

EBA/GL/2022/13

12 October 2022

Guidelines

amending Guidelines EBA/GL/2018/10 on disclosure of non-performing and forborne exposures

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Executive Summary

The comprehensive disclosure requirements that apply on the basis of the Commission Implementing Regulation (EU) 2021/637 since 28 June 2021 include among other elements, requirements to disclose information on non-performing and forborne exposures. These requirements apply to large and other listed institutions and thus implement the requirements to disclose information on non-performing and forborne exposures introduced in Article 442 of Regulation (EU) No 575/2013 (CRR).

The differences in the scope of application of the Commission Implementing Regulation (EU) 2021/637 and the EBA Guidelines on disclosure of non-performing and forborne exposures (EBA/GL/2018/10) create asymmetry in the publicly available information and transparency that also limits the availability of important information regarding small and non-complex institutions and other non-listed institutions. Many of such institutions have higher than EU average levels of non-performing loans. In addition, following the worsening economic outlook post COVID-19 and the current geopolitical developments, level of non-performing loans is likely to increase in general and, in particular, for many credit institutions outside the scope of the disclosure requirements under the Commission Implementing Regulation (EU) 2021/637.

To this end, it is important to maintain sufficient level of information on non-performing and forborne exposures and transparency for such credit institutions, information that is already offered on the basis of the existing EBA Guidelines on disclosure of non-performing and forborne exposures, which already include built-in proportionality arrangements (i.e. core disclosures for all banks supplemented by additional disclosure for larger banks with higher levels of non-performing exposures).

In order to ensure the continuity of public disclosures regarding non-performing and forborne exposures by credit institutions the EBA has decided to issue these guidelines to amend the scope of application and addresses of the EBA Guidelines on disclosure of non-performing and forborne exposures to clarify that (1) these guidelines will not apply to large and other listed institutions that are covered by the disclosure requirements under the Commission Implementing Regulation (EU) 2021/637, but (2) these guidelines will continue to apply only to listed small- and non-complex institutions and to other institutions [medium-sized institutions] that are non-listed.

As the amending guidelines do not introduce any new requirements, whilst only clarify the application of the existing EBA guidelines and make sure that the affected institutions continue making disclosures that they have been making since 2019, the EBA considered it to be disproportionate to carry out public consultations or a cost-benefit analysis on these amending guidelines. The EBA has notified the Banking Stakeholder Group (BSG) of its intention to issue these amending guidelines.

Background and rationale

1. Article 434a of Regulation (EU) No 575/2013 (CRR) mandates the EBA to develop draft implementing technical standards (ITS) specifying uniform disclosure formats, and associated instructions in accordance with which the disclosures required under Titles II and III of Part Eight of the CRR shall be made by the credit institutions.
2. Based on that mandate, the EBA updated its strategy regarding its policy on institutions' Pillar 3 disclosures, through among other actions, the development of comprehensive ITS on disclosure adopted by the Commission as Commission Implementing Regulation (EU) 2021/637¹ that applies from 28 June 2021. The disclosure standards introduced in that regulation are designed to further promote market discipline and moves from a silo-based approach, with different disclosure policy products for different disclosure requirements, to a set of comprehensive ITS that covers all topics. The standards also implement regulatory changes introduced by the changes to the CRR and align the EU disclosure framework with international standards.
3. The application of the comprehensive disclosure ITS has had effect on various EBA disclosure-related guidelines that have been developed earlier. In particular, the Commission Implementing Regulation (EU) 2021/637 set out disclosure requirements that are applicable to larger and other listed institutions in relation to disclosure of non-performing and forborne exposures and therefore affects the EBA Guidelines on disclosure of non-performing and forborne exposures²
4. The Guidelines on disclosure of non-performing and forborne exposures provide disclosure templates and tables applicable to all institutions, including proportionality criteria depending on the size of the disclosure institution and on the level on non-performing loans
5. Enhanced disclosure by the EU credit institutions of information regarding their non-performing and forborne exposures was introduced after the financial crisis of 2008-2009 that was followed by the European debt crisis by the means of the EBA Guidelines on disclosure of non-performing and forborne exposures. This was a part of the comprehensive EU response to the rising levels of non-performing exposures. Since the application of the guidelines in 2019, the increased transparency regarding non-performing and forborne exposures have helped with the reduction of such exposures and clean-up of the credit institutions' balance sheets.
6. The disclosure requirements regarding non-performing and forborne exposures as set out in CRR (Article 442) and Regulation (EU) 2021/637 apply only to large institutions and to other

¹ Commission Implementing Regulation (EU) 2021/637 laying down implementing technical standards with regard to public disclosures by institutions of the information referred to in Titles II and III of Part Eight of Regulation (EU) No 575/2013

² EBA/GL/2018/10

listed institutions and they therefore in practice supersede the requirements of the EBA Guidelines on disclosure of non-performing and forborne exposures for these types of institutions. Whilst there are no specific requirements regarding the disclosure of non-performing and forborne exposures under the CRR or the Commission Implementing Regulation that apply to small and non-complex institutions and non-listed other institutions not within the scope of the CRR disclosure obligations, this requirement is envisaged in the proposal for the review of Regulation (EU) 575/2013 (CRR3 proposal), and would be implemented in similar terms to those included in the current guidelines.

7. The differences in the scope of application of the Commission Implementing Regulation (EU) 2021/637 and the EBA Guidelines on disclosure of non-performing and forborne exposures create asymmetry in the publicly available information and transparency that also limits the availability of important information regarding small and non-complex institutions. Many of such institutions have higher than EU average levels of non-performing loans. In addition, following the worsening economic outlook post COVID-19 and the current geopolitical developments, level of non-performing loans is likely to increase in general and, in particular, for many credit institutions outside the scope of the disclosure requirements under the Commission Implementing Regulation (EU) 2021/637.
8. To this end, it is important to maintain sufficient level of information and transparency for such credit institutions, information that is offered on the basis of the existing EBA Guidelines on disclosure of non-performing and forborne exposures, which already include built-in proportionality arrangements (i.e. core disclosures for all banks supplemented by additional disclosure for larger banks with higher levels of non-performing exposures). These proportionality elements will be maintained.
9. Another important aspect is the regulatory developments in the proposal for the revision of Capital Requirements Regulation (CRR3), published by the Commission in October 2021³, where the Commission proposes to extend the disclosure requirements applicable to small and non-complex institutions under Article 433b and to other institutions under Article 433c. In particular, the CRR3 proposal includes under the scope of the requirement to disclose information on non-performing and forborne exposures to listed small and non-complex institutions and non-listed other institutions. The Commission proposal remains so far unchanged in the report published by the ECON of the European Parliament⁴ with proposed amendments to CRR3 proposal.
10. Therefore, the direction of the legislative developments in the CRR3 suggest that the disclosures of non-performing and forborne exposures will apply to all institutions with exception of non-listed SNCIs and thus closes the gap formed by the CRR2. Against this background, there is the risks that small and non-complex and other non-listed institutions, who are already disclosing this information, stop doing that and resume with the disclosure obligations applying again later,

³ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52021PC0664>

⁴ https://www.europarl.europa.eu/doceo/document/ECON-PR-731818_EN.pdf

once the provisions in CRR3 start to apply, a process that would be suboptimal and far from efficient both for credit institutions and users of information.

11. Based on the above considerations in order to ensure the continuity of public disclosures regarding non-performing and forborne exposures by all credit institutions the EBA has decided to issue these amending guidelines to amend the scope of application and addresses of the EBA Guidelines on disclosure of non-performing and forborne exposures to clarify that these guidelines will not apply to large and other listed institutions that are covered by the disclosure requirements under the Commission Implementing Regulation (EU) 2021/637, but continue to apply only to listed small and non-complex institutions and to other institutions [medium-sized institutions] that are non-listed.
12. In particular, the following disclosure obligations (templates) from the EBA Guidelines on disclosure of non-performing and forborne exposures will continue to apply to listed small and non-complex institutions and to non-listed other institutions:
 - a. **Template 1 – ‘Credit quality of forborne exposures’⁵**, in which credit institutions are required to disclose the gross carrying amount, broken down by exposure class, of FBEs, the related accumulated impairment, provisions, changes in fair value, and the collateral and financial guarantees received, and to explain the drivers of any significant changes over the time;
 - b. **Template 3 – ‘Credit quality of performing and non-performing exposures by past due days’⁶**, in which credit institutions are required to disclose the gross carrying amount, broken down by exposure class, of performing and non-performing exposures, including a further breakdown of past-due exposures by the number of days that they have been past due. Credit institutions are also required to explain the drivers of any significant changes across the time periods.
 - c. **Template 4 – ‘Performing and non-performing exposures and related provisions’⁷**, in which credit institutions are required to disclose information on the gross carrying amount of impairments, provisions, accumulated changes in fair value due to credit risk, accumulated partial write-offs, and collateral and financial guarantees received – for both performing and non-performing exposures – with a breakdown by exposure class. Further details are requested on the stage of the exposures for banks governed by International Financial Reporting Standards (IFRS). Explanations of significant changes across the time periods should be provided.

⁵ It is noted that Template 1 corresponds to the template EU CQ1 ‘Credit quality of forborne exposures’ of the Annex XV of Commission Implementing Regulation (EU) 2021/637.

⁶ It is noted that Template 3 corresponds to the template EU CQ3 ‘Credit quality of performing and non-performing exposures by past due days’ of the Annex XV of Commission Implementing Regulation (EU) 2021/637.

⁷ It is noted that Template 4 corresponds to the template EU CR1 ‘Performing and non-performing exposures and related provisions’ of the Annex XV of Commission Implementing Regulation (EU) 2021/637.

- d. **Template 9 – ‘Collateral obtained by taking possession and executions processes’⁸**, in which credit institutions are required to disclose information on the instruments and value of the collateral obtained by taking possession.

13. Listed small and non-complex institutions and non-listed other institutions will need to continue disclosing the above information on annual basis.
14. In line with the Article 16 of Regulation (EU) No 1093/2010⁹, the EBA considers it to be important to harmonise the supervisory practices and requirements applicable to all types of credit institutions and to ensure that they all provide sufficient (and proportionate) level of information regarding their non-performing and forborne exposures. Such transparency is even more important in the current market environment also considering negative outlook for the quality of the credit portfolios going forward. The EBA sees the need for maintaining and amending the scope of application and addressees of the Guidelines on disclosure of non-performing and forborne exposures as a temporary measure until the introductions of the CRR3 and the expansion of the disclosure requirements regarding non-performing and forborne exposures to all types of institutions. To this end, this approach will address the economic reasons necessitating closer monitoring of non-performing loans as well as the need to maintain consistency with forthcoming CRR3 requirements.
15. As the amending guidelines do not introduce any new requirements, whilst only clarify the application of the existing EBA guidelines and make sure that the affected institutions continue making disclosures that they have been making since 2019, the EBA considered it to be disproportionate to carry out public consultations or a cost-benefit analysis on these amending guidelines. The EBA has notified the Banking Stakeholder Group (BSG) of its intention to issue these amending guidelines.

⁸ It is noted that Template 9 corresponds to the template EU CQ7 ‘Collateral obtained by taking possession and execution processes’ of the Annex XV of Commission Implementing Regulation (EU) 2021/637.

⁹ 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).



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1. Compliance and reporting obligations

Status of these guidelines

1. This document contains guidelines issued pursuant to Article 16 of Regulation (EU) No 1093/2010¹⁰. In accordance with Article 16(3) of Regulation (EU) No 1093/2010, competent authorities and financial institutions must make every effort to comply with the guidelines.
2. Guidelines set the EBA view of appropriate supervisory practices within the European System of Financial Supervision or of how Union law should be applied in a particular area. Competent authorities as defined in Article 4(2) of Regulation (EU) No 1093/2010 to whom guidelines apply should comply by incorporating them into their practices as appropriate (e.g. by amending their legal framework or their supervisory processes), including where guidelines are directed primarily at institutions.

Reporting requirements

3. According to Article 16(3) of Regulation (EU) No 1093/2010, competent authorities must notify the EBA as to whether they comply or intend to comply with these guidelines, or otherwise with reasons for non-compliance, by 16/01/2022. In the absence of any notification by this deadline, competent authorities will be considered by the EBA to be non-compliant. Notifications should be sent by submitting the form available on the EBA website with the reference 'EBA/GL/2022/13'. Notifications should be submitted by persons with appropriate authority to report compliance on behalf of their competent authorities. Any change in the status of compliance must also be reported to EBA.
4. Notifications will be published on the EBA website, in line with Article 16(3).

¹⁰ 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).

2. Implementation

Date of application

5. These guidelines apply from 31 December 2022.

3. Amendments

6. Paragraph 6 of Section 2 of EBA/GL/2018/10 is amended as follows:

These guidelines apply to credit institutions that are subject to all or some of the disclosure requirements specified in Part Eight of Regulation (EU) No 575/2013 in accordance with Articles 6, 10 and 13 of the same Regulation and that are classified as:

- a. small and non-complex institutions as defined in Article 4(1) point 145 of Regulation (EU) 575/2013 that are listed institutions, and
- b. other institutions (i.e. that are not large or small and non-complex institutions) and that are non-listed institutions as defined in Article 4(1) point 148 of Regulation (EU) No 575/2013.

7. Paragraph 9 of Section 2 of EBA/GL/2018/10 is amended as follows:

These guidelines are addressed to competent authorities as defined in Article 4(2) of Regulation (EU) No 1093/2010 and to credit institutions that are classified as:

- a. small and non-complex institutions as defined in Article 4(1) point 145 of Regulation (EU) 575/2013 that are listed institutions, and
- b. other institutions (i.e. that are not large or small and non-complex institutions) and that are non-listed institutions as defined in Article 4(1) point 148 of Regulation (EU) No 575/2013.