

EN - ANNEX I

Part 6					
Waivers for the application of prudential requirements					
	Regulation (EU) No 575/2013	Provisions	Description	Information to be provided by the competent authority	
010	Date of the last update of the information in this template				19.09.2023
020	Article 7(1) and (2) (Individual waivers for subsidiaries)	Exemption from the application on an individual basis of prudential requirements set out in Parts Two to Five and Eight of Regulation (EU) No 575/2013	The waiver may be granted to any subsidiary provided that there is no current or foreseen material practical or legal impediment to the prompt transfer of own funds or repayment of liabilities by its parent undertaking pursuant to point (a) of Article 7(1).	Criteria applied by the competent authority to assess that there is no obstacle to the prompt transfer of own funds or repayment of liabilities	<i>Article 30b(2) and (4) of the Austrian Banking Act (BWG) codifies procedural provisions on the submission and content of the application (Article 30b(2) BWG) and the approval by the FMA (Article 30b(4) BWG). Pursuant to Article 30b(3) BWG, the Austrian National Bank (OeNB) must in any case be heard before the FMA reaches a decision and must be entrusted with an expert opinion. The approval for the exemption under Article 30b BWG shall be granted if sufficient evidence is presented for the fulfilment of the conditions pursuant to Article 7 Regulation (EU) No 575/2013. For further information see Article 30b BWG (https://www.fma.gv.at/en/national/supervisory-laws/).</i>
030	Article 7(3) (Individual waivers for parent institutions)	Exemption from the application on an individual basis of prudential requirements set out in Parts Two to Five and Eight of Regulation (EU) No 575/2013	The waiver may be granted to a parent institution provided that there is no current or foreseen material practical or legal impediment to the prompt transfer of own funds or repayment of liabilities to the parent institution pursuant to point (a) of Article 7(3).	Criteria applied by the competent authority to assess that there is no obstacle to the prompt transfer of own funds or repayment of liabilities	<i>Article 30b(2) and (4) of the Austrian Banking Act (BWG) codifies procedural provisions on the submission and content of the application (Article 30b (2) BWG) and the approval by the FMA (Article 30b(4) BWG). Pursuant to Article 30b(3) BWG, the Austrian National Bank (OeNB) must in any case be heard before the FMA reaches a decision and must be entrusted with an expert opinion. The approval for the exemption under Article 30b BWG shall be granted if sufficient evidence is presented for the fulfilment of the conditions pursuant to Article 7 Regulation (EU) No 575/2013. For further information see Article 30b BWG (https://www.fma.gv.at/en/national/supervisory-laws/).</i>
040	Article 8 (Liquidity waivers for subsidiaries)	Exemption from the application on an individual basis of liquidity requirements set out in Part Six of Regulation (EU) No 575/2013	The waiver may be granted to institutions within a sub-group provided that these institutions have entered into contracts that, to the satisfaction of the competent authorities, provide for the free movement of funds between them to enable them to meet their individual and joint obligations as they become due pursuant to point (c) of Article 8(1).	Criteria applied by the competent authority to assess whether the contracts provide for free movement of funds between the institutions in a liquidity sub-group	<i>Article 30c(4) of the Austrian Banking Act (BWG) stipulates, that the approval for the exemption under Article 30c BWG shall be granted if sufficient evidence is presented for the fulfilment of the conditions pursuant to Article 8 of the Regulation (EU) No 575/2013. According to Article 30c(3) BWG the FMA shall obtain an expert opinion by the Austrian National Bank (OeNB). For further information see Article 30c BWG (https://www.fma.gv.at/en/national/supervisory-laws/).</i>
050	Article 9(1) (Individual consolidation method)	Permission granted to parent institutions to incorporate subsidiaries in the calculation of their prudential requirements set out in Parts Two to Five and Eight of Regulation (EU) No 575/2013	The permission is granted only where the parent institution demonstrates fully to the competent authorities that there is no current or foreseen material practical or legal impediment to the prompt transfer of own funds, or repayment of liabilities when due by the subsidiary incorporated in the calculation of requirements to its parent institution pursuant to Article 9(2).	Criteria applied by the competent authority to assess that there is no obstacle to the prompt transfer of own funds or repayment of liabilities	<i>No further criteria for the assessment of transfer obstacles have been defined.</i>
060	Article 10 (Credit institutions permanently affiliated to a central body)	Exemption from the application on an individual basis of prudential requirements set out in Parts Two to Eight of Regulation (EU) No 575/2013	Member States may maintain and make use of existing national legislation regarding the application of the waiver as long as it does not conflict with the Regulation (EU) No 575/2013 or Directive 2013/36/EU.	Applicable national law / regulation regarding the application of the waiver	<i>The provision of Article 30a of the Austrian Banking Act (BWG), which regulates the affiliation of credit institutions, constitutes one of the two central consolidation possibilities for credit institutions in the BWG (Article 30a & 30b BWG). In contrast to Article 30 BWG, which regulates the credit institution group ("KI-Gruppe"), Article 30a is characterised by the fact that such an affiliation is not a group of credit institutions - i.e. the credit institutions remain legally independent. This is the reason why the achievement of organisational synergies, in addition to the contribution to financial market stability, is a priority. For further information see Article 30a BWG (https://www.fma.gv.at/en/national/supervisory-laws/).</i>