

Question ID	2022_6425
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Credit risk
Article	469a
Paragraph	
Subparagraph	
COM Delegated or Implementing Acts/RTS/ITS/GLs/Recommendations	Not applicable
Article/Paragraph	Not applicable
Type of submitter	Other
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Subject matter	Allocating exposures into the correct vintage buckets of the „NPL-backstop“ acc. to Art. 47c CRR applying Art. 469a CRR
Question	<p>For exposures classified as non-performing prior to 26 April 2019 and not exempt from the deductions from CET1 items for non-performing exposures acc. to Art. 36 (1)(m) applying the second subparagraph of Art. 469a CRR, which date should be considered when allocating those exposures into the vintage buckets of the “NPL-backstop” in COREP template C 35.01 to C 35.03 in order to determine the applicable amount of insufficient coverage for non-performing exposures acc. Art. 36 (1)(m) in conjunction with Art. 47c CRR:</p> <ul style="list-style-type: none"> • Is it the date on which the exposures were originally classified as non-performing, as it is with purchased non-performing exposures (see EBA ITS regarding C 35.01 c0010 - c0100) - in the example above a date prior to 26 April 2019? • Or is it the date on which the criteria of the second subparagraph Art. 469a CRR (terms and conditions of the exposure - originated prior to 26 April 2019 - were modified by the institution in a way that increases the institution’s exposure to the obligor) were fulfilled and therefore the exposure shall be considered as having been originated on the date when the modification applies?

<p>Background on the question</p>	<p>According to Art. 469a CRR - by way of derogation from point (m) Article 36(1) - institutions shall not deduct from Common Equity Tier 1 items the applicable amount of insufficient coverage for non-performing exposures where the exposure was originated prior to 26 April 2019.</p> <p>Where the terms and conditions of an exposure which was originated prior to 26 April 2019 are modified by the institution in a way that increases the institution's exposure to the obligor, the exposure shall be considered as having been originated on the date when the modification applies and shall cease to be subject to the derogation provided for in the first subparagraph.</p>
<p>Final answer</p>	<p>The relevant date for the determination of the applicable amount of insufficient coverage in accordance with Article 47c of Regulation (EU) No 575/2013 ('CRR') for a non-performing exposure originated prior to 26 April 2019 where the derogation from point (m) Article 36(1) does not apply pursuant to Article 469a CRR is the date when the modification of the terms and conditions of the exposure is applied and, consequently, the exposure ceased to be subject to the derogation provided for in the first subparagraph of Article 469a CRR.</p> <p>In accordance with Article 469a, second subparagraph CRR, as the modification increased the institution's exposure to the obligor, the exposure is considered to have been originated on the date when the modification is applied.</p> <p>The above is without prejudice to the competent authorities' supervisory powers in accordance with Directive 2013/36/EU. In particular, competent authorities may make use of the supervisory powers provided for in Article 104(1)(d) of that Directive, by virtue of which they may require institutions to apply a specific provisioning policy or treatment of assets in terms of own funds requirements where they ascertain, on a case-by-case basis, that the non-performing exposures of an institution have an insufficient provision cover.</p> <p><i>The answers clarify provisions already contained in the applicable legislation. They do not extend in any way the rights and obligations deriving from such legislation nor do they introduce any additional requirements for the concerned operators and competent authorities. The answers are merely intended to assist natural or legal persons, including competent authorities and Union institutions and bodies in clarifying the application or implementation of the relevant legal provisions. Only the Court of Justice of the European Union is competent to authoritatively interpret Union law. The views expressed in the internal Commission Decision cannot prejudge the position that the European Commission might take before the Union and</i></p>

	<i>national courts.</i>
Answer prepared by	Answer prepared by the European Commission because it is a matter of interpretation of Union law.
Note to Q&A	
Link	https://www.eba.europa.eu/single-rule-book-qa/qna/view/publicId/2022_6425

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