

✘ Single Rulebook Q&A

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Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 as amended by Regulation (EU) 2019/876 (CRR2)
Topic	Credit risk
Article	178
Paragraph	-
Subparagraph	-
COM Delegated or Implementing Acts/RTS/ITS/GLs/Recommendations	EBA/GL/2016/07 - Guidelines on the application of the definition of default under Article 178 CRR
Article/Paragraph	23, 24
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Disclose name of institution / entity	No
Type of submitter	Consultancy firm
Subject matter	Technical past due situation - Factoring
Question	How should the situation in terms of technical default be treated when there are two past due purchased receivables (each individually material) and one of them is repaid by the obligor while the second one is still due?
Background on the question	<p>Paragraphs 23 and 24 of the EBA Guidelines on the application of the definition of default in specify the situations, which should be considered technical past dues.Paragraph 23, point (d) names factoring arrangements as one of the technical past due situations if none of the receivables to the obligor is past due more than 30 days.Several questions arise in connection with this provision, especially in terms of the calculation of days past due when there are two past due purchased receivables (each individually material) and one of them is repaid by the obligor while the second one is still due. First example (simplified)• The bank has two purchased receivables (both recorded on its balance sheet and each individually material). The first receivable was due on 31 December 2021 and the second receivable was due on 31 January 2022.• On 14 February 2022 the obligor repaid the first receivable, however the second receivable remained unpaid.• Since the second receivable was past due less than 30 days on 14 February 2022, it is not clear if the bank can consider the second receivable to be in technical past due situation until 1 March 2022</p>

(due date 31 January 2022 + 30 days). Second example (simplified)• The bank has two purchased receivables (both recorded on its balance sheet and each individually material). The first receivable was due on 31 December 2021 and the second receivable was due on 10 January 2022.• The obligor did not repay the first receivable on 31 December 2021. Thus, it can be regarded as in the technical past due situation until 30 January 2022 (due date 31 December 2021 + 30 days).• On 14 February 2022 the obligor repaid the first receivable, however the second receivable remained unpaid.• Since the second receivable was past due more than 30 days on 14 February 2022, it is not clear if the bank cannot consider the second receivable to be in the technical past due situation.

EBA answer

Paragraph 23 of the [Guidelines on the application of the definition of default under Article 178 of Regulation \(EU\) No 575/2013](#) defines certain events as “technical past due situations”. It follows from Paragraph 24 of the same Guidelines that these events are excluded from being considered as a default in terms of Article 178 of Regulation (EU) No 575/2013.

Paragraph 23 point (d) of the Guidelines on the application of the definition of default under Article 178 of Regulation (EU) No 575/2013 set up a particular treatment for factoring without recourse arrangements, where the purchased receivables are recorded on the balance sheet of the institution and the institution applies the definition of default at obligor level.

Past due amounts for these exposures are defined as technical past due situations when:

- the materiality threshold set by the competent authority corresponding with point (d) of Article 178(2) of Regulation (EU) No 575/2013 is exceeded for more than 90 days but
- none of the receivables to the obligor is past due more than 30 days.

By considering that a technical past due situation has occurred where an obligor breaches the materiality threshold and the receivables are not past due more than 30 days, this provision prevents an obligor from being considered in defaulted status only if no other material credit obligations to the obligor other than purchased receivables are past due by more than 90 days. In case an obligor is materially past due for more than 90 days on credit obligations other than receivables, he or she has to be considered as defaulted regardless of the past due status of the receivables. This approach takes into account the specific characteristics of factoring arrangements, where the institution may have many receivables towards one debtor and those receivables are frequently replaced, and the client pays the obligations regularly with just small delays.

While the definition of default may be applied in accordance with Article 178 of Regulation (EU) No 575/2013 at the level of the total obligations of an obligor in general and in concrete cases with respect to retail exposures it may be applied at the level of an individual credit facility the specific situation addressed in Paragraph 23 point (d) of the Guidelines on the application of the definition of default under Article 178 of Regulation (EU) No 575/2013 refers by its very nature to the application of the definition of default at the level of an obligor, and not of an individual purchased receivable.

As a result, as long as the materiality threshold set by the competent authority in accordance with point (d) of Article 178(2) of Regulation (EU) No 575/2013 is exceeded at the level of an obligor and at least one purchased receivable is past due more than 30 days, the conditions for applying a technical past due situation in terms of Article 23 point (d) of the Guidelines on the application of the definition of default under Article 178 of Regulation (EU) No 575/2013 are not fulfilled. In other words, a technical default in the meaning of the preceding sentence would limit the application of the materiality threshold by not triggering a default (at the level of an obligor) in those specified cases, where none of the receivables to the obligor is past due more than 30 days, even though the materiality threshold would be exceeded. Therefore, it is worth noting that in case of partial repayment by an obligor, the number of days past due of the remaining receivables will still increase and the default status should be triggered as soon as a single receivable will be past due by more than 30 days if the obligor's past due counter exceeds 90 days.

See also [Q&A 4504](#).

Link	https://www.eba.europa.eu/single-rule-book-qa/-/qna/view/publicId/2019_4505
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