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Reg. No. 2019/40

Permission from the Debt Office is required to reduce eligible liabilities instruments prior to their contractual maturity¹

Regulation (EU) 2019/876 of the European Parliament and of the Council of 20 May 2019 amending Regulation (EU) No. 575/2013 and Regulation (EU) No. 648/2012² entered into force on 27 June 2019. This Capital Requirements Regulation (CRR) will, with certain exceptions, apply from 28 June 2021. However, some of the new articles including Articles 72b, 77(2) and 78a, will apply from 27 June 2019. Among other things, these new articles stipulate that institutions subject to MREL (institutions concerned) must obtain prior permission from the Swedish National Debt Office to be able to effect the call, redemption, repayment, or repurchase of eligible liabilities instruments before the date of their contractual maturity. These actions are collectively referred to below as “repurchases”.

Applications for prior permission may be submitted on an instrument-by-instrument basis or in the form of general prior permission. General prior permission may only be requested for a specified period not exceeding one year.

The European Banking Authority (EBA) shall, in accordance with Article 78a of the CRR, draft proposals for technical standards that specify the process for prior approval. A provisional process applies until this Level 2 regulation enters into force.

Eligible liabilities instruments

The term repurchase refers here, unless otherwise specified, to the call, redemption, repayment, or repurchase of eligible liabilities instruments prior to expiry of their contractual maturity period. The term eligible liabilities instrument refers here to the instruments referred to in Article 72b of the CRR.

The application must include the following:

- information stating the legal basis of the application (Article 78a (1) (a), (b), (c) or Article 78a (1), second paragraph, CRR);
- an explanation to substantiate that the action fulfils the conditions for repurchase as defined in the CRR;

¹ The Swedish version of this memorandum was published 2019-07-03.

² Regulation (EU) 2019/876 of the European Parliament and of the Council of 20 May 2019 amending Regulation (EU) No 575/2013 as regards the leverage ratio, the net stable funding ratio, requirements for own funds and eligible liabilities, counterparty credit risk, market risk, exposures to central counterparties, exposures to collective investment undertakings, large exposures, reporting and disclosure requirements, and amending Regulation (EU) No 648/2012

- information about the institution's MREL planning for the coming three years or longer and which specifies the following in particular:
 - the level of eligible liabilities instruments prior and subsequent to the repurchase;
 - the impact of the repurchase on the institution's present MREL requirement;
- other information that the institution deems relevant to the request.

The application must be signed by an authorised signatory.

If permission is requested for a repurchase in accordance with Article 78a (1) (a), in addition to the points stated above, the application must also include the following:

- information about the residual maturity for the instrument in question and the replacement instrument's maturity;
- terms of the instrument in question and the replacement instrument;
- information about the repurchase's impact in regard to the sustainability of the replacement instruments for the income capacity of the institution.

If permission is requested for a repurchase in accordance with Article 78a (1) (c), in addition to the points stated above, the application must also include evidence to support that the repurchase is necessary for the institution to be able to meet its own funds requirements.

Processing time

Provided that the application is complete, the processing time shall not exceed four months. The Debt Office reserves the right to request additional information required for reaching a decision in the matter.

Interim period for market making and other secondary market activity

With the aim of preserving financial stability and avoiding disturbances to the affected institutions' normal business operations, the Debt Office will, during an interim period until 31 December 2019, abstain from requiring prior permission for certain types of repurchases pertaining to market-making activities and other actions in the secondary market. The following conditions must be met:

- The repurchases are to be carried out during the period 27 June 2019–31 December 2019;
- the institution's eligible liabilities shall exceed the established MREL requirement;
- the total volume of repurchases during the current interim period 27 June 2019–31 December 2019 is not to:
 - exceed 3 per cent of the institution's total liabilities and own funds (TLOF) as at 31/03/2019 on a consolidated basis, or;

- exceed a level entailing that the institution at the time of repurchase has a margin in relation to the MREL requirement, and to the liabilities proportion principle, that is below 30 per cent in nominal terms.