



Brussels, 24.7.2024
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COMMISSION DELEGATED REGULATION (EU) .../...

of 24.7.2024

**amending Regulation (EU) No 575/2013 of the European Parliament and of the Council
with regard to the date of application of the own funds requirements for market risk**

(Text with EEA relevance)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

Financial instruments held by banks for trading purposes (shares, bonds and derivatives for example) are subject to market risk, i.e. the risk of decreases in their value arising from adverse movements in market prices. The 2008 Global Financial Crisis revealed a number of weaknesses in the design of prudential requirements for market risk that had resulted in banks having insufficient levels of capital to absorb losses related to market risk. This prompted the Basel Committee on Banking Supervision (BCBS) to revise the international market risk standards, which resulted in the adoption of a revised market risk framework in January 2016, also known as the Fundamental Review of the Trading Book (FRTB). Subsequently, in December 2017, the Group of Central Bank Governors and Heads of Supervision asked the BCBS to review the FRTB after identifying a number of technical issues with the framework's calibration. The review was completed with the publication of the final version of the FRTB in January 2019. BCBS members initially agreed to implement the standards by 1 January 2022, then postponed doing so to 1 January 2023 because of the COVID-19 pandemic.

Given the significance of the changes introduced by the FRTB and the market risk revisions still taking place at Basel level, the EU decided to implement it in two phases. In the first phase, the FRTB was introduced as a reporting requirement, by amending Regulation (EU) No 575/2013 (the Capital Requirements Regulation or the CRR) by means of Regulation (EU) 2019/876 (CRR II). The reporting requirements aimed to enable the competent authorities to monitor banks' implementation of the FRTB, before the provisions became binding for the calculation of banks' own funds requirements, and legislators to take account of possible additional amendments introduced internationally in the meantime.

The implementation of the FRTB standards as binding capital requirements in EU legislation has been completed in the second phase through the adoption of Regulation (EU) 2024/1623 of the European Parliament and of the Council in May 2024.

Article 461a of Regulation (EU) No 575/2013, as amended by Article 1, point (236), of Regulation (EU) 2024/1623, includes a requirement for the European Commission to monitor the international implementation of the Basel FRTB standards across jurisdictions and an empowerment to adopt delegated acts to ensure an international level playing field, if there are significant deviations in implementation by third countries. The reason for the empowerment is that in wholesale markets, banks can easily compete by offering financial products and services across borders, including between Member States and third countries. Delegated acts would enable the introduction of temporary targeted amendments to the own funds requirements for market risk or the postponement of the date of application of the FRTB in the EU by up to 2 years in order to preserve an international level playing field.

The Commission's monitoring of the FRTB's implementation across jurisdictions shows that, while some jurisdictions have recently implemented the standards (Canada and Japan for example), other jurisdictions, for which level playing field considerations are very relevant, are lagging behind and significant uncertainty remains about the timelines and possible deviations in implementation in those jurisdictions. Most significantly, as of June 2024, the US has not yet implemented the FRTB standards or been sufficiently clear about when or how it would be ready to do so. The Commission's assessment is that given the current regulatory developments in the US, the Basel standard will likely not be implemented by US agencies before 2026.

As a result, the European Commission considers it necessary, in order to preserve a level playing field with third countries in terms of own funds requirements and the impact of those requirements, to use the co-legislators' empowerment and postpone by a year the application of the FRTB standards.

The postponement would have an impact on requirements in other parts of the CRR that can be seen as ancillary to the entry into application of the FRTB. These requirements are the trading book/non-trading book boundary conditions, specifying the scope of application of the own funds requirements for market risk; the reporting and disclosure of the own funds requirements for market risk; the application of the output floor to the own funds requirements for market risk; the market risk supervisory benchmarking exercise. Guidance on how banks should apply these requirements during the postponement period is being provided in the communication package and will be further specified by the European Banking Authority and the Single Supervisory Mechanism, to ensure consistency and harmonisation in implementation across banks.

The preparation of the delegated act involved several exchanges with stakeholders that are directly affected by the postponement. These include the European Banking Authority, the European Central Bank/Single Supervision Mechanism, Member States and industry associations. The Expert Group on Banking, Payments and Insurance (EGBPI) was also consulted on 9 July 2024.

2. LEGAL ELEMENTS OF THE DELEGATED ACT

This delegated act postpones the entry into application of the new market risk requirements as binding own funds requirements by a year. The amendments Regulation (EU) 2024/1623 of the European Parliament and of the Council makes to the Capital Requirements Regulation in relation to the market risk framework, specifically provisions amending requirements set out in Part Three, Title IV of the CRR, and in Articles 430b, 445 and 455, are to become applicable on 1 January 2026. Until then, the current market risk requirements, including the calculation of own funds requirements for market risk, market risk reporting and disclosure requirements, remain applicable.

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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 648/2012¹, and in particular Article 461a(2) thereof,

Whereas:

- (1) Regulation (EU) 2019/876 of the European Parliament and of the Council² amended Regulation (EU) No 575/2013, *inter alia* to introduce as a reporting requirement into that Regulation the Fundamental Review of the Trading Book (FRTB) standards, which is a comprehensive set of own funds requirements for market risk exposures developed by the Basel Committee on Banking Supervision (BCBS). Regulation (EU) 2024/1623 of the European Parliament and of the Council³ amended Regulation (EU) No 575/2013 once more, *inter alia* to transform the FRTB standards into binding requirements for the calculation of own funds requirements for market risk.
- (2) Given the highly competitive nature of international trading activities, the FRTB standards were adopted on the premise that their implementation across jurisdictions, both in terms of substance and timelines, would ensure an international level playing field for institutions' trading activities. The monitoring of the implementation of the FRTB standards in other BCBS member jurisdictions, and more specifically in those jurisdictions with a large number of internationally active banks, has showed that, due to delays to the implementation of the FRTB standards in those jurisdictions, there is a significant risk of distortions to the international level playing field. It is therefore necessary to defer the application of the FRTB standards for the calculation of own funds requirements for market risk in the Union for 1 year.

¹ OJ L 176, 27.6.2013, p. 1, ELI: <http://data.europa.eu/eli/reg/2013/575/oj>.

² 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, ELI: <http://data.europa.eu/eli/reg/2019/876/oj>).

³ Regulation (EU) 2024/1623 of the European Parliament and of the Council of 31 May 2024 amending Regulation (EU) No 575/2013 as regards requirements for credit risk, credit valuation adjustment risk, operational risk, market risk and the output floor (OJ L, 2024/1623, 19.6.2024, ELI: <http://data.europa.eu/eli/reg/2024/1623/oj>).

- (3) Competent authorities need information to monitor the impact of the FRTB, identify potential issues, and facilitate the implementation-related exchanges between them and institutions. Therefore, institutions should be required to continue to report the information related to their own funds requirements calculation for market risk under pre-FRTB approaches until the date of application of the FRTB for the calculation of own funds requirements for market risk in the Union. At the same time, institutions should also continue to report to their competent authorities their own funds requirements in accordance with Article 430b of Regulation (EU) No 575/2013 in the version in force on 8 July 2024.
- (4) Regulation (EU) 2024/1623 introduces into Regulation (EU) 575/2013 specific disclosure requirements for market risk, tailored to the requirements laid down in the FRTB for the calculation of own funds requirements for market risk. The date of application of the provisions in Regulation (EU) 2024/1623 concerning the calculation of own funds requirements for market risk is, however, to be deferred by 1 year. For reasons of consistency, the related specific disclosure requirements should also be postponed by 1 year. Given the importance of the disclosure of own funds requirements in preserving a robust market discipline and in informing the investment decisions of market participants, institutions should instead be required, during that period of deferral, to continue disclosing the information relevant for their exposure to market risk and related own funds requirements based on the pre-FRTB calculation approaches.
- (5) Regulation (EU) 575/2013 should therefore be amended accordingly.
- (6) Regulation (EU) 2024/1623 will start to apply as of 1 January 2025. It is therefore necessary to align the date of entry into force and date of application of this Regulation with that date to avoid conflicting requirements to institutions,

HAS ADOPTED THIS REGULATION:

Article 1

Amendment to Regulation (EU) 575/2013

In Regulation (EU) 575/2013, the following Article 520a is inserted:

“Article 520a

Application of own funds requirements for market risk

Until 1 January 2026, institutions shall continue to apply Part Three, Title IV, and the market risk requirements of Articles 430, 430b, 445 and 455 of this Regulation in the version in force on 8 July 2024.”.

Article 2

Entry into force and application

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

This Regulation shall apply from 1 January 2025.

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

Done at Brussels, 24.7.2024

For the Commission
The President
Ursula VON DER LEYEN