

BANKING RULE BR/32

**BANKING RULE ON TECHNICAL SPECIFICATIONS
UNDER THE CAPITAL REQUIREMENTS
REGULATION**

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UNDER THE CAPITAL REQUIREMENTS REGULATION**

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EXPOSURES TO RESIDENTIAL PROPERTY UNDER ARTICLE 126A OF THE
CAPITAL REQUIREMENTS REGULATION (CRR)**

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ISSUANCE LOG

VERSION	DATE ISSUED	DETAILS
1.00	17 February 2026	First publication of the Rule to implement the EBA Guidelines on ADC exposures to residential property under Article 126a of Regulation (EU) 575/2013 (EBA/GL/2025/03).

INTRODUCTION

1. In terms of article 4 of the Banking Act (Cap 371 of the Laws of Malta) (the “Act”) the competent 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 as may be required for carrying out any of the provisions of the Act and for the purpose of implementing any guidelines, recommendations, decisions, opinions or any other instruments issued by the European Banking Authority (the “EBA”), as may be required. The Authority may also amend or revoke such Banking Rules. The Banking Rules and any amendments or revocation thereof shall be officially communicated to credit institutions.

SCOPE AND APPLICATION

2. This Rule applies to all credit institutions licensed under the Act, and, where applicable, financial holding companies and mixed financial holding companies. Accordingly, such credit institutions, and where applicable, financial holding companies and mixed financial holding companies shall ensure compliance with the provisions of this Rule.
3. The purpose of this Rule is to implement the EBA Guidelines on ADC exposures to residential property under Article 126a of Regulation (EU) 575/2013 (‘the CRR’) ([EBA/GL/2025/03](#)).
4. This Rule shall not substitute any other law by which credit institutions shall abide, such as the provisions of the Act and Regulations issued thereunder, and any other European and national legislation as applicable.

PART 1: ACQUISITION, DEVELOPMENT AND CONSTRUCTION (ADC) EXPOSURES TO RESIDENTIAL PROPERTY UNDER ARTICLE 126A OF THE CAPITAL REQUIREMENTS REGULATION (CRR)

1. CONTEXT AND OBJECTIVE

5. Under Article 126a(1) of the CRR, ADC exposures are assigned a risk weight of 150%. Notwithstanding, Article 126a(2) of the CRR, allows institutions to apply a risk weight of 100% to ADC exposures pertaining to residential property provided that certain risk-mitigating conditions are met.
6. This Part of the Rule implements the requirements prescribed in the EBA Guidelines on ADC exposures to residential property under Article 126a of Regulation (EU) 575/2013 ([EBA/GL/2025/03](#)) (the “EBA Guidelines”), published in accordance with Article 126a(3) of the CRR, which expands on the risk-mitigating conditions by specifying the terms “substantial cash deposits”, “financing ensured in an equivalent manner”, “appropriate amount of obligor-contributed equity”, and “significant portion of total contracts”, taking into account the specificities of institutions’ lending to public housing or not-for profit entities across the Union that are regulated by law and that exist to serve social purposes and to offer tenants long-term housing.
7. Institutions shall maintain appropriate documentation outlining the rationale when applying the preferential risk weight in accordance with Article 126a(2) of the CRR and shall be in a position to provide such documentation to the Authority upon request. The Authority reserves the right to assess and verify decisions leading to such treatment.

2. DEFINITIONS

8. Unless otherwise specified, terms used and defined in the CRR shall have the same meaning in this Part of the Rule.

3. LEGALLY BINDING CONTRACTS

3.1 SUBSTANTIAL CASH DEPOSITS

9. For the purposes of point (a) of Article 126a(2) of the CRR, the cash deposit made for a legally binding pre-sale contract should be considered as substantial where the following ratio is equal to or higher than 10%:

$$\frac{CD}{SP}$$

Where:

- *CD* is the cash deposit paid by the purchaser which is subject to forfeiture if the pre-sale contract is terminated;
- *SP* is the sale price as indicated in the pre-sale contract.

10. For the purposes of point (a) of Article 126a(2) of the CRR, the cash deposit made for a legally binding pre-lease contract should be considered as substantial where the following ratio is equal to or higher than 300%:

$$\frac{CD}{MR}$$

Where:

- *CD* is the cash deposit paid by the tenant which is subject to forfeiture if the pre-lease contract is terminated;
- *MR* is the monthly rent as indicated in the pre-lease contract.

3.2 FINANCING ENSURED IN AN EQUIVALENT MANNER

11. For the purposes of point (a) of Article 126a(2) of the CRR, the financing should be considered as ensured in a manner equivalent to cash deposits subject to forfeiture where all the following conditions are met:

- (a) The purchaser or tenant paid instalments, or transferred cash to a segregated account;

- (b) The instalments or segregated cash referred to in point (a) are subject to forfeiture if the pre-sale or pre-lease contract is terminated;
- (c) The amounts of instalments or segregated cash referred to in point (a) are substantial in accordance with the ratios referred to in paragraphs 9 and 10 of this Rule, for pre-sale contracts and pre-lease contracts, respectively.

3.3 SIGNIFICANT PORTION OF TOTAL CONTRACTS

12. For the purposes of point (a) of Article 126a(2) of the CRR, the legally binding pre-sale and sale contracts and the legally binding pre-lease and lease contracts should be considered as amounting to a significant portion of total contracts where they represent a percentage equal to or higher than 50% of total contracts. That percentage should be calculated in accordance with paragraphs 13 to 15 of this Rule.
13. For pre-sale and sale contracts, the percentage referred to in paragraph 12 should be calculated as follows:
 - (a) In the numerator, the sum of the sale prices as specified in the following contracts related to the residential property:
 - (i) the legally binding pre-sale contracts with substantial cash deposit or financing ensured in an equivalent manner in accordance with paragraphs 9 and 11 of this Rule;
 - and
 - (ii) the legally binding sale contracts;
 - (b) In the denominator, the total amount of the credit facility, including the drawn amount and undrawn amount, granted by the institution to the obligor to finance the ADC project related to the residential property.
14. In the event that the ADC project related to the residential property is financed through a syndicated loan or multiple loans, the institution should consider in the denominator under paragraph 13(b) the sum of all loans and credit facilities provided by all institutions to finance the ADC project. For the purposes of calculating the ratio referred to in paragraph 13, in the case where a single credit facility finances a property whose intended use is

partly for sale and partly for lease, the denominator must only reflect the portion of the credit facility that finances the construction intended for sale.

15. For pre-lease and lease contracts, the percentage referred to in paragraph 12 should be calculated as follows:
 - (a) In the numerator, the sum of:
 - (i) the number of legally binding pre-lease contracts with substantial cash deposit or financing ensured in an equivalent manner in accordance with paragraphs 10 and 11 of this Rule;
 - and
 - (ii) the number of legally binding lease contracts;
 - (b) In the denominator, the total number of units that are part of the ADC project related to the residential property.
16. Where the intended use of the property is partly for sale and partly for lease, the institution shall calculate separate ratios, in accordance with paragraphs 13 and 14 for pre-sale and sale contracts and with paragraph 15 for pre-lease and lease contracts. The portion of total contracts should be deemed significant where each of the two ratios complies with the minimum ratio set out in paragraph 12 of this Rule.
17. Where the intended use of the property is partly for sale and partly for lease and where the institution grants separate facilities for the sales part and for the lease part, the ADC preferential risk-weight can be applied at facility level provided it can be ensured that the repayment of the sales facility (respectively leases facility) is only based on the sales (respectively leases) of the units. For this purpose, the institution shall calculate two separate ratios at facility level for the assessment of significant portion of total contracts.

4. APPROPRIATE AMOUNT OF OBLIGOR-CONTRIBUTED EQUITY

18. The amount of obligor-contributed equity to the residential property value upon completion should be considered as appropriate for the purposes of point (b) of Article 126a(2) of the

CRR, where the ratio of the amount of the obligor-contributed equity to the residential property's value upon completion is equal to or higher than 25%.

19. For the purposes of paragraph 18 of this Rule, only those investments made by the obligor into the immovable property qualify as obligor contributed equity which, if any, convey for the obligor only a residual claim on the property, either in the form of own use of the property or via the cash flows generated by the sale or lease of the property, that is in particular subordinated to any claim the institution might have from the provided financing, and are investments in the form of one of the following or a combination thereof:
- (a) Cash invested in the project and segregated from those assets of the obligor, available to cover the projected cost of the project, measured in the currency of the financing for the obligor and at the moment of the calculation of capital requirements;
 - (b) Subsidies and grants already invested to cover the incurred costs of the project or segregated from other assets of the obligor available to cover the projected cost of the project, measured in the currency of the financing for the obligor and at the moment of the calculation of capital requirements;
 - (c) Unencumbered readily marketable assets directly linked to the project and available to cover the projected cost of the project, should be measured in the currency of the financing for the obligor and valued at the market value of these assets at the time of calculating capital requirements. These assets should be easily sold or traded in the market. These assets should be contractually bound to be used for paying development or construction expenses linked to the project, and should be free from any legal claims, liens, or restrictions;
 - (d) Expenses for development or construction, paid out-of-pocket by the obligor in direct connection to the project, measured in the currency of the financing for the obligor and at the moment of the calculation of capital requirements;
 - (e) Land or improvements, paid out-of-pocket or already owned by the obligor, in direct connection to the project, measured in the currency of the financing for the obligor and at the market value at the moment of contribution of the obligor into the project.
20. Obligor-contributed equity is the total amount of investments qualified according to paragraph 19 that the obligor has already contributed, reduced by any excess costs currently expected for completing the immovable property. Excess costs are quantified by the difference, if positive, between total costs for completing the immovable property, both

already incurred and still expected costs, and the property value upon completion measured as required by Article 229(1) CRR, i.e. as if the immovable property was already completed, taking into account the life of the loan and the potential for the current market value for such completed property to be significantly above the value that would be sustainable over the life of the loan. For the purposes of this definition, “excess costs” refers to the amount by which the total costs for completing the immovable property exceed the property value upon completion, and not the amount by which the costs exceed the estimated costs at origination.

5. CONSIDERATION OF THE SPECIFICITIES OF LENDING TO PUBLIC HOUSING OR NOT-FOR-PROFIT ENTITIES

21. ADC exposures to public housing or not-for-profit entities across the Union that are regulated by law and that exist to serve social purposes and to offer tenants long-term housing should be subject to the treatment referred to in paragraph 22 and 23 where both of the following conditions are met:
 - (a) The intended use of the property is exclusive for lease;
 - (b) The property being financed is subject to a regulation specifying the eligibility to qualify for social/ public housing, including criteria for applicants in relation to their income, their family size, their residency status, and requirements for the construction, including the size of each unit or being barrier-free.
22. For the ADC exposures mentioned in paragraph 21 the requirement for a significant portion of total contracts, as outlined in point (a) of Article 126a(2) of the CRR, should be considered fulfilled if, for the project under consideration and for each type of social housing units in the project, the number of applicants exceeds the number of social housing units available for lease. Where the number of applicants is not available for a specific project, but is available at municipality level, the comparison between the number of applicants for each type of social housing units and the number of social housing units available for lease can be performed at municipality level.
23. For the ADC exposures referred to in paragraph 21 the appropriate amount of obligor-contributed equity for the purposes of point (b) of Article 126a(2) of the CRR should be set

according to the requirements of the paragraphs 18 to 20 of this Rule, with the following adjustment:

- (a) the ratio of the amount of the obligor-contributed equity to the residential property's value upon completion referred to in paragraph 18 should be equal to or higher than 20%.
- (b) the subsidies and grants referred to in paragraph 19, point (b), also include the subsidies and grants committed to the obligor in order to cover the incurred costs of the project, including subsidies committed in the form of funds derived from state-backed, unsecured junior loans with preferential interest rates, as measures in the currency of the financing for the obligor and at the moment of the calculation of capital requirements.

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