

Chapter 15

Commission Implementing Regulation (EU) No 602/2014

Article 1 General considerations

(1) Competent authorities shall ensure that any additional risk weight imposed pursuant to Article 407 of Regulation (EU) No 575/2013 is applied to all relevant securitisation positions, held by an institution, which are affected by the material infringement of Article 405, 406 or 409 of Regulation (EU) No 575/2013.

(2) Where an institution rectifies its infringement of the requirements provided in Article 405, 406 or 409 of Regulation (EU) No 575/2013, the additional risk weight shall cease to apply as soon as the rectification is notified to the competent authority.

(3) When assessing whether to impose an additional risk weight, competent authorities shall consider both the materiality of the infringement of Article 405, 406 or 409 of Regulation (EU) No 575/2013 and its relevance to the risk analysis of the securitisation position. Materiality shall be taken into consideration in both quantitative and qualitative terms and, where applicable, at both entity and consolidated level. In assessing materiality, competent authorities shall consider, among other factors, the duration of the infringement, the size of the affected positions and whether the institution has attempted to proactively rectify the infringement.

(4) When assessing whether an institution has failed to meet the requirements set out in Article 405 of Regulation (EU) No 575/2013 in any material respect by reason of negligence or omission, competent authorities shall not be influenced by any omission by the originator, sponsor or original lender to disclose its commitment to retain a material economic interest of not less than 5 % with regard to past securitisations, where the institution can demonstrate that it has taken appropriate account of such circumstance.

(5) In the case of a material infringement of the disclosure requirement provided in Article 409 of Regulation (EU) No 575/2013 by reason of negligence or omission of the institution, competent authorities shall impose an additional risk weight to the originator's, sponsor's or original lender's retained positions in, or other exposure to the relevant securitisation.

(6) When assessing whether institutions have failed to meet the requirements set out in Articles 405, 406 or 409 of Regulation (EU) No 575/2013, in any material respect for reasons of negligence or of omission, for securitisation positions issued on or after 1 January 2011 and before 1 January 2014, competent authorities may take into account whether those institutions complied continuously between the date of issuance and 31 December 2013 with the requirements specified in those elements of the Capital Requirements Directive (Handbook Amendments) Instrument 2010 (FSA 2010/29) which implemented Article 122a of Directive 2006/48/EC of the European Parliament and of the

Council and in the Guidelines of the Committee of European Banking Supervisors dated
31 December 2010.