

The European Banking Authority Issues Final Guidelines on Capital Endowment Requirements For Third-Country Branches Under CRD VI

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On 2 March 2026, the European Banking Authority (EBA) published its [Final Report on Guidelines Available For Third-Country Branches For Unrestricted and Immediate Use to Cover Risks or Losses Under Article 48E\(2\)\(C\) of Directive 2013/36/EU](#) (the Report). As a quick recap, amendments introduced in Directive 2013/36/EU in the form of CRD VI require non-EEA banks and large investment firms offering cross-border banking services to do so via a branch or subsidiary established in the EEA. New Article 48e of CRD VI requires all third country branches (**TCBs**) to maintain and have available for use a minimum capital requirement, calculated as a percentage of the TCB's liabilities booked, in case of the resolution of the TCB and for the purpose of winding it up in accordance with the relevant national law such that segregated assets are available to satisfy claims of local depositors. In this way, CRD VI harmonises what was previously fragmented practice across Europe, where some competent authorities required TCBs to hold capital locally, and others did not and instead relied on the third-country home authority's position.

Article 48e(2) sets out the forms of instruments that may be used in the event of a resolution or winding up, which assets must be placed in an escrow account. Article 48e(2) specifies that allowable instruments can include cash or cash assimilated instruments, debt securities issued by central governments or central banks of EU Member States and any other instrument that is available to the TCB for unrestricted and immediate use to cover risks or losses as soon as those occur and is available if needed for resolution and for the purposes of winding-up. TCBs are also subject to minimum liquidity requirements and must always maintain sufficient liquid and unencumbered assets to cover liquidity outflows over a minimum period of 30 days. These assets may not be counted towards the capital endowment requirement maintained in the escrow account, which are by definition encumbered.

Article 48e(4) of the Directive mandates the EBA to issue guidelines specifying the requirements for these "other instruments" (which, as noted, must be capable of being held in an escrow account). The guidelines: (1) set out the 'Eligible Instruments' described above (financial instruments issued or guaranteed by central, regional or local governments, central banks, public sector entities, multilateral development banks, or international organisations that would receive a 0% risk weight under the standardised approach for credit risk); (2) note that these should be listed on a recognised exchange and "*be easily monetised at any time*"; and (3) require that eligible instruments may not be those issued by the TCB's head undertaking or a group company or special purpose entity with which the head undertaking has close links

The EBA's guidelines are minimum standards, and local competent authorities may apply more rigorous regimes, for example, by prohibiting the use of otherwise eligible instruments or by introducing operational requirements for the escrow accounts used. The guidelines apply from 11 January 2027.