation (EU) No 575/2013 a requirement for minimum loss coverage for non-performing exposures, the so-called prudential backstop. Furthermore, Regulation (EU) 2019/876 of the European Parliament and of the Council[5] has introduced to Regulation (EU) No 575/2013 some of the final elements of the finalised Basel III framework, among others, a new definition of the leverage ratio and a leverage ratio buffer, which prevent institutions from excessively increasing leverage, as well as a more favourable prudential treatment of certain software assets, a more favourable treatment of certain loans backed by pensions or salaries, a revised supporting factor for loans to small and medium-sized enterprises (SMEs), and a supporting factor for infrastructure projects.

(3) The severe economic shock caused by the COVID-19 pandemic and the exceptional containment measures have a far-reaching impact on the economy. Businesses are facing disruption in supply chains, temporary closures and reduced demand, while households are confronted with unemployment and a fall in income. Public authorities at Union and Member State level have taken decisive actions to support households and solvent undertakings to withstand this severe but temporary slowdown in economic activity and the liquidity shortages it causes.

(4) Institutions will have a key role in contributing to the recovery. At the same time they are likely to be impacted by the deteriorating economic situation. Competent authorities have provided temporary capital, liquidity and operational relief to institutions to ensure that they can continue to fulfil their role in funding the real economy in a more challenging environment. The Commission, the European Central Bank and the European Banking Authority have provided clarity on the application of the flexibility already embedded in Regulation (EU) No 575/2013 by issuing interpretations and guidance on the application of the prudential framework in the context of COVID-19[6].

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[3] Regulation (EU) 2017/2395 of the European Parliament and of the Council of 12 December 2017 amending Regulation (EU) No 575/2013 as regards transitional arrangements for mitigating the impact of the introduction of IFRS 9 on own funds and for the large exposures treatment of certain public sector exposures denominated in the domestic currency of any Member State (OJ L 345, 27.12.2017, p. 27).

[4] Regulation (EU) 2019/630 of the European Parliament and of the Council of 17 April 2019 amending Regulation (EU) No 575/2013 as regards minimum loss coverage for non-performing exposures (OJ L 111, 25.4.2019, p. 4).

[5] Regulation (EU) 2019/876 of the European Parliament and of the Council of 20 May 2019 amending Regulation (EU) No 575/2013 as regards the leverage ratio, the net stable funding ratio, requirements for own funds and eligible liabilities, counterparty credit risk, market risk, exposures to central counterparties, exposures to collective investment undertakings, large exposures, reporting and disclosure requirements, and Regulation (EU) No 648/2012 (OJ L 150, 7.6.2019, p. 1).

[6] This includes the Communication from the Commission to the European Parliament and the Council - Commission Interpretative Communication on the application of the accounting and prudential frameworks to facilitate EU bank lending - Supporting businesses and households amid COVID-19, COM(2020)169 of 28.04.2020; the Press release "ECB Banking Supervision provides further flexibility to banks in reaction to coronavirus" and accompanying FAQs, 20 March 2020, https://www.bankingsupervision.europa.eu/press/pr/date/2020/html/ssm.pr200320~4cdbbcf466.en.html; EBA Statement on the application of the prudential framework regarding Default, Forbearance and IFRS9 in light of COVID-19 measures, 25 March 2020, available at: https://eba.europa.eu/eba-provides-clarity-banks-consumers-application-prudential-framework-light-covid-19-measures.

In reaction to the COVID-19 pandemic, BCBS has also provided some flexibility in the application of international standards[7].

(5) It is important that institutions employ their capital where it is most needed and the Union regulatory framework facilitates this, whilst ensuring that institutions act prudently. Further to the flexibility provided in the existing rules, targeted changes to Regulation (EU) No 575/2013 would ensure that that prudential framework interacts smoothly with the various measures that address the COVID-19 emergency.

(6) The extraordinary circumstances of the COVID-19 pandemic and the unprecedented magnitude of challenges triggered call for immediate action to ensure that institutions have the conditions to effectively channel funds to businesses and households and to absorb the economic shock caused by the COVID-19 pandemic.

(7) Guarantees provided in the context of the COVID-19 pandemic by national governments or other public entities, which are eligible as credit protection providers under the credit risk mitigation rules set out in Chapter Four of Part Three of Regulation (EU) No 575/2013 are comparable regarding their risk mitigating effects to guarantees provided by official export credit agencies as referred to in Article 47c of Regulation (EU) No 575/2013. It is therefore justified to align the minimum coverage requirements for non-performing exposures benefiting from guarantees granted by national governments or other public entities to those benefiting from guarantees granted by official export credit agencies. Therefore, guarantees and counter-guarantees that are extended in the context of the COVID-19 pandemic in accordance with State aid rules should be treated in the same way as guarantees provided by official export credit agencies.

(8) Evidence emerged in the context of the COVID-19 pandemic has made apparent that the possibility to temporarily exclude certain central bank exposures from the calculation of an institution's total exposure measure, as laid down in Article 429a of Regulation (EU) No 575/2013 as amended by Regulation (EU) 2019/876, could prove essential during a crisis situation. However, the effectiveness of this measure appears to be hampered by the reduced flexibility stemming from the offsetting mechanism attached to such temporary exclusions that would constrain the ability of institutions to increase central bank exposures in a crisis situation. This could ultimately result in forcing the institution to reduce the level of lending to households and businesses. In order to avoid any undesired consequences related to the offsetting mechanism and to ensure the effectiveness of that exclusion in the face of possible future shocks and crises, the offsetting mechanism should be modified before the leverage ratio requirement set out in point (d) of Article 92(1) of Regulation (EU) No 575/2013 becomes applicable in accordance with Union law on 28 June 2021. Pending the application of the amended provisions on the calculation of the leverage ratio as introduced by Regulation (EU) 2019/876, Article 429a should continue to apply as introduced by the Commission Delegated Regulation (EU) 2015/62[8].

(9) A large part of the institutions operating in the Union have been subject to IFRS 9 as of 1 January 2018. In line with international standards adopted by the BCBS, Regulation (EU) 2017/2395 introduced in Regulation (EU) No 575/2013 transitional arrangements

[7] See press release “Basel Committee sets out additional measures to alleviate the impact of Covid-19”, 3 April 2020, https://www.bis.org/press/p200403.htm

[8] Commission Delegated Regulation (EU) 2015/62 of 10 October 2014 amending Regulation (EU) No 575/2013 of the European Parliament and of the Council with regard to the leverage ratio, OJ L 11, 17.1.2015, p.37-43

to mitigate the potentially significant negative impact on institutions' Common Equity Tier 1 capital arising from expected credit loss accounting under IFRS 9.

(10) The application of IFRS 9 during the economic downturn caused by the COVID-19 pandemic may lead to a sudden significant increase in expected credit loss provisions, as for many exposures expected losses over their lifetime may need to be calculated. The BCBS agreed on 3 April 2020 to allow more flexibility in the implementation of the transitional arrangements that phase in the impact of IFRS 9. In order to limit the possible volatility of regulatory capital that may occur if the COVID-19 crisis results in a significant increase in expected credit loss provisions, it is necessary to extend the transitional arrangements also in Union law.

(11) To mitigate the potential impact that a sudden increase in expected credit loss provisions may have on institutions' capacity to lend to clients at times when it is most needed, the transitional arrangements should be extended by two years and institutions should be allowed to ~~fully~~ partially add-back to their Common Equity Tier 1 capital any increase in new expected credit loss provisions that they recognise in 2020 and 2021 for their financial assets, which are not credit-impaired. This would bring additional relief to the impact of the COVID-19 crisis on institutions' possible rise in provisioning needs under IFRS 9 while maintaining the transitional arrangements for the expected credit loss amounts established before the pandemic of COVID-19.

(12) Institutions that opted not to use the transitional arrangements previously are able to reverse that decision anytime during the transitional period subject to prior approval from their competent authority. Subsequently and subject to supervisory approval, institutions have a possibility to opt out from using the transitional arrangements.

(13) In March 2020, the Group of Central Bank Governors and Heads of Supervision (GHOS) has revised the implementation timeline of the final elements of the Basel framework. Whilst most of the final elements still need to be implemented in Union law, the leverage ratio buffer requirement for global systemically important institutions has already been implemented through the amendments brought by Regulation (EU) 2019/876. Therefore, the date of application for the leverage ratio buffer requirement should be deferred by one year to 1 January 2023, as agreed internationally. The date of application set in Regulation (EU) 2019/876 should be revised accordingly in order to ensure a level playing field internationally for institutions established in the Union and operating outside the Union. With the application of the leverage ratio buffer requirement postponed, during the postponement period there would be no consequences for the failure to meet that requirement as set out in Article 141c of Directive 2013/36/EU and no related restriction on distributions set out in Article 141b of that Directive.

(14) ~~Given the specific guarantees attached to loans granted by credit institutions to pensioners or employees with a permanent contract against the unconditional transfer of part of the borrower's pension or salary to that credit institution, Article 123 of Regulation (EU) No 575/2013 was amended by Regulation (EU) 2019/876 to allow for a more favourable treatment of such loans. The application of this treatment in the context of the COVID-19 pandemic would incentivise institutions to increase lending to employees and pensioners. It is therefore necessary to advance the date of application of that provision so that it can be used by institutions already during the COVID-19 pandemic.~~

(15) ~~The provisions on the adjustment of risk-weighted non-defaulted SME exposures set out in Article 501 of Regulation (EU) No 575/2013 (the SME supporting factor) have~~

been amended by Regulation (EU) 2019/876. That Regulation also introduced in Article 501a of Regulation (EU) No 575/2013 a new adjustment to own funds requirements for credit risk for exposures to entities that operate or finance physical structures or facilities, systems and networks that provide or support essential public services (the infrastructure supporting factors). As those supporting factors allow a more favourable treatment of certain exposures to SMEs and infrastructure, their application in the context of the COVID-19 pandemic would incentivise institutions to increase much needed lending to those entities. It is therefore necessary to advance the date of application of the two supporting factors so that they can be used by institutions already during the COVID-19 pandemic.

(16) The prudential treatment of certain software assets has been amended by Regulation (EU) 2019/876 in order to further support the transition towards a more digitalised banking sector. In the context of the accelerated up-take of digital services as a consequences of public measures adopted to address the COVID-19 pandemic, the application of these changes should be anticipated.

(17) Since the objectives of this Regulation, namely to maximise the capacity of credit institutions to lend and to absorb losses related to the COVID-19 pandemic, while still ensuring their continued resilience, cannot be sufficiently achieved by the Member States but can rather, by reason of their scale and effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.

(18) For the extraordinary support measures adopted to alleviate the impact of the COVID-19 pandemic to be fully effective with regard to keeping the banking sector more resilient and providing an incentive to the institutions to continue lending, it is necessary for the alleviating effect of those measures to be immediately reflected in the way in which regulatory capital requirements are determined. The impact of such relief measures shall be taken explicitly into account in the context of the supervisory review and evaluation process referred to in Article 97 of Directive 2013/36/EU. Moreover, in order to implement capital conservation measures, competent authorities should be empowered to apply temporary suspensions of variable remunerations, disretionary pension benefits, share buy-backs operations and distributions or interest payments by credit institution to shareholders, members or holders of Additional Tier 1 instruments where the prohibition does not constitute an event of default of the institution and when the Commission determines in an implementing act that the single market experiences a serious economic disturbance. In such circumstances, competent authorities should require credit institutions to present an action plan within three months specifying internal measures to restore the soundness of an institution. The action plan should provide a roadmap and a strategy to restore compliance with supervisory requirements pursuant to Directive 2013/36/EU and to this Regulation and define a deadline for its implementation. Competent authorities should review and approve such actions plans. Having regard to the urgency of those adjustments to the prudential framework, this Regulation should enter into force on the day following that of its publication in the Official Journal of the European Union.

(19) Given that urgency, it is considered necessary to use the exception from the eight-week period referred to in Article 4 of Protocol No 1 on the role of National Parliaments in the European Union, annexed to the Treaty on European Union, to the Treaty on the

Functioning of the European Union and to the Treaty establishing the European Atomic Energy Community.

(20) Regulations (EU) No 575/2013 and (EU) 2019/876 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1
Amendments to Regulation (EU) No 575/2013

Regulation (EU) No 575/2013 is amended as follows:

(-1) Article 2 is amended as follows:

(a) The following paragraphs 1a to 1e are inserted:

1a. Without prejudice to the powers and procedures set out in Directive 2013/36/EU, competent authorities shall have the powers to temporarily suspend variable remunerations or discretionary pension benefits, shares buy-back operations and distributions or interest payments by all credit institution to shareholders, members or holders of Additional Tier 1 instruments where the prohibition does not constitute an event of default of the institution.

1b. If an institution meets the combined buffer requirement, it shall not be subject to the suspensions referred to in paragraph 1a to the extent that Common Equity Tier 1 capital are not reduced to a level where the combined buffer requirement is no longer met.

1c. Such temporary suspension powers shall be imposed on credit institutions whenever the Commission determines by means of an implementing act that the single market is experiencing a serious economic disturbance. The Commission shall also determine that the single market is experiencing a serious economic disturbance whenever the Council has adopted a Decision determining the existence of an emergency situation that may seriously jeopardise the orderly functioning and integrity of financial markets or the stability of the whole of the financial system in the Union pursuant to Article 18 of Regulation 1093/2010. The implemeting act shall specify the length of such temporary suspensions that shall not exceed 12 months unless the erious economic disturbance lasts more than 12 months in which case the Commission shall extend th length of the temporary suspensions.

1d. The Commission shall act upon a formal opinion issued by the European Systemic Risk Board and indicating that the Union's financial markets are facing a systemic risk that warrants the extraordinary measures of this Article. The Commission shall inform the European Parliament and the Council ahead of adopting the implementing act referred to in paragraph

1b. Whenever the Commission determines that there is a serious economic disturbance in the single market, competent authorities shall require the credit institution to present an action plan within three months specifying internal measures and triggers to restore the soundness the soundness of an institution in accordance with the provisions of Article 104 of Directive 2013/36/EU. The action plan shall also provide a roadmap and a strategy to restore compliance with supervisory requirements pursuant to Directive 2013/36/EU and to this Regulation and define a deadline for its implementation. Competent authorities shall review and approve such actions plans.

1e. The power to adopt an implementing act referred to in paragraph 1a is conferred on the Commission acting in accordance with the procedure referred to in Article 464(2).

(1) ~~Article 429a, as amended by Regulation (EU) 2019/876, is amended as follows:~~

~~(a) in paragraph 1, the introductory phrase of point (n) is replaced by the following:~~

~~“(n) the following exposures to the institution's central bank, subject to the conditions set out in paragraphs 5 and 6:”;~~

~~(b) in paragraph 7, the definitions of ‘EM_{LR}’ and ‘CB’ are replaced by the following:~~

~~“EM_{LR} = the institution's total exposure measure as defined in Article 429(4), including the exposures excluded in accordance with point (n) of paragraph 1 of this Article, on the day of the public declaration referred to in point (a) of paragraph 5 of this Article; and~~

~~CB = the total value of the institution’s exposures to its central bank that are eligible to be excluded in accordance with point (n) of paragraph 1, on the day of the public declaration referred to in point (a) of paragraph 5.”;~~

(2) Article 473a is amended as follows:

(a) paragraph 1 is amended as follows:

(i) in the first subparagraph; the introductory phrase is replaced by the following:

“By way of derogation from Article 50 and until the end of the transitional periods set out in paragraphs 6 and 6a of this Article, the following may include in their Common Equity Tier 1 capital the amount calculated in accordance with this paragraph:”;

(ii) the second subparagraph is replaced by the following:

“The amount referred to in the first subparagraph shall be calculated as the sum of the following:

(a) for exposures which are subject to risk weighting in accordance with Chapter 2 of Title II of Part Three, the amount (AB_{SA}) calculated in accordance with the following formula:

$$AB_{SA} = (A_{2,SA} - t_1) \times f_1 + (A_{4,SA} - t_2) \times f_2$$

where:

$A_{2,SA}$ = the amount calculated in accordance with paragraph 2;

$A_{4,SA}$ = the amount calculated in accordance with paragraph 4 based on the amounts calculated in accordance with paragraph 3;

f_1 = the applicable factor laid down in paragraph 6;

f_2 = the applicable factor laid down in paragraph 6a;

t_1 = the increase of Common Equity Tier 1 capital that is due to tax deductibility of the amount $A_{2,SA}$;

t_2 = the increase of Common Equity Tier 1 capital that is due to tax deductibility of the amount $A_{4,SA}$;

(b) for exposures which are subject to risk weighting in accordance with Chapter 3 of Title II of Part Three, the amount (AB_{IRB}) calculated in accordance with the following formula:

$$AB_{IRB} = (A_{2,IRB} - t_1) \times f_1 + (A_{4,IRB} - t_2) \times f_2$$

where:

$A_{2,IRB}$ = the amount calculated in accordance with paragraph 2 adjusted in accordance with point (a) of paragraph 5;

$A_{4,IRB}$ = the amount calculated in accordance with paragraph 4 based on the amounts calculated in accordance with paragraph 3 which are adjusted in accordance with points (b) and (c) of paragraph 5;

f_1 = the applicable factor laid down in paragraph 6;

f_2 = the applicable factor laid down in paragraph 6a;

t_1 = the increase of Common Equity Tier 1 capital that is due to tax deductibility of the amount $A_{2,IRB}$;

t_2 = the increase of Common Equity Tier 1 capital that is due to tax deductibility of the amount $A_{4,IRB}$.";

(b) in paragraph 3, point (b) is replaced by the following:

"(b) the sum of the 12-month expected credit losses determined in accordance with paragraph 5.5.5 of the Annex relating to IFRS 9 and the amount of the loss allowance for lifetime expected credit losses determined in accordance with paragraph 5.5.3 of the Annex relating to IFRS 9 excluding the loss allowance for lifetime expected credit losses for financial assets that are credit-impaired as defined in Appendix A to the Annex relating to IFRS 9 as of 1 January 2020 or on the date of initial application of IFRS 9, whichever is later.";

(c) in paragraph 5, point (c) is replaced by the following:

"(c) institutions shall replace the amount calculated in accordance with point (b) of paragraph 3 of this Article by the sum of the 12-month expected credit losses determined in accordance with paragraph 5.5.5 of the Annex relating to IFRS 9 and the amount of the loss allowance for lifetime expected credit losses determined in accordance with paragraph 5.5.3 of the Annex relating to IFRS 9 excluding the loss allowance for lifetime expected credit losses for financial assets that are credit-impaired, as defined in Appendix A to the Annex relating to IFRS 9, as of 1 January 2020 or on the date of initial application of IFRS 9, whichever is later, reduced by the sum of related expected loss amounts for the same exposures calculated in accordance with Article 158(5), (6) and (10). Where the calculation results in a negative number, the institution shall set the value of the amount referred to in point (b) of paragraph 3 of this Article as equal to zero.";

(d) paragraph 6 is replaced by the following:

"6. Institutions shall apply the following factors f_1 to calculate the amounts AB_{SA} and AB_{IRB} referred to in points (a) and (b) of the second subparagraph of paragraph 1 respectively:

(a) 0,7 during the period from 1 January 2020 to 31 December 2020;

(b) 0,5 during the period from 1 January 2021 to 31 December 2021;

(c) 0,25 during the period from 1 January 2022 to 31 December 2022;

(d) 0 during the period from 1 January 2023 to 31 December 2024.

Institutions whose financial year commences after 1 January 2020 but before 1 January 2021 shall adjust the dates in points (a) to (d) of the first subparagraph so that they correspond to their financial year, shall report the adjusted dates to their competent authority and shall publicly disclose them.

Institutions which start to apply accounting standards as referred to in paragraph 1 on or after 1 January 2021 shall apply the relevant factors in accordance with points (b) to (d) of the first subparagraph starting with the factor corresponding to the year of the first application of those accounting standards.";

(e) the following paragraph 6a is inserted:

"6a. Institutions shall apply the following factors f_2 to calculate the amounts AB_{SA} and AB_{IRB} referred to in points (a) and (b) of the second subparagraph of paragraph 1 respectively:

(a) 0.9~~1~~ during the period from 1 January 2020 to 31 December 2020;

(b) 0.9~~1~~ during the period from 1 January 2021 to 31 December 2021;

(c) 0,75 during the period from 1 January 2022 to 31 December 2022;

(d) 0,5 during the period from 1 January 2023 to 31 December 2023;

(e) 0,25 during the period from 1 January 2024 to 31 December 2024.

Institutions whose financial year commences after 1 January 2020 but before 1 January 2021 shall adjust the dates in points (a) to (e) of the first subparagraph so that they correspond to their financial year, shall report the adjusted dates to their competent authority and shall publicly disclose them.

Institutions which start to apply accounting standards as referred to in paragraph 1 on or after 1 January 2021 shall apply the relevant factors in accordance with points (b) to (e) of the first subparagraph starting with the factor corresponding to the year of the first application of those accounting standards.";

(f) paragraph 7 is amended as follows:

(i) point (b) is deleted;

(ii) the following subparagraph is inserted:

"When recalculating the requirements laid down in this Regulation and in Directive 2013/36/EU for the purpose of the first subparagraph, the amount AB_{SA} referred to in point (a) of the second subparagraph of paragraph 1 shall be assigned a risk weight of 100 %.";

(g) paragraph 8 is replaced by the following:

"8. During the periods set out in paragraphs 6 and 6a of this Article, in addition to disclosing the information required in Part Eight, institutions that have decided to apply the transitional arrangements set out in this Article shall disclose the amounts of own funds, Common Equity Tier 1 capital and Tier 1 capital, the Common Equity Tier 1 capital ratio, the Tier 1 capital ratio, the total capital ratio and the leverage ratio they would have in case they were not to apply this Article.";

(h) paragraph (9) is amended as follows:

(i) in the first subparagraph, the second sentence is replaced by the following:

"Where an institution has received the prior permission of the competent authority, it may reverse its decision during the transitional period.";

(ii) in the second subparagraph, the second and third sentences are replaced by the following:

"In such a case, the institution shall set A_4 and t_2 referred to in paragraph 1 as equal to zero. Where an institution has received the prior permission of the competent authority, it may reverse its decision during the transitional period.";

(iii) the following subparagraphs are added:

"An institution that has decided to apply the transitional arrangements set out in this Article may decide not to apply paragraph 2 in which case it shall inform the competent authority of its decision without delay. In such a case, the institution shall set A_2 and t_1 referred to in paragraph 1 as equal to zero. An institution may reverse its decision during the transitional period provided it has received the prior permission of the competent authority.

Competent authorities shall notify EBA at least on an annual basis on the application of this Article by institutions under their supervision.";

(ha) paragraph 9a is added:

The Commission shall issue within 24 months following the adoption of this Regulation a report assessing comprehensively the provisions of Article 473a and put forward, as appropriate, legislative proposals in order to establish a transparent and counter-cyclical framework for the recognition of expected credit losses.

~~(3) the following article is inserted:~~

~~*"Article 500a*~~

~~*Temporary treatment of public guarantees related to the COVID-19 pandemic*~~

~~By way of derogation from Article 47c(3), until [date of entry into force of this amending Regulation + 7 years] the factors set out in Article 47c(4) shall also apply to the part of the non-performing exposure guaranteed by an eligible provider referred to in points (a) to (e) of Article 201(1), where, subject to compliance with Union State aid rules, where applicable, the guarantee or counter-guarantee is provided as part of support measures to assist borrowers amid the COVID-19 pandemic.~~

Article 2

Amendments to Regulation (EU) 2019/876

Article 3 of Regulation (EU) 2019/876 is amended as follows:

~~(1) the following paragraph 3a is inserted:~~

~~"3a. The following points of Article 1 of this Regulation shall apply from [date of entry into force of this amending Regulation]:~~

~~(a) point (59), as regards the provisions on the treatment of certain loans granted by credit institutions to pensioners or employees laid down in Article 123 of Regulation (EU) No 575/2013;~~

~~(b) point (133), as regards the provisions on adjustment of risk-weighted non-defaulted SME exposures laid down in Article 501 of Regulation (EU) No 575/2013;~~

~~(c) point (134), as regards the adjustment to own funds requirements for credit risk for exposures to entities that operate or finance physical structures or facilities, systems and networks that provide or support essential public services laid down in Article 501a of Regulation (EU) No 575/2013 .";~~

(2) paragraph 5 is replaced by the following:

"5. Point (46)(b) of Article 1 of this Regulation, as regards the new requirement for own funds for G-SIIs laid down in Article 92(1a) of Regulation (EU) No 575/2013, shall apply from 1 January 2023.";

~~(3) paragraph 7 is replaced by the following:~~

~~"7. Point (18) of Article 1 of this Regulation, as regards point (b) of Article 36(1) of Regulation (EU) No 575/2013, containing the provision on the exemption from deductions of prudently valued software assets, shall apply from the date of entry into force of the regulatory technical standards referred to in Article 36(4) of Regulation (EU) No 575/2013.".~~

Article 3
Entry into force and application

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

2. This Regulation shall apply from [date of entry into force of this amending Regulation] with the exception laid down in paragraph 3.

~~3. Point (1) of Article 1 of this Regulation, as regards the changes to Article 429a of Regulation (EU) No 575/2013, as amended by Regulation (EU) 2019/876, in relation to the offsetting mechanism attached to a temporary exclusion of certain central bank reserves, shall apply from 28 June 2021.~~

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

Done at Brussels,

For the European Parliament	*For the Council*
The President	*The President*