

BANKING RULE BR/02

LARGE EXPOSURES

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REVISIONS LOG

VERSION	DATE ISSUED	DETAILS
1.00	February 2011	New Banking Rule BR/02 on the regulation of large exposures
2.00	January 2014	BR/02 repealed in its entirety and replaced by an Explanatory Note highlighting the requirements on large exposures emanating from the CRR
3.00	January 2023	Explanatory Note is being repealed and the BR/02 is being re-published to implement the EBA Guidelines specifying the criteria to assess the exceptional cases when institutions exceed the large exposure limits of Article 395(1) of Regulation (EU) No 575/2013 and the time and measures to return to compliance pursuant to Article 396(3) of Regulation (EU) No 575/2013, and the EBA Guidelines specifying the conditions for the application of the alternative treatment of institutions' exposures related to 'tri-party repurchase agreements' set out in Article 403(3) of Regulation (EU) 575/2013 for large exposures purposes

BANKING RULE ON LARGE EXPOSURES OF CREDIT INSTITUTIONS LICENSED UNDER THE BANKING ACT

INTRODUCTION

1. In terms of Article 4 of the Banking Act (Cap. 371 of the Laws of Malta) (the 'Act'), the Malta Financial Services Authority (the 'Authority') as appointed under Article 3(1) of the Malta Financial Services Authority Act (Cap. 330 of the Laws of Malta) is empowered to make Banking Rules (the 'Rules') as may be required for the carrying into effect of any of the provisions of the Act. The Authority may also amend or revoke such Rules. The Rules and any amendments or revocation thereof shall be officially communicated to credit institutions and the Authority shall make copies thereof available to the public.
2. In accordance with Article 4(7) of the Act, the Authority may make, amend, or revoke Banking Rules as may be required for the purpose of implementing any guidelines, recommendations, decisions, opinions or any other instrument issued by the European Banking Authority (the 'EBA').

SCOPE AND APPLICATION

3. The Rule applies to all credit institutions licensed under the Act and credit institutions shall ensure compliance with the provisions of this Rule.
4. The scope of this Rule is to implement into the national banking legal framework the [EBA Guidelines specifying the conditions for the application of the alternative treatment of institutions' exposures related to 'tri-party repurchase agreements' set out in Article 403\(3\) of Regulation \(EU\) 575/2013 for large exposure purposes](#) (EBA/GL/2021/01) issued on 16 February 2021 and the [EBA Guidelines specifying the criteria to assess the exceptional cases when institutions exceed the large exposure limits of Article 395\(1\) of Regulation \(EU\) No 575/2013 and the time and measures to return to compliance pursuant to Article 396\(3\) of Regulation \(EU\) No 575/2013](#) (EBA/GL/2021/09) issued on 15 September 2021.
5. This Rule, however, shall not be treated as a substitute to the EBA Guidelines referred to under paragraph 4, and credit institutions shall also abide with the requirements set out in the EBA Guidelines, as well as any reviews and/or updates that may be undertaken to such Guidelines from time to time.
6. This Rule shall not substitute any other law, unless otherwise specified, by which credit institutions subject to this Rule shall abide more specifically with the applicable provisions in the Act, any other European and national legislation, and the Regulations. Particularly,

the relevant provisions of the Act and the Banking Act (Supervisory Review) Regulations (S.L.371.16) shall apply to credit institutions.

DEFINITIONS

7. Unless otherwise specified in the EBA Guidelines referred to in paragraph 4, terms used and defined in the Act and regulations issued thereunder shall have the same meaning in this Rule.

IMPLEMENTATION OF GUIDELINES ISSUED BY THE EUROPEAN BANKING AUTHORITY

EBA GUIDELINES (EBA/GL/2021/01)

8. The purpose of these EBA Guidelines is to delineate the conditions which credit institutions must follow in order to apply the alternative treatment as referred to in Article 403(3) of the CRR with regard to tri-party repurchase agreements facilitated by a tri-party agent. When utilising the alternative treatment credit institutions are required to ensure that the large exposure limits set out under Article 395(1) of the CRR are not breached. In this regard, credit institutions are required to set specified limits in the service agreement entered into with the tri-party agent to ensure that the large exposure limits under Article 395(1) of the CRR are not exceeded and mandate the tri-party agent to establish adequate safeguards to prevent the breach of such specified limits.
9. Credit institutions shall ensure compliance with these Guidelines when entering into a service agreement with a tri-party agent in relation to the use of the substitution approach provided under Article 403(1) of the CRR.

EBA GUIDELINES (EBA/GL/2021/09)

10. The purpose of these Guidelines is to set out the criteria to be utilised by competent authorities to determine whether the exceptional cases in which credit institutions exceed the limits set out in Article 395(1) of the CRR justify allowing a credit institution a period of time to return to compliance, as referred to in Article 396(1) of the CRR. The Guidelines also stipulate the criteria which competent authorities are to use to determine the appropriate time for a credit institution to return to compliance with the limits set out in Article 395(1) of the CRR and the measures to be adopted pursuant to the timely return to such compliance.

11. Credit institutions should ensure compliance with these Guidelines insofar as these relate to credit institutions specifically under section 4.2 “Information to be provided to the competent authority in case of a breach of the large exposure limits” which provides a non-exhaustive list of the types of information to be provided to the competent authority in terms of Article 396(1) of the CRR whenever there is a breach of the large exposure limits set out in Article 395(1) of the CRR.

12. Credit institutions should also ensure compliance with the relevant obligations set out under section 4.4 “Measures to be taken to ensure the timely return to compliance of the institution with the limits of Article 395(1) of Regulation (EU) No 575/2013”.

Malta Financial Services Authority

Triq L-Imdina, Zone 1

Central Business District, Birkirkara, CBD 1010, Malta

communications@mfsa.mt

www.mfsa.mt