

Agreement on emergency liquidity assistance

17 May 2017

1 Scope of this document

1.1 This document presents a definition of emergency liquidity assistance (ELA) and describes the allocation of responsibilities, costs, and risks for ELA operations, as well as a framework for provision and exchanges of information and the control of liquidity effects to prevent any provision of ELA from interfering with the objectives and tasks of the European System of Central Banks (ESCB). Furthermore this document acknowledges that ELA must be in compliance with the prohibition of monetary financing (Art. 123 of the Treaty of the Functioning of the European Union (TFEU)).

1.2 For the purposes of this document, ELA occurs when a Eurosystem national central bank (hereinafter an 'NCB') provides:

- (a) central bank money and/or
- (b) any other assistance that may lead to an increase in central bank money

to a financial institution or a group of financial institutions facing liquidity problems, where, in either case, such operation is not part of the single monetary policy.

2 Allocation of responsibilities, costs and risks

2.1 The main responsibility for the provision of ELA lies at the national level, with the NCBs concerned.

2.2 This means that any costs and risks arising from the provision of ELA are incurred by the NCB concerned (or by a third party acting as a guarantor).

3 Flow of information, control of liquidity effects and monetary policy

3.1 In order to ensure that ELA operations do not interfere with the single monetary policy of the Eurosystem, the European Central Bank (ECB) would have to be informed or consulted as laid down in Section 3.2 below. This information should allow a smooth sterilisation of any undesired liquidity effects and an assessment of any systemic implications. The information

obligations provided for in this agreement are additional and without prejudice to any other information obligations that apply under the current legal framework.

3.2 The information to be provided consists at least of the following and shall be provided either by the NCB concerned or, in case the institution receiving ELA shall provide information, such NCB shall ensure that this information is provided by the institution to the NCB and passed on by the NCB to the ECB without undue delay:

(a) regardless of the size or nature of ELA operations:

(i) NCBs should always inform the ECB of the details of any ELA operation, at the latest, within two business days after the operation was carried out. The information needs to include, at least, the following elements: (1) the name(s) of the financial institution(s) to which the ELA is (intended to be) provided; (2) the value date and maturity date of the ELA that is (intended to be) provided; (3) the volume of the ELA that is (intended to be) provided; (4) the currency in which the ELA is (intended to be) provided; (5) the collateral/guarantees against which the ELA is (intended to be) provided, including the valuation of, and any haircuts applied to, the collateral provided and, where applicable, details on the guarantee provided and terms of any contractual safeguards; (6) the interest rate to be paid by the institution receiving ELA that is (intended to be) provided; (7) the specific reason(s) for the ELA (intended to be) provided (i.e. margin calls, deposit outflows, etc.); (8) the prudential supervisor's assessment of the liquidity position and solvency of the institution receiving ELA; and (9) where relevant, an assessment of the cross-border dimensions and/or of the potential systemic implications of the situation that has made/is making the extension of ELA necessary.

After the initial notification, further relevant information should be provided on an ongoing basis until ELA is repaid. Ex post information on all features mentioned under points 1 to 9 above has to be provided, to the extent that this information has not already been provided ex ante. Any information (except for collateral valuation changes) provided needs to be updated if it has changed as compared to the previous day. Collateral valuation changes should be updated when other information changes are reported or upon request by the ECB;

(ii) in addition, the institution receiving ELA must provide a funding plan within two months following the first provision of ELA and for as long as the institution is receiving ELA it must update the funding plan on a

quarterly basis. The funding plan shall be provided in line with the funding plan procedure approved by the Governing Council on 25 September 2015;

- (iii) the institution receiving ELA must provide on a monthly basis up-to-date information on the precise level of regulatory capital ratios (i.e. Common Equity Tier 1 capital, Tier 1 and Total Capital Ratios) as well as the Leverage Ratio as reported under Regulation (EU) No 575/2013 on prudential requirements for credit institutions and investment firms (CRR) on an individual (if applicable) and consolidated (if applicable) basis within two months after the end of each reference month;
 - (iv) any institution receiving ELA which was in breach of the own funds requirements under the CRR must submit a recapitalisation plan to the ECB for assessment within a timeframe determined by the Governing Council;
 - (v) where ELA is provided for a period longer than six months, the Governor(s) of the NCB(s) concerned must address a letter to the President of the ECB outlining the intended exit strategy from the ELA provision and for as long as the institution is receiving ELA it must update the exit strategy in case of relevant changes to the exit plan.
- (b) where the size of ELA operations envisaged by one or more NCBs for a given financial institution or a given group of financial institutions exceeds a threshold of €500 million, the NCB(s) involved should inform the Executive Board of the ECB at the earliest possible time prior to the extension of assistance, providing background information about the nature of the problem, as well as about the instruments to be used and the liquidity implications of the assistance. This information will be provided by the Executive Board to the Governing Council. The size of ELA operations for a given financial institution or group of financial institutions should be determined as the best possible estimate of the total cumulative amount of assistance needed to resolve the liquidity crisis, considering the financial institution or group of financial institutions on a consolidated basis and including its foreign branches (i.e. also including any potential additional assistance by another NCB to subsidiaries or branches in other euro area countries).

3.3 In addition to the foregoing, where the size of ELA operations envisaged by one or more NCBs for a given financial institution or a given group of financial institutions exceeds a threshold of €2 billion, on the basis of all the information available, the Executive Board shall decide in a timely manner whether the

issue needs to be addressed by the Governing Council. If the Executive Board comes to the conclusion that there is a risk that the respective ELA interferes with the single monetary policy of the Eurosystem, it shall request the Governing Council to take a position on this issue at short notice (if necessary at an extraordinary meeting or by means of a teleconference). The NCB(s) is (are) free to undertake the planned ELA operations, unless the Governing Council decides to prohibit the execution of the operations, on the grounds that they interfere with the single monetary policy of the Eurosystem, within 24 hours of the notification by the NCB(s).

At the request of the NCB(s) concerned, and in order to expedite ELA operations in the case of particular urgency or to avoid potential systemic implications, the Governing Council may decide not to prohibit potential future ELA operations to deal with the same problem up to a certain ceiling and within a short pre-specified period of time, which may be extended by a subsequent decision. Such ceiling may also refer to several financial institutions and/or several groups of financial institutions at the same time. The NCB should submit its request to the ECB at least three business days before the Governing Council meeting at which the request is to be considered, together with

- (a) all available ex ante information on the elements listed under points 1 to 9 of Section 3.2(a)1. above, under the conditions set out therein. Where the threshold refers to several financial institutions or several groups of financial institutions at the same time, the information should be provided on a bank-by-bank basis; and
- (b) a projection – covering, in principle, the period up to the next regular Governing Council meeting – of the funding gap for each individual bank that is to receive ELA on the basis of two scenarios, namely the expected scenario and a stress scenario.

Such Governing Council decision(s) is (are) taken on the basis of a majority vote of two thirds. If immediate action was necessary to avoid systemic implications, then the NCB(s) could undertake an overnight operation while the Governing Council's decision(s) was (are) pending. The Executive Board has to be informed immediately about any such overnight emergency operation.

Section 3.3 does not apply to operations defined in Section 1.2(b) that have contractual safeguards in place to ensure that the financial institution or group of financial institutions cannot use the assistance they received as collateral for Eurosystem credit operations, subject to: (a) adequate monitoring by the lending NCB; and (b) any Governing Council decision under Article 14.4 of the

Statute of the European System of Central Banks and of the European Central Bank (ESCB Statute).

- 3.4 In case the ELA operations concern a banking group with branches and subsidiaries in several Member States of the euro area, the NCBs concerned are expected to establish networks, with the aim of facilitating their cooperation. The coordination of such networks will be entrusted to the central bank of the Member State, where the Eurosystem parent of the banking group is established in order to facilitate the fulfilment of the obligations set out in this agreement by the NCBs concerned. The ECB in its monetary policy function and the Eurosystem will be involved in accordance with their responsibilities. As appropriate, these central bank networks will cooperate closely with the colleges of supervisors or the SSM on matters of common interest.
- 3.5 Where an NCB intends to enter into a liquidity arrangement with a non-Eurosystem national central bank or monetary authority with the purpose of facilitating the provision of emergency euro or foreign currency liquidity to a financial institution or a group of financial institutions operating within or outside the euro area, such NCB should notify the Governing Council, via the Executive Board, in advance of the establishment of any such arrangement. The information to be provided should be - to the extent already available - the same as laid down in Sections 3.1 and 3.2(a), including the name of the NCB's counterparty to the arrangement (i.e. the non-Eurosystem national central bank or monetary authority). Sections 3.2(b) and 3.3 shall apply *mutatis mutandis* as regards principles and procedures for the assessment of these arrangements.

4 ELA solvency criterion for credit institutions

A credit institution is considered solvent for ELA purposes if:

- (a) its Common Equity Tier 1, Tier 1 and Total Capital Ratio as reported under CRR on an individual (if applicable) and consolidated (if applicable) basis comply with the harmonised minimum regulatory capital levels (namely 4.5%, 6% or 8%, respectively); or
- (b) there is a credible prospect of recapitalisation - in case (a) is not met, i.e. the Common Equity Tier 1, Tier 1 and Total Capital Ratio, on an individual and/or consolidated basis, do not comply with the harmonised minimum regulatory capital levels (namely 4.5%, 6% or 8%, respectively) - by which harmonised minimum regulatory capital levels would be restored within 24 weeks after the end of the reference quarter of the data that showed that the bank does not comply with harmonised regulatory minimum standards; in duly justified, exceptional cases the Governing Council may decide to prolong the grace period of 24 weeks.

5 Situations where ELA may be limited or prohibited

- 5.1 NCBs may provide ELA unless the Governing Council finds, pursuant to Article 14.4 of the ESCB Statute, that the provision of ELA interferes with the objectives and tasks of the ESCB.
- 5.2 The violation of the prohibition of monetary financing laid down in Article 123 TFEU may constitute an interference with the objectives and tasks of the ESCB. The provision of ELA as notified under Sections 3.2(b) and 3.3 is, therefore, assessed ex ante as regards compliance with the prohibition of monetary financing.
- 5.3 ELA transactions akin to an overdraft facility or any other type of credit facility for the State, in particular, any financing of the public sector's obligations vis-à-vis third parties, or the central bank de facto taking over a State task, violate the prohibition of monetary financing.
- 5.4 ELA provision to insolvent institutions and institutions for which insolvency proceedings have been initiated according to national laws violates the prohibition of monetary financing.

6 Duration of ELA

- 6.1 The provision of ELA may only exceed 12 months following a non-objection by the Governing Council requested by the Governor of the NCB concerned at the latest once the provision of ELA exceeds 10 months.
- 6.2 In relation to any provision of ELA exceeding 12 months:
 - (a) the Governor of the NCB concerned must justify the further provision of ELA in a letter to the President of the ECB on a monthly basis; and
 - (b) the Governing Council may impose additional requirements and conditions.

7 Pricing of ELA

- 7.1 NCBs charge a penalty interest rate to the institution receiving ELA.
- 7.2 In the case of ELA euro-denominated reverse transactions, NCBs should in principle apply a minimum rate equal to the Eurosystem's Marginal Lending Facility rate plus 100 basis points, irrespective of the net cost of relevant guarantees and other costs of collateral.

- 7.3 In the case of euro-denominated intraday ELA reverse transactions, NCBs should in principle apply a minimum rate equal to 1% p.a.

8 Communication on ELA

- 8.1 NCBs have the option to communicate publicly about the aggregate provision of ELA in their country, in cases where they deem that such communication is necessary.
- 8.2 In case an NCB deems it necessary to publish information on ELA, the NCB must notify in advance the intended communication plan and content including a communication proposal, to the Governing Council.
- 8.3 The NCB's communication should not refer to any assessments or decisions of the Governing Council, but may contain the following information:
- (a) the ELA ceiling (including the duration of its applicability) to which the Governing Council did not object;
 - (b) the actual amount of ELA provided by the NCB on average over a recent period of time; and
 - (c) relevant context information, where deemed helpful to facilitate a proper perception by the public.
- 8.4 The Governing Council may object to the proposed communication plan and content in view of the potential broader confidence and financial stability implications for the euro area.

9 Review

This document will be reviewed in the course of the year 2019 at the latest.

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Postal address 60640 Frankfurt am Main, Germany
Telephone +49 69 1344 0
Website www.ecb.europa.eu

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