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Asylum seekers' access to financial services

Summary

For deposits originating from a digital deposit platform, it is the undertaking that provides the digital deposit platform (the platform undertaking) that places the deposit from third parties with credit institutions in exchange of a fee in the meaning set forth in Article 411(4) of the CRR¹. Such an undertaking, therefore, is considered a deposit broker according to the regulation.

Question

In this legal position, Finansinspektionen considers the following question:

Should undertakings that provide digital deposit platforms (platform undertakings) be considered deposit brokers as defined in the Capital Requirements Regulation (CRR)?

This question is of importance in part for the outflow weight that a deposit-receiving credit institution must apply to platform deposits under Article 28(1) of the LCR Regulation² and the factor that such an institution must apply when calculating available stable funding pursuant to Articles 428l and 428am of the CRR

¹ Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and amending Regulation (EU) No 648/2012.

² Commission Delegated Regulation (EU) 2015/61 of 10 October 2014 to supplement Regulation (EU) No 575/2013 of the European Parliament and the Council with regard to liquidity coverage requirement for credit institutions.

Background

A digital deposit platform is a service that is provided primarily via websites and mobile apps. Through a deposit platform, private individuals and firms can compare the lending terms, for example deposit rates, offered by different credit institutions (banks and credit market firms). The users can also open savings accounts at the credit institutions through the deposit platform and make deposits and withdrawals. The platform undertaking has a contractual relationship with the credit institutions affiliated with the platform.

The undertaking charges a fee, either to the affiliated institutions or to the users. The fee can take different forms; for example, it could be a commission on the deposit rate that a user receives from a credit institution affiliated with the platform.

Governing law

A deposit broker, pursuant to Article 411(4) of the CRR, is a natural person or an undertaking that places deposits from third parties, including retail deposits and corporate deposits but excluding deposits from financial institutions, with credit institutions in exchange of a fee.

Assessment

There are digital deposit solutions on the financial market where the undertaking providing the solution manages all of the administration for the users. In these cases, it is the undertaking providing the deposit solution that – depending on what is most beneficial for the user – determines the credit institution with which the deposit will be placed. The undertaking also executes the required transactions. In such a situation, it is clear that it is the undertaking providing the deposit solution that places the deposit with the credit institution in the manner defined in Article 411(4) of the CRR. The undertaking is therefore a deposit broker.

However, there are also digital deposit platforms where it is the users themselves who determine the credit institution with which the deposit will be placed. The users make this choice based on information from the deposit platform, with the platform undertakings presenting the alternatives available. It is also the platform undertaking that executes the transactions required to place the deposits. Finansinspektionen therefore takes the position that in this situation it is the platform undertaking that places the deposit with the credit institution in the manner as referred to in Article 411(4) of the CRR. Such an undertaking is therefore also a deposit broker in the meaning of the CRR.

This interpretation of Article 411(4) of the CRR is in line with the aim of the capital requirements regulatory framework in the banking sector in that the features of different types of deposits are considered to a greater extent when assessing whether a credit institution meets the CRR's liquidity cover requirements (see Article 412). The design of the deposit platforms can create higher flightiness in deposits that are placed via them. Higher flightiness is also the reason for a higher outflow weight and a lower factor when calculating available stable funding for deposits originating from deposit brokers pursuant to Article 28(1) of the LCR Regulation and Articles 428l and 428am of the CRR (cf. Article 22(1) of the LCR Regulation and Recital 45 of the CRR).

This legal position applies until further notice.