

EBA/ RTS/2025/06

18 August 2025

Final Report

Draft Regulatory Technical Standards

on the allocation of off-balance sheet items and the specification of factors that might constrain institutions' ability to cancel unconditionally cancellable commitments under Article 111(8) of Regulation (EU) No 575/2013

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1. Executive Summary

Article 111 of the CRR sets out the provisions to determine exposure values under the Standardised Approach for Credit Risk, including the specification for off-balance sheet items, where exposure values are derived from nominal values and the application of certain percentages. The applicable percentage for any off-balance sheet item is derived via a mapping into five buckets specified in Annex I of the CRR. Those percentages are related to the likelihood that an off-balance sheet item exposes the institution to the risk of credit losses in case of a default.

The EBA is mandated to develop draft Regulatory Technical Standards (RTS) that specify:

- a) the criteria that institutions shall use to assign off-balance sheet items, with the exception of items already included in Annex I, to the buckets 1 to 5 referred to in Annex I;
- b) the factors that might constrain institutions' ability to cancel the unconditionally cancellable commitments referred to in Annex I;
- c) the process for notifying EBA about institutions' classification of other off-balance sheet items carrying similar risks as those referred to in Annex I.

The assignment criteria proposed by the draft RTS aim at distinguishing between different levels of conversion risk of off-balance sheet items by referring to a simple set of risk characteristics of the respective items. The main elements of differentiation are financial covenants, whether a non-credit related event has to occur before the institution may become exposed to the risk of credit losses, as well as optionality that an obligor may or may not draw the off-balance sheet item.

These draft RTS proposes four factors to be considered as constraining institutions' ability to cancel an unconditionally cancellable commitment that relate to risk management processes, commercial considerations as well as to reputational and litigation risks. The factors constitute only a starting point for the considerations of the institutions, and the methodology to assess whether these factors actually constrain institutions' ability to cancel the unconditionally cancellable commitments is not further specified in these draft technical standards.

The notification process of off-balance sheet-items not already included in Annex I will be implemented via the COREP framework. The use of an already existing reporting tool for the notification ensures a minimization of the reporting burden.

This document provides in its background and rationale a non-exhaustive list of examples to support institutions in classifying their off-balance sheet items. This list is provided for illustrative purposes, in order to make explicit the categorisation of some common off-balance sheet items that are not explicitly listed in Annex I of the CRR. This list is therefore not adding any new requirement, but it only aims at simplifying the application of the CRR. Moreover, the EBA's interpretation of Article 111(4) of the CRR, i.e. the cases where contractual arrangements offered by an institution, but not yet accepted by the client, that would become commitments if accepted

by the client, shall be treated as commitments and the assignment of the applicable percentages for these contractual arrangements is explained in that section.

Next steps

The draft regulatory technical standards will be submitted to the European Commission for endorsement following which they will be subject to scrutiny by the European Parliament and the Council before being published in the Official Journal of the European Union.

2. Background and rationale

1. Article 111 of the CRR sets out the provisions to determine exposure values under the Standardised Approach for Credit Risk, including the specification for off-balance sheet items. To determine the exposure value of off-balance sheet items, a correspondence is set out between buckets and an applicable percentage to convert the nominal amounts of off-balance sheet items¹ into on-balance sheet equivalent amounts. The allocation of off-balance sheet items into those buckets is made according to a mapping specified in Annex I of the CRR.
2. The CRR3 introduces amendments to update the calibration of the applicable percentages, which results in the introduction of an adjusted weighting scheme and an additional bucket, increasing the number of buckets from 4 to 5. Additionally, a definition of the term “commitment” is introduced in Article 5.
3. The EBA is mandated to develop an RTS that specify:
 - a) the criteria that institutions shall use to assign off-balance sheet items, with the exception of items already included in Annex I, to the buckets 1 to 5 referred to in Annex I;
 - b) the factors that might constrain the institutions’ ability to cancel the unconditionally cancellable commitments referred to in Annex I;
 - c) the process for notifying EBA about the institutions’ classification of other off-balance sheet items carrying similar risks as those referred to in Annex I.

2.1. Understanding the conversion from off-balance sheet to on-balance sheet equivalent amounts

4. The determination of exposure values for off-balance sheet items under the Standardised Approach for Credit Risk is described in Article 111(2) of the CRR, where it is specified that those exposure values are dependent on a set of percentages, which in turn are linked to the buckets set out in Annex I. Those percentages are related to the likelihood that an off-balance sheet item exposes the institution to the risk of credit losses in case of a default.
5. While the CRR capital requirements for credit risk under the Standardised Approach (SA) do not explicitly refer to credit conversion factors (CCF) but to percentages, it is useful to consider how such conversion factors are defined in the Internal Ratings Based (IRB) Approach. This is because, similarly to the SA framework, the SA-CCF and IRB-CCF are used to convert an off-balance sheet exposure into an on-balance sheet equivalent amount in accordance with Article 166(8) of the CRR. The notion of CCF in the CRR is conditional to the default of the underlying obligor, as defined under CRR Article 4(1)(56) of the CRR, which refers to the ‘ratio of the undrawn amount

¹ After the deduction of specific credit risk adjustments in accordance with Article 110 CRR and deductions from Common Equity Tier 1 items in accordance with Article 36(1), point (m) CRR.

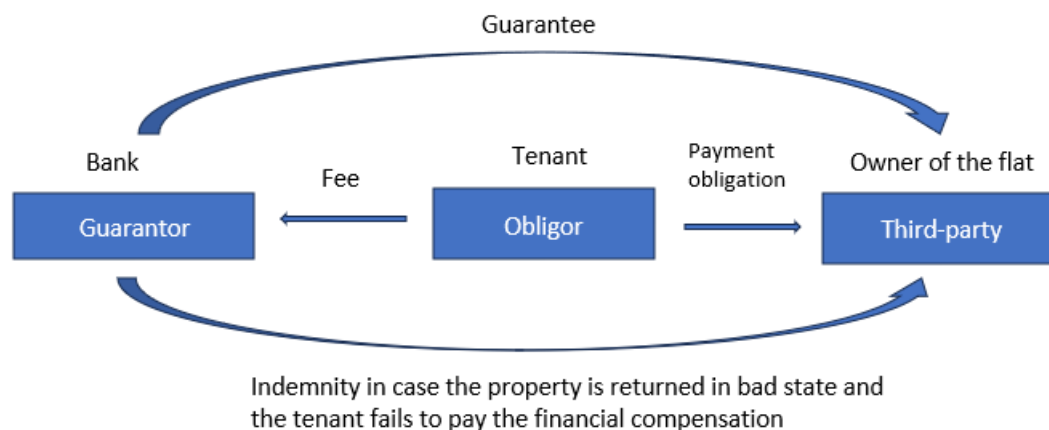
of a commitment from a single facility that could be drawn from that single facility from a certain point in time before default and therefore outstanding at default to the undrawn amount of the commitment from that facility, the extent of the commitment being determined by the advised limit, unless the unadvised limit is higher;’.

6. Hence, the interpretation of those percentages, and the related bucket allocation listed in Annex I of the CRR, is facilitated by acknowledging the conditionality of the applicable percentage to the default of the obligor. This is notably the case of guarantees, where the likelihood that the guarantee is triggered is dependent on the probability of default of the guaranteed exposure. While this probability is low, the associated allocation into bucket 1 with a 100% percentage for guarantees having the character of credit substitutes may be therefore difficult to grasp if abstracted from the conditional default notion, which helps to substantiate the high percentage assigned to guarantees having the character of credit substitutes, as the likelihood for a guarantee to be triggered conditional to the default of the underlying obligor is high.
7. Therefore, bucket 1 covers those instances where the exposition of the institution to the risk of credit losses from the off-balance sheet item in case of default of the obligor is not conditional on the occurrence of any non-credit risk related event that still needs to occur. This includes any commitment accepted by the client where the client must draw certain amounts at certain points in time, according to the contractual terms. Therefore, commitments that are credit substitutes are classified in bucket 1.
8. Further, the concept of conditionality to events helps to better frame the decision flow on how to allocate those off-balance sheet items that are not already explicitly listed in Annex I by establishing a hierarchy based on the type of conditional events that need to occur for becoming exposed to the risk of credit losses in case of a default. As general guidance, and without prejudice to the criteria listed in the draft RTS, the associated percentages depend on whether becoming exposed to the risk of credit losses in case of a default is additionally conditional to the occurrence of a non-credit risk related event that is described in the contractual terms or on contractual requirements related to a minimum level of the obligor’s creditworthiness that must be met for releasing the amount to be drawn, i.e. on financial covenants. These contractual requirements can be taken into account for the assignment to bucket 2 as long as they prevent that the amount will be drawn once and while the exposures is in default according to Article 178 CRR. The EBA understands that the default in this context acts as a backstop for the purpose of preventing a drawdown and expects such covenants to become effective sufficiently early before a default occurs.
9. Specifically bucket 2 is characterized by containing contingent items, where exposing the institution to the risk of credit losses in case of a default depends on the occurrence of at least one non-credit related event, i.e. that is not related to credit risk and has not occurred yet before a default of the obligor could cause losses to the institution. Once no such non-credit risk related event still needs to occur, the institution becomes exposed to the risk of credit losses from the off-balance sheet item in case of default of the obligor does no longer depend on the occurrence

of any non-credit risk related condition that still needs to be fulfilled, then the item would be categorized as bucket 1 if not converted into an on-balance sheet item.

10. These concepts allow to identify off-balance sheet items not already explicitly listed in Annex I of the CRR that fall under buckets 1 and 2, ensuring prudent identification of the items deemed as being associated with a higher risk of credit losses in case of a default.
11. As an illustration of the allocation to bucket 1, guarantees where the payment obligation of the institution as a guarantor is solely conditional on the default of the obligor on the guaranteed credit obligation get assigned a 100% percentage according to the allocation to bucket 1 in Annex I of the CRR. On the other hand, performance bonds get assigned a lower percentage, as long as the payment obligation of the institution is not only conditional on the default of the guaranteed credit obligation, but it is also contingent on the ability of the guaranteed party to meet non-credit risk related contractual obligations, which must occur before the guaranteed credit obligation is triggered.
12. The following example in Figure 1 illustrates different bucket allocation depending on whether the contingent event has been triggered or not. It shows the case where an institution issues a guarantee to provide financial compensation to the owner of the property in case a tenant of the property does not return it in good state to the owner and the tenant fails to pay the financial compensation. The conditionality is on the property being in bad instead of in good state when it is returned, which is not related to credit risk. At inception, it is uncertain whether the bank will become exposed to the risk of credit losses in case of default of this tenant, as long as it is open whether the property is returned in either a good or bad state.
13. This contingent item is to be classified under bucket 2 and it is assigned a percentage of 50% for as long as the non-credit risk related condition is not fulfilled. However, this off-balance sheet item would be either categorized under bucket 1 with an applicable percentage of 100% or would become on-balance sheet if required by the applicable accounting framework, if and as soon as the bad state condition is fulfilled. At that stage, it would become a credit substitute due to the guarantee extended by the institution covering the tenant's obligation of paying a financial compensation towards the owner, which is triggered by the "returning of the property in a bad state" condition. Hence the off-balance sheet allocation depends on whether the contingent event has been triggered or not.

Figure 1: Example of contingent off-balance sheet item allocated to bucket 2 until the non-credit related condition is triggered, subsequently allocated to bucket 1



14. According to Annex I of the CRR, bucket 3 comprises “the undrawn amount of commitments, regardless of the maturity of the underlying facility, unless they fall under another category”. In this regard, the obligor’s contractual right to have future drawings at his discretion is reflected as key criterion for the assignment to bucket 3.

15. In addition, according to Article 111(4) of the CRR², contractual arrangements already offered to a client by the institution but have not yet been accepted by the client’s are to be treated as commitments. It is the EBA’s understanding that, as the drawing is still at the discretion of the client, this can be taken into consideration for the bucket allocation (i.e. bucket 3), potentially even considering the unconditional cancellability where the criteria of Article 5(10) CRR are met (i.e. bucket 5). This includes cases where the contractual arrangement that is not yet accepted specifies a certain amount that must be drawn at a future point in time.

16. A hypothetical assessment, whether and under which conditions an institution would be willing to enter a contractual arrangement given the information provided by a client, does not qualify as **offer**, and thus does not fall under Article 111(4) CRR, if such hypothetical assessment does not directly or indirectly oblige the institution to accept a following actual application of the client for the contractual arrangement. Such direct or indirect obligation could in particular arise from consumer protection law or from any factors that might also constrain an institution’s ability to cancel unconditionally cancellable commitments as specified in Article 2 of the RTS.³

17. For buckets 4 and 5 the RTS does not specify positive criteria for the assignment of other items than already explicitly mentioned in Annex I of the CRR. However, a contribution is made in the

² Contractual arrangements offered by an institution, but not yet accepted by the client, that would become commitments if accepted by the client, shall be treated as commitments and the percentage applicable shall be the one provided for in accordance with paragraph 2.”

³ E.g. in some jurisdictions, institutions provide so called “agreements in principle” (or “mortgage in principle” or “Decision in Principle”) to inform the client, before applying for a mortgage, about conditions for a mortgage loan for a financial situation described by the client but not (yet) verified by the bank. These assessments would hence typically not fall in the scope of Article 111(4) CRR.

RTS to disentangle bucket 5 from the other buckets by specifying in Article 2 of these RTS factors that *de facto* constrain the institutions' ability to cancel commitments that meet the definition for unconditionally cancellable commitments (UCC) embedded in Article 5(10) of the CRR, in response to point (b) of the CRR mandate under Article 111(8). From a prudential point of view, the profile of those off-balance sheet items is not representative of bucket 5 and a higher percentage should be assigned. This is consistent with section CRE 20.100 of the Basel framework, which notes that: *"A 10% CCF will be applied to commitments that are unconditionally cancellable at any time by the bank without prior notice, or that effectively provide for automatic cancellation due to deterioration in a borrower's creditworthiness. National supervisors should evaluate various factors in the jurisdiction, which may constrain banks' ability to cancel the commitment in practice, and they should consider applying a higher CCF to certain commitments as appropriate."* The factors that are specified under Article 2 constitute thus a starting point for the considerations of the institutions. The methodology to assess whether these factors constrain institutions' ability to cancel the unconditionally cancellable commitments referred to in Annex I is therefore not in the scope of these draft technical standards. It is nonetheless expected that the assessment referred to in Article 2 is performed at an appropriate level for each factor considered.

2.2. Non-exhaustive list of specific off-balance sheet items

18. With a view to enhance clarity, a list of specific examples and their bucket allocation is provided below. This list is non-exhaustive and provided for illustrative purposes only, in order to provide guidance for the classification of off-balance sheet items. This list does not aim at reallocating off-balance sheet items already explicitly listed in Annex I of the CRR.

Table 1: Examples of off-balance sheet item allocation

| Bucket allocation | Examples of off-balance sheet items |
|-------------------|---|
| 1 | <ul style="list-style-type: none"> - Forward starting loan, i.e. loan offer accepted by the client (commitment), where the agreed terms and conditions irrevocably require that the client must draw certain amounts at certain points in time, be it drawn as a lump sum or in instalments, with the point in time fixed or at the discretion of the client and without any conditionality or option to step out. In those cases where the amount that must be drawn is lower than the full committed amount, only the amount that must be drawn is to be allocated under bucket 1. - Firm commitment underwriting to purchase shares in a CIU for a fixed amount at a future date, where the agreed terms and conditions require that the CIU must sell the agreed amount at a future point in time, the point in time can either be already fixed or still at discretion of the CIU due to the CIU is already obliged to sell the fixed amount and the institution is already obliged to purchase this amount. - Contingent items where all relevant non-credit risk related conditions have been triggered that previously prevented exposing the institution to the risk of credit losses in case of default of the obligor, and the institution's guarantee is only conditional on a default event for the guaranteed credit obligation. - Contingent items where the conditional event that prevents exposing the institution to the risk of credit losses in case a default has not been triggered yet but that is related to |

| | |
|---|--|
| | <p>credit risk, and the institution's guarantee is only conditional on a default for the guaranteed credit obligation.</p> <ul style="list-style-type: none"> - Additional purchase price payment for an institution's equity holding in another entity, where the non-credit risk related conditions to pay the add-on to the purchase price have already been met - Binding deed of release in favor of a deposit guarantee fund, where an institution (institution A) is obliged to indemnify the deposit guarantee fund for any losses incurred in supporting another institution (institution B), of which institution A holds the majority of the voting rights or over which it can directly or indirectly exercise dominant influence. It is assigned to bucket 1 given the credit risk to which the institution A is exposed is only conditional to the default of institution B. - Binding letters of comfort, where the institution unconditionally commits to ensure that another entity will be able to meet its financial obligations as they become due. It is assigned to bucket 1 because of being a credit substitute in the form of a general guarantee of indebtedness of institution B for the guaranteed deposits (which considers that the credit risk to which institution A is exposed is only conditional to the default of institution B). - Customs and tax bonds for already certain tax or customs obligations, because such bonds guarantee legally required customs or tax payments, thus such bonds already expose the institution to the risk of credit losses in case of a default event of the entity obliged to pay these customs or taxes and therefore are guarantees that have the character of direct credit substitutes in accordance with point (a) of bucket 1 of Annex I CRR. |
| 2 | <ul style="list-style-type: none"> - Shipping guarantees, customs and tax bonds, as they relate to transaction-related contingent events, where the trigger event is not credit risk related, where they do not have the character of credit substitutes and do not meet the definition of trade finance (where the first two conditions are met but the definition of trade finance is met, they fall under point (a)(i) of bucket 4 as guarantees not having the character of credit substitutes). - Guarantees related to pending takeover bids (i.e. takeover <i>bid bonds</i>), the latter defined as an offer or attempt to take control of a company by buying enough of its shares to do this, where there is a recognizable price offer which the acquiring company can meet by offering cash, shares or a combination of both. I. According to Annex I CRR, bid bonds are under point (b) explicitly mentioned as bucket 2 items. |
| 3 | <p>The following items are examples of allocation into bucket 3, unless assigned to bucket 1 or bucket 5:</p> <ul style="list-style-type: none"> - A takeover bid, defined as an offer or attempt to take control of a company by buying enough of its shares to do this, where there is a recognisable price offer which the acquiring company can meet by offering cash, shares or a combination of both. The purchase of assets falls under the definition of commitment under CRR article 5(10), for which any undrawn amount according to point (a) of bucket 3 of Annex I of the CRR is to be assigned to bucket 3, as not elsewhere classified. - Undrawn amounts of factoring arrangements in the context of commitments to finance the seller of receivables, invoice discount facilities, because this is a contractual arrangement to purchase assets, hence falls under the definition of commitment under article 5(10) while not being a credit substitute. |

| | |
|---|--|
| | - Revolving limits including those granted for overdraft on current accounts because this is contractual arrangement to extend credit, hence falls under the definition of commitment under Article 5(10) CRR while not being a credit substitute. |
| 4 | Shipping guarantees, customs and tax bonds that meet the definition of trade finance and do not have the character of a credit substitute, because any such guarantee is assigned to bucket 4 according to point (a)(i) of bucket 4 of Annex I of the CRR. |

3. Draft regulatory technical standards

Brussels, **XXX**
[...](2025) **XXX** draft

COMMISSION DELEGATED REGULATION (EU) .../...

of **XXX**

on supplementing Regulation (EU) No 575/2013 of the European Parliament and of the Council as regards the allocation of off-balance sheet items and the specification of factors that might constrain institutions' ability to cancel unconditionally cancellable commitments under Article 111(8) of Regulation (EU) No 575/2013

(Text with EEA relevance)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

Article 111(8) of Regulation (EU) No 575/2013 empowers the Commission to adopt, following the submission of draft technical standards by the European Banking Authority (EBA), and in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010, delegated acts specifying

- (a) the criteria that institutions are to use to assign off-balance-sheet items, with the exception of items already included in Annex I, to the buckets 1 to 5 referred to in Annex I;
- (b) the factors that might constrain institutions' ability to cancel the unconditionally cancellable commitments referred to in Annex I;
- (c) the process for notifying EBA about institutions' classification of other off-balance-sheet items carrying similar risks as those referred to in Annex I.

In accordance with Article 10(1) of Regulation No (EU) 1093/2010 establishing the EBA, the Commission shall decide within three months of receipt of the draft standards whether to endorse the drafts submitted. The Commission may also endorse the draft standards in part only, or with amendments, where the Union's interests so require, having regard to the specific procedure laid down in those Articles.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

In accordance with the third subparagraph of Article 10(1) of Regulation No (EU) 1093/2010, the EBA has conducted a public consultation on the draft regulatory technical standards submitted to the Commission in accordance with Article 111(8) of Regulation (EU) No 575/2013. The consultation paper was published on the EBA website on 04 March 2024 and the consultation closed on 04 June 2024. In addition, the EBA invited the Banking Stakeholder Group, set up in accordance with Article 37 of Regulation No (EU) 1093/2010, to provide its advice on the draft standards.

Together with the final draft technical standards, the EBA has submitted an explanation on how the outcome of the public consultation and the feedback received from stakeholders have been taken into account in the development of the final draft. In line with the requirements of Article 10(1) of Regulation No (EU) 1093/2010, the EBA has also submitted its impact assessment, including an analysis of the costs and benefits related to the draft technical standards. This analysis is available on the EBA website as part of the Final Draft RTS package.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

The assignment criteria proposed by the draft RTS aim at distinguishing between different levels of conversion risk of off-balance sheet items by referring to a simple set of risk characteristics of the respective items. The main elements of differentiation are financial covenants, whether a non-credit related event has to occur before the institution may become exposed to the risk of credit losses, as well as optionality that an obligor may or may not draw the off-balance sheet item.

These draft RTS proposes four factors to be considered as constraining institutions' ability to cancel an unconditionally cancellable commitment that relate to risk management processes, commercial considerations as well as to reputational and litigation risks. The factors constitute only a starting point for the considerations of the institutions, and the methodology to assess whether these factors actually constrain institutions' ability to cancel the unconditionally cancellable commitments is not further specified in these draft technical standards.

The notification process of off-balance sheet-items not already included in Annex I will be implemented via the COREP framework. The use of an already existing reporting tool for the notification ensures a minimization of the reporting burden.

COMMISSION DELEGATED REGULATION (EU) .../...

of **XXX**

on supplementing Regulation (EU) No 575/2013 of the European Parliament and of the Council as regards the allocation of off-balance sheet items and the specification of factors that might constrain institutions' ability to cancel unconditionally cancellable commitments under Article 111(8) of Regulation (EU) No 575/2013

(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 amending Regulation (EU) No 648/2012, and in particular Article 111(8), third subparagraph thereof,
Whereas:

- (1) The percentages associated with the buckets referred to in Annex I to Regulation (EU) No 575/2013 are related to the likelihood that an off-balance sheet item will expose the institution to the risk of credit losses in case of a default. Considering this, items not covered in Annex I should be assigned to the relevant buckets based on whether or not the institution's exposure to the risk of credit losses in case of a default is additionally conditional to the occurrence of a contingent event or not. In particular, for those items not already listed in that Annex I, if a condition still needs to be met to expose the institution to credit losses in case of a default, the off-balance sheet item should be allocated to bucket 2. If this condition depends on a decision of the obligor to exercise a discretion, the off-balance sheet item should be allocated to bucket 3. Where the institution is already fully exposed to credit losses at default, the off-balance sheet item should be allocated to bucket 1.
- (2) Contractual requirements related to the obligor's creditworthiness that must be met for releasing the amount to be drawn should only be considered as contingent events where the institution's processes ensure that compliance with these contractual requirements is verified immediately before releasing an amount to be drawn such that non-compliance prevents a drawdown.
- (3) Some commitments, while unconditionally cancellable under their contractual terms, may not be cancelled *de facto* due to the presence of factors that may constrain the institution's ability to cancel them. In these cases, considering the actual likelihood that the institution will be exposed to the risk of credit losses in case of a default event, the commitment should be assigned to the relevant bucket disregarding the unconditional cancellability.
- (4) Shortcomings in the operationalisation of the contractual terms of unconditionally cancellable commitments, that may result in the institution failing to cancel them, may be represented by risk management deficiencies, commercial considerations, reputational risk or legal litigation risks.

- (5) This Regulation is based on the draft regulatory technical standards submitted to the Commission by the European Banking Authority.
- (6) The European Supervisory Authorities have 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 advice of the Banking Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council⁴.

HAS ADOPTED THIS REGULATION:

Article 1

Criteria for assigning off-balance sheet items not already included in Annex I to the CRR

1. For any off-balance sheet item not already included in Annex I to Regulation (EU) No 575/2013, institutions shall follow the criteria in paragraphs 2 and 3 for determining which amounts of such item shall be assigned to which of the buckets referred to in that Annex I.
2. Off-balance sheet items not already included in Annex I to Regulation (EU) No 575/2013 shall be assigned to bucket 1 as referred to in that Annex with the full amount for which the institution is already exposed to the risk of credit losses in the event of default of the obligor or the credit facility. In particular, any amount that the client is already required to draw in the future shall be assigned to bucket 1 referred to in Annex I to Regulation (EU) No 575/2013.
3. For treating an amount of an off-balance sheet item not already included in Annex I to Regulation (EU) No 575/2013 as not yet exposing the institution to the risk of credit losses in the event of default of the obligor or credit facility as referred to in paragraph 2, at least one of the following criteria shall be met:
 - (a) the client has a contractual right for drawing this amount in the future that still needs to be exercised before the amount is drawn;
 - (b) at least one non-credit risk related event still needs to occur before a default of the obligor or the credit facility exposes the institution to the risk of credit losses on this amount;
 - (c) at least one contractual requirement related to the client's creditworthiness that prevents a drawdown at least in case of a default according to Article 178 CRR must be met for releasing the amount and the institution has processes in place that ensure that non-compliance with any of such contractual requirements prevents the client from drawing this amount.If point (a) is met, the amount shall be assigned to bucket 3, otherwise the amount shall be assigned to bucket 2.
4. Off-balance sheet items where the contractual terms permit a cancellation to the full extent allowable under consumer protection, where applicable, and related legal acts, at any time without prior notice to the obligor or that effectively provide for automatic cancellation due to a deterioration in a borrower's creditworthiness, but where

⁴ 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).

institutions identify that their unconditional cancellation is constrained by at least one of the factors referred to in Article 2, shall not be assigned to bucket 5 but shall be allocated to the bucket applicable if the right for unconditional cancellation is disregarded.

Article 2

Factors that might constrain the institutions' ability to cancel the unconditionally cancellable commitments

In determining its ability to cancel unconditionally cancellable commitments, an institution shall consider the following factors:

- (a) deficiencies in the risk management procedures, including shortcomings in the credit risk monitoring framework and in the IT systems and processes, that are related to the commitment, constraining the institution to execute, in a timely manner, its right to cancel commitments at any time;
- (b) commercial considerations of the institution aimed at avoiding negative impacts on the creditworthiness of the client or on the business relationship with that client, while the outcome of the creditworthiness assessment should have led to cancelling the commitment;
- (c) reputational risks for the institution arising from a potential negative perception of a cancellation vis-a-vis market-participants;
- (d) litigation risks, where the obligors would suffer a loss from the cancellation of the commitment, either in the form of forgone opportunities or non-reimbursable investments made in order to benefit from the commitment.

Article 3

Notification process

The institutions' classification of other off-balance sheet items carrying similar risks as those referred to in Annex I to Regulation (EU) No 575/2013 shall be reported in accordance with Implementing Regulation (EU) 2024/3117.

Article 4

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,

For the Commission
The President

4. Accompanying documents

4.1. Draft cost-benefit analysis / impact assessment

As per Article 10(1) of the EBA regulation (Regulation (EU) No 1093/2010 of the European Parliament and of the Council), any regulatory technical standards developed by the EBA – when submitted to the EU Commission for adoption – shall be accompanied by an Impact Assessment (IA) annex which analyses ‘the potential related costs and benefits’. Such annex shall provide the reader with an overview of the findings as regards the problem identification, the options identified to remove the problems and their potential impacts.

4.1.1. Problem identification

The EBA is mandated to develop RTS that specify:

- a. the criteria that institutions are to use to assign off-balance sheet items, with the exception of items already included in Annex I, to the buckets 1 to 5 referred to in Annex I;
- b. the factors that might constrain institutions’ ability to cancel the unconditionally cancellable commitments referred to in Annex I;
- c. the process for notifying EBA about institutions’ classification of other off-balance sheet items carrying similar risks as those referred to in Annex I.

4.1.2. Policy objectives

These RTS contribute to promote supervisory convergence and level playing field across institutions in the EU by specifying further certain provisions from the Level 1 text related to off-balance sheet items.

Further, the risk sensitivity of the framework is enhanced by specifying factors that may constrain the institutions’ ability to cancel unconditionally cancellable commitments. By ensuring that those commitments are classified according to their true risk characteristics, the RTS contributes to strengthen the off-balance sheet framework by preventing an underestimation of risk that may erode capital requirements.

4.1.3. Baseline scenario

In the absence of criteria for the classification of off-balance sheet items not explicitly listed under Annex I of the CRR, institutions may incur in bucket misallocation of those off-balance sheet items

where guidance is not provided in the Level 1. This would result in capital requirements that are not aligned with the underlying risk profile of the off-balance exposures.

4.1.4. Options considered

In developing these RTS, the risk characteristics of off-balance sheet items have been considered to provide criteria that allow mapping off-balance sheet criteria not explicitly listed in Annex I of the CRR with the relevant bucket. This has been done with the broadest possible interpretation of the mandate in mind, which classifies off-balance sheet items based on their characteristics, with a “similar risks” perspective. Alternatively, it was explored to develop criteria based on similarity with explicitly listed items in Annex I of the CRR, which is a narrower understanding of the mandate, whereby the criteria are linked to the nature of the specific items described in Annex I of the CRR.

4.1.5. Cost-Benefit Analysis

The benefits of these RTS are expected with respect to the correct allocation of risk and related capital requirements, together with supervisory convergence through the criteria that these RTS set out for institutions in the EU. The IT-related costs assessed as marginal as institutions are already carrying out an allocation of off-balance sheet items in the absence of an RTS, which will improve the quality of the allocation process.

4.1.6. Conclusion

The RTS follows the broad interpretation of the mandate to classify off-balance sheet items based on its characteristics, with a “similar risks” perspective.

With a view to facilitate the off-balance sheet item allocation, examples are provided in the background and rationale to further enhance clarity to stakeholders.

4.2. Feedback on the public consultation

The EBA publicly consulted on the draft proposal contained in this paper.

The consultation period lasted for 3 months, starting on 4 March 2024 and ending on 4 June 2024. 26 responses were received, of which 21 were published on the EBA website. No opinion was received from the Banking Stakeholders Group.

This section presents a summary of the comments arising from the consultation, the analysis and discussion triggered by these comments and the actions taken to address them if deemed necessary. In many cases several industry bodies made similar comments, or the same body repeated its comments in the response to different questions. In such cases, the comments, and EBA analysis are included in the section of this paper where EBA considers them most appropriate.

Changes to the draft RTS have been incorporated as a result of the responses received during the public consultation.

Summary of key issues and the EBA's response

Key concerns raised on the allocation criteria refer to the criteria for buckets 1 and 2 provided in the draft RTS text (Question 5 in the CP), and its interaction with bucket 3. In this regard it was highlighted that “financing and revolving commitments” with covenants may unintendedly be classified under bucket 1 or bucket 2, while the CRR text notes that commitments are to be assigned to bucket 3, unless they fall under another category. Specifically, commitments with covenants may be understood as falling under bucket 2 or even under bucket 1. Additionally, contingent items may unintendedly be assigned a higher CCF than they would have otherwise received without the conditionality, given the notion of “non-credit related event”. Respondents questioned the restriction of the condition to “non-credit risk related”, and they argued in favour of considering the specific case of financial covenants.

On the allocations criteria for the buckets 4 and 5 (Question 6), the key comments referred to the allocation of trade finance related items not meeting the exact criteria described in the CRR. In addition, respondents disagreed with the automatic classification as bucket 3 in case the criteria of Article 2 were met. For bucket 4 the narrow approach has been maintained to foresee the assignment exclusively for trade finance items. For commitments that cannot be assigned to bucket 5 because they meet the criteria of Article 2, the mandatory assignment to bucket 3 was removed and the final draft RTS foresees that these commitments are assigned to the applicable bucket disregarding their unconditional cancelability.

The EBA agreed with the concerns raised by the industry, and has redrafted Article 1, referring now also to contractual requirements related to the obligor's creditworthiness that must be met for releasing the amount to be drawn to take into account the existence of financial covenants that

prevent for a drawdown. Moreover, an additional criterion has been introduced for setting apart bucket 3 from buckets 1 and 2, i.e. if the obligor has a contractual right that needs to be exercised to draw any future amount.

On the non-exhaustive list of examples (Questions 2, 3 and 4) most importantly respondents disagreed with the proposed allocation of loan offers and forward starting loans. The EBA agrees with some of the concerns of the industry and therefore has amended the list of examples to provide more clarity on the circumstances that would require an assignment to bucket 1.

On the other examples (Question 1), apart from items not strictly meeting the definition of trade finance, as already mentioned above, the key comments referred to the proposed treatment of contingent liabilities for chargeback positions in the credit card acquiring business. Based on the comments received, the EBA has reassessed the treatment of charge back risks and has come to the conclusion that these items are out of scope of the mandate of this RTS. As a result, the corresponding example was deleted from . The EBA is aware that disapplying Q&A 2016_2916 may create a timing mismatch between reductions in Pillar 1 requirements and any new Pillar 2 treatment under the next SREP cycle. The EBA acknowledges the desirability of maintaining predictable capital requirements for credit institutions currently applying CCFs according to this Q&A, until such time as a new Pillar 2 treatment is agreed, and that this may necessitate the communication of supervisory expectations in this regard by Competent Authorities

For the factors that may constrain the institution's ability to cancel its unconditionally cancellable commitments (UCC), respondents raised concerns that the factors were so general that any UCC could arguably be constrained by those factors. Respondents noted a potential gap between identifying factors that constrain UCC on the one hand and the increased conversion factor that needs to be applied to an UCC in the new framework (from 0% to 10%). The EBA has refined the wording of Article 2 to provide more detail on the factors that may constrain the institution's ability to cancel its unconditionally cancellable commitments.

On the notification process (Question 8) and for the materiality assessment (Question 9) only limited comments were received.

Finally, general comments were received on the need to respect the allocation provided by the CRR, which should not be contradicted by the RTS nor the examples provided in the background and rationales. The EBA does agree with this comment and this principle was reemphasised in the final report

Summary of responses to the consultation and the EBA’s analysis

Responses to questions in Consultation Paper EBA/CP/2024/08

| Comments | Summary of responses received | EBA analysis | Amendments to the proposals |
|--|---|--|-----------------------------|
| Background and rationale | | | |
| Question 1: Do you have any comment on the non-exhaustive list of examples provided? | | | |
| Bucket 1 – Commitment underwriting to purchase shares in a CIU | <p>One respondent does not agree with the classification under Bucket 1 of firm commitment underwriting to purchase shares in a CIU, because the agreement to purchase CIUs is a unilateral declaration of commitment by the institution to make the funds called available in return for the receipt of fund units or shares in the event of a capital call by the CIU (cash call), but the terms and conditions of the CIU (prospectus, investment agreement, subscription agreement) do not contain any obligation on the part of the CIU to call up the funds.</p> <p>If the CIU does not find any suitable investments or is not awarded a contract, it will not draw down any funds, meaning that the utilisation of commitments to purchase fund units or shares is "conditional on the occurrence of any non-credit risk related event".</p> <p>Hence, that respondent considers that the classification under Bucket 3 is more appropriate, also because the purchase of assets falls under the definition of commitment under article 5(10) CRR3.</p> | <p>The example provided under bucket 1 is of a similar risk than a forward asset purchase. This is in particular as the example does explicitly mention that it is not at the discretion of the CIU if it draws from the commitment. In case such a discretion would exist, the item should be assigned to bucket 3.</p> | No |

| Comments | Summary of responses received | EBA analysis | Amendments to the proposals |
|---|---|---|------------------------------|
| Bucket 2 – Guarantees related to pending takeover bids | According to one respondent, the rationale for assigning guarantees related to pending takeover bids to bucket 2 while allocating takeover bids to the lower bucket 3 is not clear and deserves better justification. | <p>First, takeover bids as mentioned under bucket 3 refer to bids the institution has made on its own behalf. In this case, after conversion to an on-balance sheet exposure, the ultimate exposures of the institution would be an equity position that is held by the institution. Thus, it is a commitment to purchase assets and falls – as it is undrawn (with the drawing at the discretion of the obligor) – as such under bucket 3. It is worth highlighting that, as soon as the bid has accepted by the obligor, the position is a forward asset purchase and need thus be treated under bucket 1.</p> <p>In contrast to that, guarantees for pending takeover bids are commitments of the bank to step in where <u>the obligor</u> has made a takeover bid for some other company. After conversion, this position would result in an exposure to the obligor. The CRR refers to guarantees for bid offers generally as bid bonds that are assigned to bucket 2. Consequently, also takeover bid bonds fall into bucket 2.</p> | No |
| Bucket 2 – Chargeback risk | Several respondents mentioned the “ <i>Contingent liability for chargeback positions in credit card acquiring business</i> ” as too conservative. Rationales provided were that the realization of a loss due to a charge back is expected to be low, considering all the conditions that need to be met. ⁵ As such, the | Where institutions act as acquiring bank in credit card payment services and (directly or indirectly) take over the risk of charge backs from the credit card issuer, these items generally fall outside the mandate for the | Example deleted from Table 1 |

⁵ The industry provided the following conditions: a. a valid chargeback claim against the merchant is initiated (there are a series of specific conditions that need to be satisfied for a customer of a merchant to raise a valid chargeback), for example due to fraudulent behaviour - refunds from general cancellation rights or refunds under a warranty claim etc. do not generally create an exposure for the acquiring bank; b. a merchant insolvency event has occurred, and the merchant does not

| Comments | Summary of responses received | EBA analysis | Amendments to the proposals |
|----------|--|--|-----------------------------|
| | <p>industry claimed that the aggregate likelihood of all these events occurring is something that should be considered considerably more unlikely than a takeover guarantee. The respondents also provided general considerations, such as the need to treat the potential losses coming from fraudulent behaviour (leading to a charge back) under the operational risk framework, the need to ensure no distortion of competition with non-bank acquirers,⁶ and the need for a consistent treatment with previously published guidance from other CA.</p> <p>Industry highlighted that for one jurisdiction the proposed categorisation would change current CRR2 stance as published by its CA.</p> <p>Additionally, the industry argues that the realization of a loss due to a charge back is observed to be empirically low. The actual observed chargeback rates in the industry are historically very low, significantly below 0.6 % overall. Chargeback rates vary per industry and are different for in person versus online sales and for some industries, chargeback rates can be less than 0.2 %. Industry highlights that it is market practice to perform detailed analysis of chargebacks across merchant industries by the respective card schemes on an ongoing basis</p> | RTS on Annex I. Q&A 2016_2916 is no longer applicable and will be deleted. | |

make good its obligation; c. the product/service is not provided by another party e.g. an administrator/an entity that acquired the merchant's business; and d. there are no, or insufficient, cash reserves held back by the acquiring bank from the merchant to offset the chargeback claims.

⁶ According to the industry, "The majority of acquiring service providers are registered as PI/EMI and regulated under the supervisory regime of the Payment Services Directive (PSD). Although a certain capital requirement is prescribed for those non-bank acquirers under PSD, the amount of capital is much smaller than what it would be even when applying only a of 10 % CCF"

| Comments | Summary of responses received | EBA analysis | Amendments to the proposals |
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| Bucket 3 – Revolving limits | Some respondents ask for clarification regarding the example of revolving limits granted for overdraft on current accounts, which is listed in Bucket 3 of the B&R. They consider that this example should not be restricted to revolving limits granted for overdraft on current accounts but should be extended to all revolving loans and credit cards, that work in the same way as drawing from these products depends entirely on the clients' decision. | The list of examples provided in the B&R is non-exhaustive and is provided for illustrative purposes. If one example of Bucket 3 is currently limited to a specific kind of revolving limits, it does not mean that revolving limits not meeting the characteristics of this example are excluded from Bucket 3 allocation. | Amendment of the table of examples |
| Bucket 3 – Factoring | <p>Some respondents believe that the example under Bucket 3 on undrawn amounts of factoring arrangements is not reflecting the nature and specificities of the factoring business and their limits and hence, should be removed from the list.</p> <p>These respondents highlight that, on the one hand, most factoring limits are indeed provided on an uncommitted basis. This is still the case under the new definition of commitments as the arrangements fulfil Art. 5 (10) a) – e) CRR3. Hence these limits are out of scope of CCF application, as they cannot be considered as commitments.</p> <p>On the other hand, even if factoring limits were to be viewed as commitments, they should be seen as UCCs and would be classified in Bucket 5. Hence, there is no room to list this as an example in Bucket 3.</p> <p>One respondent asks for clarification of the terms “<i>while not being a credit substitute</i>” in the example under Bucket 3 on undrawn amounts of factoring</p> | <p>The example of factoring arrangements provided in the list under Bucket 3 is provided for illustrative purposes; it does not aim to contradict Level 1 text. Hence, it does not apply to factoring arrangements qualifying as UCC where their cancellation is not constrained by the factors referred to in Article 2 of these RTS, that should be allocated to Bucket 5. Also, it does not apply to contractual arrangements that meet the conditions set out in Article 5, points (10)(a) to (e) CRR3, for which the applicable percentage is 0% according to Article 111(4). This can be derived from the introduction sentence of bucket 3.</p> <p>On how to interpret the terms “while not being a credit substitute”, the example is clarifying that this is about cases where factoring is not a credit substitute, which is a justification of why the item under such circumstances should not be allocated to bucket 1.</p> <p>The “undrawn amounts of the factoring arrangements” is the maximum amount that can be drawn by the client without requiring prior decision</p> | No change |

| Comments | Summary of responses received | EBA analysis | Amendments to the proposals |
|--|---|--|------------------------------------|
| | <p>arrangements and more specifically, if this is it to be understood that in the case of some constellations an undrawn amount of a factoring arrangement can be regarded as credit substitute.</p> <p>One respondent also asks for the confirmation that terms “undrawn amounts of factoring arrangements” should be defined as the difference between the limit provided in the factoring contract and already drawn amount.</p> | by the institution, according to the contractual terms or internal limits. | |
| Non-credit risk item – Rental guarantee | <p>According to one respondent, it is not clear which bucket is to be applied to guarantees which are only partly dependent on a non-credit risk related event. In the case of a rental guarantee, which can be drawn by the beneficiary not only when the property is not returned in a good state (non-credit risk related even) but also when the rental payments are due and not paid (credit risk related event).</p> | The allocation should go to bucket 1, as the institution is already fully exposed to the credit risk of the guaranteed party. No event in addition to the non-payment of rental payments due has to occur before the beneficiary may trigger the guarantee. | No change |
| Other comments on Q1 – enforceability of the list of examples | <p>Most respondents argue that the list of examples provided in the B&R should not take precedence over off-balance sheet items that are already explicitly listed in Annex 1, as there is no EBA legal mandate to change their bucket allocation.</p> <p>According to CRR3 article 111(8), the EBA is mandated to specify the criteria that institutions shall use to assign off-balance sheet items, with the exception of items already included in Annex I, to the buckets 1 to 5 referred to in Annex I. EBA does not have a mandate to provide a list with examples of off-balance sheet item allocation. It does not</p> | The list of examples provided in the B&R is non-exhaustive and is provided for illustrative purposes, in order to help institution to apply the existing regulation. As such, it is not part of the RTS and is not intended to contradict the level 1 text. However, the EBA is of the view that applying Annex I CRR to the examples in this list would result in the bucket allocation as indicated. | Clarification in the B&R (para 15) |

| Comments | Summary of responses received | EBA analysis | Amendments to the proposals |
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| | matter that the list is not in the actual RTS, as it will be duly considered by competent authorities when assessing if institutions are compliant with the RTS. Thus, the list will be regulating how institutions apply the RTS. | | |
| Other comments on Q1 – amendments to level 1 text | One respondent would like to take advantage of an amendment to the text of the CRR to clarify the treatment of these warranties, mentioning them only in Bucket 4 and deleting them from Bucket 2. In the meantime, this respondent would like EBA to confirm that these warranties carry similar risks to instruments listed in Bucket 4. | The purpose of these RTS does not aim at reallocating off-balance sheet items explicitly mentioned in Annex 1 CRR, nor at discussing the political choices that were made during the CRR3 negotiations. Warranties are indeed listed in Bucket 4 and in Bucket 2 of Annex 1 CRR3, depending on their characteristics (trade finance, or not). | No change |
| Other comments on Q1 – IRB models | <p>One respondent would like to clarify whether the RWA calculation for binding mortgage offers and other commitments has to be made or can be made with the same approach that would be used for established contracts. For example, if mortgages are included in an IRB rating system, may or shall the institutions have to also apply the IRB approach to binding mortgage offers?</p> <p>This respondent would also like to clarify whether the extension of the IRB models to mortgage offers or other commitments should be considered as a change in the models and follow the established governance for these changes in terms of communications and requests with the supervisor.</p> | These questions on IRB models are out of scope of the RTS. They will be clarified in the context of the guidelines on CCF estimation. | No change |
| Question 2. Which is the average period of time given to the client to accept the mortgage loan offer? | | | |

| Comments | Summary of responses received | EBA analysis | Amendments to the proposals |
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| | | From the feedback of the industry, EBA concludes that there are heterogeneous practices in place with a central point of 30 days | |
| Question 3. What is the applicable percentage that institution currently apply to these commitments? | | | |
| | Generally, only few respondents provided feedback on this question. One respondent referred to EBA Q&A 2017_3376 on "Proposals for mortgage credit extension described in Article 14 of the Directive 2014/17/EU as off-balance sheet exposures" | On the reference to EBA Q&A 2017_3376 it should be noted that this QA is on the nature on off-balance sheet exposure and not on Annex I bucketing. | |
| Question 4. What is the average acceptance rate by the client of a mortgage loan offered by the bank? | | | |
| | | Only limited feedback was provided for this question. However, concerns were raised that the application of a 100% conversion factor would be overly conservative. | The proposed treatment for loan offers was amended to better reflect the actual risk of mortgage loan offers |
| CHAPTER 3 of the CP – Draft regulatory technical standards | | | |
| Question 5. Do you have any comment on the allocation criteria proposed under Article 1? | | | |
| Allocation of commitments | Several respondents raised concerns that the RTS goes beyond the EBA mandate as the perimeter should only be restricted to off-balance sheet items that are not explicitly mentioned in Annex I of the CRR. | The EBA agrees that buckets 1 and 2 should be set apart from bucket 3 . For this reason, a distinction is introduced in order to capture off-balance sheet items where there is a decision to be made by the obligors to convert the off-balance sheet items into on-balance-sheet (e.g. to draw on the credit lines or not). These products should, in the general case, be | Introduction of paragraph 3bis to Article 1 |

| Comments | Summary of responses received | EBA analysis | Amendments to the proposals |
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| | <p>In particular, it is considered that the wording of paragraphs 1 and 2 of Article 1 is very broad and would capture in practice all off-balance sheet items: paragraph 1 captures those that are not linked to a non-credit risk related event, and paragraph 2 those that are contingent on such an event. One concern raised was that the allocation of commitment to bucket 1 or 2 from the rule of this RTS would be in contradiction with the BCBS standard and the annex I of the CCR, where commitments are already mentioned in Bucket 3 (40% CCF) and in Bucket 5 (10% CCF) according to Annex I. The resulting increase in exposure value would increase the own fund requirements.</p> | <p>allocated to bucket 3 and not to buckets 1 and 2. In other words, what is relevant is whether there is uncertainty about the amount and timing of the clients' drawdowns. To note that an item could be split between bucket 1 and bucket 3 if only a part of the amount is to be drawn with certainty.</p> | |
| <p>Allocation of contingent items - non-credit risk related events: general discussion on the framework</p> | <p>Some respondents call for a clarification of the text. They argued that the examples mentioned in the consultation paper are diverse, with the only commonality that a non-credit risk event would need to occur for a loss to materialize.</p> <p>Other respondents called for a refinement of the approach, asking to factor in the likelihood of the non-credit risk event occurring for the allocation of buckets. One respondent highlighted that in his view, it isn't an appropriate reflection of risk to categorize every item in the same bucket. This respondent therefore asks the EBA to broaden the scope of assets analysed in order to more accurately reflect the risk of the exposures and allocate the contingent items to different buckets, where low probability items are allocated to Bucket 4 and high probability items are allocated to Bucket 2.</p> | <p>On the clarity of the text, Article 1(3) of the RTS has now clarified three criteria under which the institution is not yet fully exposed to the risk of credit losses in the event of the default of the obligor.</p> <p>On the risk sensitivity of the SA, it is recalled that this approach is a simplified method for calculating capital requirements for credit risk. The likelihood of the non-credit risk related event to occur is unknown and could vary between off balance sheet items.</p> <p>On the dynamic assessment, the application of 100% once the non-credit related condition has been triggered should not entail the application of a 0% before the condition is met. Conceptually the percentage represents a probability of drawdown conditional to the default of a third party, hence a 0% would mean a probability of conversion equals to 0%, i.e. that this conversion is never happening. Instead,</p> | <p>No change in the legal text of the RTS; however, see also comments to the specific examples provided in the B&R</p> |

| Comments | Summary of responses received | EBA analysis | Amendments to the proposals |
|---|---|--|-----------------------------|
| | <p>One respondent questioned the dynamic assessment over the life of the instrument of the contingent item. They argued that the uncertainty of when and if the non-credit event has occurred is already captured by assigning a certain CCF to each of the guarantees, which represents an ex-ante assessment. If it were not an ex-ante assessment, the respondent argued that the “ex ante CCF” should not be of 50%, but of 0% in the ex-ante assessment and turn it into 100% once the non-credit related event has happened, which we do not propose.</p> <p>Several respondents raised concerns on the practical implication of for documentary credits with deferred payment, as a narrow interpretation of the example could lead to a shift to Bucket 1 as soon as the presentation of the documents is done (as the non-credit risk related event is triggered).</p> | <p>before the non-credit related condition has been fulfilled a 50% should be assigned, representative of the uncertain conversion, which is reflected by and the reduction from bucket 1 to bucket 2. No change in the RTS is therefore needed.</p> <p>On the impact for some trade finance products, such as trade finance performance bonds, the EBA confirms that trade finance performance bonds are assigned to bucket 4 according to point (a)(i) of bucket 4 of Annex I CRR but only as long as the event covered by the performance bond is not triggered because that would turn this performance bond into a guarantee having the character of a direct credit substitute that is allocated to bucket 1 according to point (a) of bucket 1 of Annex I CRR. Also, for other trade finance products, the bucket allocation might depend on further circumstances and must therefore assessed for the individual situation.</p> | |
| Allocation of contingent items – contingent events in bucket 2 | <p>Some respondents questioned the restriction of the contingent conditions referred to in bucket 2 to only non-credit risk-related events. They expressed some concerns on performance bonds, which could be considered to be assigned to bucket 1 if the performance in the case where the failure to provide a service would be considered as a credit risk related event (when the failure in contractual obligation triggering the activation of the guarantee may be linked to credit risk amongst other reasons).</p> <p>It was also argued that financial covenants (i.e. the possibility to draw is conditional to the non-deterioration of the credit worthiness) should be</p> | <p>In response to the concerns raised on the distinction of buckets 1 and 2, the EBA has refined the concept of conditionality to provide for more clarity in this regard: Additionally, to the non-credit risk related event, a second criterion has been introduced to Article 1(3)(c), referring to contractual requirements related to the obligor’s creditworthiness that must be met for releasing the amount to be drawn to take into account financial covenants that prevent from a drawdown. Where no such contingency would exist anymore, the item should be assigned to bucket 1.</p> | <p>Yes</p> |

| Comments | Summary of responses received | EBA analysis | Amendments to the proposals |
|--|--|---|-----------------------------|
| | <p>used as a relevant factor to reduce the CCF. Such cases should not be allocated to Bucket 1 since the subsequent drawings are not at the clients' discretion but subject to bank's approval in relation to the fulfilment of specific conditions.</p> <p>In any case, if the restriction to non-credit event remains, it should be made clear that this only applies if the sole remaining trigger is credit risk related. In other words, if a credit risk related trigger is only one of several triggers (including certain non-credit risk related triggers), this should not be required to be allocated to Bucket 1.</p> | | |
| Allocation of contingent items – practical implementation for non-credit related events | <p>Some respondents highlighted that the dynamic monitoring over time of non-credit risk conditions is hardly feasible outside the trade finance perimeter. It would be extremely costly from an operational point of view to verify, contract by contract, the occurrence of the contingent event. In addition, the benefit of verification would be small as the assignment to bucket 1 would be short-term (the occurrence of the event normally leads to the execution of the guarantee and the exposure becomes on-balance sheet).</p> <p>Regarding the occurrence of the contingent event, one commentator states that there could be disputes between the applicant (the one who presents the guarantee claim) and the beneficiary, because the applicant does not agree with the beneficiary on the occurrence of the non-credit event. He claims that, in this case, there should not be a reallocation to bucket 1. Another respondent</p> | <p>On the burden of the monitoring, institutions not able to process with the dynamic monitoring of conditions related to these off-Balance sheet items should by default allocate these items to the most conservative treatment, i.e. bucket 1. Institutions should take reasonable steps to confirm whether non-credit related events have already occurred or not.</p> <p>On the dispute, the RTS should remain general for easy implementation, and therefore cannot address specific cases. For the sake of clarity, the general rule is that once all the non-credit risk related events have occurred, the off-balance sheet item should be reclassified to bucket 1. In the case where there is a doubt on the realization of the criteria, the allocation should be conservative and hence to bucket 1.</p> | No |

| Comments | Summary of responses received | EBA analysis | Amendments to the proposals |
|--|--|---|-----------------------------|
| | explains that in some cases the existence of the claim does not materialize in any payment because, for instance, the claim can be withdrawn by the beneficiary. | | |
| Question 6. Do you have any suggestion regarding allocation criteria for buckets 4 and 5? | | | |
| Trade finance items (bucket 4) – level 1 text | Several respondents highlighted that they deem it not justified to apply a 40% CCF instead of a 20% CCF for a commitment related to a trade finance facility, e.g. in case of a commitment to open short-term self-liquidation trade letters of credit arising from the movement of goods. | Article 111(3) already specifies that, in the case of a commitment on an off-balance sheet item, the lower of the percentage applicable to the commitment and the percentage applicable to the off-balance sheet item would apply. | No |
| Trade finance items (bucket 4) - Items not exactly meeting the trade finance definition | <p>Most respondents disagree with the example given in the B&R, according to which all documentary credits in which the underlying shipment does not act as collateral should be allocated to Bucket 2 (50% CCF), while all trade finance items should fall under Bucket 4 (20% CCF) according to Annex I of CRR3. They understand non-collateralised letters of credit already being listed as eligible for the 20% CCF treatment. Thus, they should not be transferred to Bucket 2.</p> <p>One respondent believes that the non-exhaustive list of examples should cover also other buckets of products especially trade-related products that should be included in Bucket 4, for the sake of clarity. Current definition of trade finance remains to large extent open-ended. Further clarification regarding the maximum expiry date (trade finance</p> | <p>On the collateral, it is noted that already CRR2 had made an explicit distinction between:</p> <p><i>“(a) trade finance off-balance sheet items, namely documentary credits issued or confirmed (see also ‘Medium/low risk’);”,</i> which are assigned to bucket 2 (“medium risk”)</p> <p><i>“(a) trade finance off-balance sheet items, (i) documentary credits in which underlying shipment acts as collateral and other self-liquidating transactions;”,</i> which are assigned to bucket 3 (“medium/low risk”)</p> <p>However, the example was removed from the background and rationale.</p> <p>On the one year reference, as the definition of trade finance did not change between CRR2 and CRR3, EBA confirms its stance on this matter that has already been applied in the past (see e.g. Q&A 2198).</p> | Yes |

| Comments | Summary of responses received | EBA analysis | Amendments to the proposals |
|--|--|---|-----------------------------|
| | <p>definition says ‘<u>generally</u> of less than one year’)⁷ and understanding of ‘exchange of goods and services’ would be desired.</p> <p>Hence, according to the respondents it should be clarified that the example provided in the non-exhaustive list for documentary credits under Bucket 2 (50% CCF) does not disallow those documentary credits - relating to trade finance - that already recognised in Annex I, under bucket 4 (20%).</p> <p>Some respondents also claimed that the trade finance items were understood more broadly under CRR2 than what is proposed in the RTS.</p> | | |
| Trade finance items (bucket 4) - Tax, shipping and customs guarantees | <p>According to one respondent, tax, shipping and customs guarantees that are trade finance and can be linked to commercial transactions while depending on the technical performance of a company before being claimed by the beneficiary should fit into bucket 4 allocation.</p> | <p>The list of examples provided in the B&R is non-exhaustive and is provided for illustrative purposes; it is not part of the RTS. The example in Bucket 2 <i>"Shipping guarantees, customs and tax bonds that do not meet the definition of trade finance, as they relate to transaction-related contingent events, where the trigger event is not credit risk related"</i> is only limited to non-trade finance exposures.</p> <p>Consequently, tax, shipping and custom guarantees, unless having the character of a direct credit substitute for already certain tax or customs payments that requires allocation to bucket 1, must be allocated to bucket 2 whenever they are not trade finance; if they are trade finance, they can be allocated to bucket 4 in accordance with point (a)(i)</p> | No |

⁷ "trade finance" is defined under article 4(1)(80) CRR: "'trade finance' means financing, including guarantees, connected to the exchange of goods and services through financial products of fixed short-term maturity, generally of less than one year, without automatic rollover".

| Comments | Summary of responses received | EBA analysis | Amendments to the proposals |
|--------------------------|--|---|-----------------------------|
| | | of bucket 4 of Annex I CRR which explicitly requires not having the character of credit substitutes. | |
| UCC (buckets 3-5) | <p>Several respondents asked to further clarify the definition of UCC.</p> <p>These respondents claim that it should be sufficient if the commitment contract includes a cancellation provision with which bank has the right to terminate the commitment if the borrower's creditworthiness deteriorates, not being mandatory that the contract includes provisions that it is automatically terminated in case the borrower's creditworthiness deteriorates.</p> <p>Another question is whether "and related legal acts" refers to other "law/regulation" in the area of consumer protection or if it could also refer to other possible provisions regarding the granting of credit to an entity other than a consumer. The same commentator states that he does not see the "unconditionality" in the second part of the definition of UCC, since a deterioration in creditworthiness must occur in order to automatically cancel the unused commitment.</p> <p>In addition, some respondents expressed disagreement on the rule to allocate "<i>UCC meeting the Article 2 criteria</i>" automatically in bucket 3. Instead, the respondents argued in favour of allocating the products according to the other "non UCC related" characteristics. This could therefore lead to other bucket allocations (e.g. 4 in the case</p> | <p>The EBA agrees that items with constraint UCC criteria should be assigned to the bucket disregarding cancellation criteria. This stance has been implemented to paragraph 4 of Article 1, accordingly.</p> | Yes |

| Comments | Summary of responses received | EBA analysis | Amendments to the proposals |
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| | the products are meeting the trade finance conditions in annex 1). | | |
| Missing items | One commentator suggested to include the off-balance sheet items included in currently existing CA guidance directly to the RTS | Some examples from currently existing CA guidance are already included in the examples in the background and rationales. However, this guidance is based on CRR2. Therefore, the allocation of off-balance sheet items in those lists could no longer be correct according to CRR3. | No |
| Question 7. Do you have any comment on the factors that may constrain unconditionally cancellable commitments proposed under Article 2? | | | |
| General comments – difficulty to assess the criteria | The feedback on this question was highly negative. Respondents highly disagreed with the proposed approach, making some general comments on the approach proposed in the RTS. | | |
| | The criteria are highly subjective , hence granting local competent authority too much flexibility, which could lead to level playing field practices in the EU, and will create legal uncertainty. The outcome of the assessment could also change overtime, and would hardly be auditable, given the expert-based judgment. In general, the process of assessment and the supporting documentation could be clarified. | The EBA agrees that the assessment of the criteria may be challenging. Therefore, the EBA implemented the proposal to have a positive identification of the factors (instead of putting the burden of the proof on institutions to prove the non-existence of such limitation factors). | Yes |
| | The criteria are too broadly defined , and since they do not incorporate any materiality considerations, would not be passed by any institution. One respondent suggested to clarify that instead of proving that a factor does not exist, institution | | |

| Comments | Summary of responses received | EBA analysis | Amendments to the proposals |
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| | <p>should rather analyse whether a particular factor is met. However, other respondents noted that the risk mentioned are impossible to avoid fully, and as such it will not be possible to demonstrate that they objectively don't exist.</p> | | |
| General comments challenging the mandate | <p>Some respondents also disagreed with the mere introduction of these criteria</p> <ul style="list-style-type: none"> ▪ The criteria are already accounted in the 10% CCF applied to UCC, hence introducing a double counting. The industry referred to the first consultation paper published by the BCBS⁸, and argued that the narrowing down of the scope of application of the UCC mentioned in the second consultation paper ▪ The criteria relate to risks that are in practice inexistent or not material anyway. Arguments provided were, among other, the use of advanced analytics and robust and stringent process that ensures the adequate cancellation of the line as soon as early warning of deteriorating creditworthiness of the clients are detected. Some respondents also questioned the mandate, considering that the contractual arrangements | <ul style="list-style-type: none"> ▪ The national discretion to specify further the constraining factors is present in the Basel text itself, and this reflects the iterative process undertaken while drafting the standard. Indeed, in the first Basel Consultation paper, the factors were indeed factored in the 10% CCF value. However, the 10% CCF value proved to be insufficient, which led to a revision of the text and the national discretion in the final standard. ▪ On the assumption of the non-existence or non-materiality of the risk, this cannot be assumed to be observed for all institutions, and the EBA should in any case fulfil its mandate. ▪ On the link with other frameworks, Litigation risk and operational risk are further discussed below, while pillar 2 can be seen as an assessment that comes on the top of pillar 1. | No |

⁸ [D307](#), page 18: Commitments that a bank may cancel unconditionally and at any time without prior notice, or that effectively provide for automatic cancellation due to the deterioration in a borrower's creditworthiness, currently receive a 0% CCF. However, consumer protection laws, risk management capabilities and reputational risk considerations may constrain banks' ability to cancel such commitments. For this reason, the Committee believes a 0% CCF is inappropriate and proposes a new CCF of 10% for such exposures

| Comments | Summary of responses received | EBA analysis | Amendments to the proposals |
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| | <p>were in practice what was driving the cancellability of the lines. was not retained in the CRR.⁹</p> <ul style="list-style-type: none"> ▪ They relate to risk captured in other framework (operational risk framework, pillar 2 & usual CA monitoring) | | |
| Interaction with accounting framework | <p>Some respondents highlighted that the RTS could have an impact on the accounting framework, being considered as an application guidance for the distinction between (a) the unconditionally & immediately cancellable loan commitments subject to “<i>behavioural maturity</i>” and (b) the unconditionally & immediately cancellable loan commitments not subject to “<i>behavioural maturity</i>”¹⁰.</p> | <p>These RTS cannot elaborate on this topic, as it only deals with the prudential treatment of off-Balance sheet items recognised under the CRR, regardless of their accounting treatment.</p> | No |
| Level of assessment | <p>The RTS should clarify the level at which these criteria should be assessed. Possible level of analysis mentioned are at bank level, geographical level (e.g. jurisdiction level, as hinted with the reference in paragraph 14 of the CP), the type of exposure level and the specific individual exposure level.</p> | <p>It is clarified in the RTS that the level of assessment should be appropriate for the level of the risk considered. Therefore, for instance, the risk management deficiencies can be at institution level, while commercial considerations could be at type of exposure level.</p> | Yes |

⁹ [D347](#) Page 15: Based on QIS data and other studies performed by the Committee, the Committee notes that the appropriate CCF for this category should be higher than 10%. The Committee proposes to narrow the scope of this category to commitments that are unconditionally cancellable in practice. Specifically, the Committee proposes to apply a reduced CCF between 10% and 20% only to retail commitments (e.g. credit cards). All other non-retail commitments that are currently categorised as UCC would be treated as general commitments. The Committee intends to conduct further analysis on the appropriate definition of this category and its calibration.

¹⁰ According to the industry, the RTS could be used as a basis for the evaluation of the criterion (b) in B 5.5.39

| Comments | Summary of responses received | EBA analysis | Amendments to the proposals |
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| Relevance of the assessment | <p>The RTS could clarify that the risks mentioned are only relevant if they can occur in the context of a line cancellation (i.e. for instance, a deficiency in the risk management procedure in relation to the identification of a deterioration of credit worthiness for clients without UCC should not have an impact on the allocation of UCC to bucket 5).</p> | <p>The EBA agrees with the introduction of such clarification. The assessment, if a risk can occur in the context of a line cancellation, could be based e.g. on the contractual characteristics but in any case must also consider empirical evidence from the past experience of the institution.</p> | Yes |
| | <ul style="list-style-type: none"> ▪ Three proposals were made in relation to specific conditions, but could in fact be more generalised: ▪ It should be defined in a positive way what needs to be ensured such that the criterion is NOT met (i.e. the product can benefit from the 10% CCF): <ul style="list-style-type: none"> ○ condition a) it contractually provides for cancellation in case of client's creditworthiness deterioration; and ○ condition b) it is subject to a risk management process which allows that the credit deterioration is detected in a timely manner and that there is no substantial time lag between the observed deterioration and the cancellation of the line. ▪ It should be referred to an internal decision made by the institution that it is highly likely to pay out due to specific client credit-worthiness | <ul style="list-style-type: none"> ▪ In relation to the existence of an internal control system, the requirement is too general to be considered as sufficient to prevent some constraints in the cancellation of the lines. ▪ In relation to the clarification on contracts with cancellation clause limited to liquidation, as this is only one example of a constrain on the cancellability, this is not added in the RTS, but the EBA confirms the general understanding of the respondent that the deterioration of credit worthiness is a concept that is more general (and arrives sooner) than the liquidation. | No |

| Comments | Summary of responses received | EBA analysis | Amendments to the proposals |
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| | <p>considerations (as potentially referenced in the institution's formal ICAAP/ ILAAP documentation). The industry pointed out the guidance contained in the ECB Guide to Internal models 2024¹¹ which requires institutions to have in place internal control systems that allow them to act in the event that a deterioration in the obligor's credit quality is detected.'</p> <ul style="list-style-type: none"> contracts that could be automatically cancelled only in case of liquidation, should be specifically mentioned as not meeting the condition, since the credit deterioration allowing for cancellation is too specific to constrain drawing. | | |
| Risk management procedure | <p>On the risk management procedure (criterion a), the industry proposed to</p> <ul style="list-style-type: none"> Restrict the criterion to cases of deficiency in the risk management related to a mere identification of the credit deterioration of the client (and not the cancellation of the line itself); | <p>The risk management procedure in relation to the cancellation of the line once the deterioration of the credit risk assessment is observed, should be in the scope of this criteria</p> <p>In relation to the distinction between a supervisory finding and the internal audit recommendation, the proposal is deemed too specific to be dealt with in the technical standards. Institutions should assess</p> | No |

¹¹ https://www.bankingsupervision.europa.eu/ecb/pub/pdf/ssm.supervisory_guides202402_internalmodels.en.pdf

It is the ECB's understanding that, to comply with the conditions established under Article 166(8)(a) and (c) of the CRR and to apply a 0% CCF, institutions should have in place internal control systems that allow them to monitor the obligor's financial condition and to act in the event that a deterioration in the obligor's credit quality is detected. They should also be able to provide evidence that the internal control systems work effectively. For this purpose, institutions should demonstrate that there is only a very limited number of exposures of a particular type observed during the previous year for which the EAD is higher than the drawn amount at the reference date. This analysis should be performed on a regular basis. The ECB considers it best practice when institutions perform this analysis on an annual basis

| Comments | Summary of responses received | EBA analysis | Amendments to the proposals |
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| | <ul style="list-style-type: none"> Make a distinction between a supervisory finding in the risk management procedure, versus an internal audit recommendation being issues. | whether the issue identified has some consequences on the non-cancellability of the lines, independently from the source of identification of the problem. | |
| Commercial consideration | On the commercial consideration (criterion b), the industry proposed to clarify that this should not be based on commercial consideration in relation to other credit lines than the relevant commitment. | Commercial considerations in relation to other commitments than the one considered could have a material impact on the cancellability of the UCC, and these should be considered as a relevant constraining factor. Consequently, the assessment of commercial considerations should not be limited to the relevant commitment. | No |
| Reputational risk | On the reputational risk (criterion c), no specific counterproposal was provided (beyond the proposal to remove the criteria, as per the general considerations mentioned above). | | No |
| Litigation risk | On the litigation risk (criterion d), beyond the proposal to remove the criteria, as per the general considerations mentioned above, a counterproposal from the industry was to base the assessment on concrete cases of litigation observed. The industry also noted that this risk could be affected by national legal framework of each country, with hence a risk of fragmentation and unlevel playing field. | Paragraph 4 redrafted to indicate more clearly that litigation risks address only cases, where the obligors would suffer a loss from the cancellation of a particular commitment. | Yes |
| Question 8. Do you have any comment on the notification process proposed under Article 3? | | | |
| Clarity of the proposal | Most of the respondents deemed the proposal as unclear, considering that it was simply referring to COREP, but the upcoming COREP amendment was | As a first step, an additional line is introduced to COREP in Template C 07.00 (row 085). This | None |

| Comments | Summary of responses received | EBA analysis | Amendments to the proposals |
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| | <p>not further specified. Nevertheless, some comments were sent, relating to:</p> <ul style="list-style-type: none"> ▪ The inappropriateness of COREP in relation to a non-recurring notification ▪ The possibility to report to CA on a yearly basis, along with the rationale of the allocation, and with a subsequent publication by the EBA of these assignments. ▪ The need to not use Q&A tools, considering that this could give rise to confidentiality issues for specific products; ▪ The level at which the notification should be sent (at a granular transaction level, where legal contracts could be specifically designed to reduce risk to another bucket, or is for more general product type). | information will be the basis for further supervisory and regulatory action. | |
| Interaction with the notification in relation to model changes | One respondent requested a clarification that this notification process is independent from the notifications sent in the context of a model change in the IRB framework | The notification process is independent from the notification process in relation to the materiality of model change | None |

CHAPTER 5 of the CP – Accompanying documents

Question 9. For credit institutions:

- What is the materiality in your institution of the off-balance sheet items that would fall under the categories “Other off-balance sheet items carrying similar risk and as communicated to EBA” listed in each bucket of Annex I?

| Comments | Summary of responses received | EBA analysis | Amendments to the proposals |
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| <ul style="list-style-type: none"> Do you identify any specific item you may hold off-balance sheet that is currently classified as “Other off-balance sheet items carrying similar risk and as communicated to EBA” and that may experience a change in bucket allocation based on the criteria listed in Article 1 of these RTS? What would be the related change in the associated percentage as per article 111(2)? | | | |
| None of the respondent provided an estimation of the materiality of the “other off balance sheet items”. | | | None |
| Several respondents mentioned that the applicable percentage would change for the “Contingent liability/chargeback positions in acquiring business”, highlighting the assignment of chargeback items as too conservative: discussed in the context of Question 1. | | | Example deleted from Table 1 |

