EUROPEAN UNION

THE EUROPEAN PARLIAMENT **THE COUNCIL**

Brussels, 20 May 2019
(OR. en)

2016/0360 (COD)
2016/0360 A (COD)
LEX 1921

PE-CONS 15/1/19
REV 1

EF 17
ECOFIN 61
CCG 2
CODEC 179

REGULATION
OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
AMENDING REGULATION (EU) NO 575/2013 AS REGARDS THE LEVERAGE RATIO, THE NET STABLE FUNDING RATIO, REQUIREMENTS FOR OWN FUNDS AND ELIGIBLE LIABILITIES, COUNTERPARTY CREDIT RISK, MARKET RISK, EXPOSURES TO CENTRAL COUNTERPARTIES, EXPOSURES TO COLLECTIVE INVESTMENT UNDERTAKINGS, LARGE EXPOSURES, REPORTING AND DISCLOSURE REQUIREMENTS, AND REGULATION (EU) No 648/2012

REGULATION (EU) 2019/…
OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 20 May 2019

amending Regulation (EU) No 575/2013 as regards the leverage ratio, the net stable funding ratio, requirements for own funds and eligible liabilities, counterparty credit risk, market risk, exposures to central counterparties, exposures to collective investment undertakings, large exposures, reporting and disclosure requirements, and Regulation (EU) No 648/2012

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Central Bank[1],

Having regard to the opinion of the European Economic and Social Committee[2],

Acting in accordance with the ordinary legislative procedure[3],

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1 OJ C 34, 31.1.2018, p. 5.
2 OJ C 209, 30.6.2017, p. 36.
3 Position of the European Parliament of 16 April 2019 (not yet published in the Official Journal) and decision of the Council of 14 May 2019.

Whereas:

(1) In the aftermath of the financial crisis that unfolded in 2007-2008, the Union implemented a substantial reform of the financial services regulatory framework to enhance the resilience of its financial institutions. That reform was largely based on international standards agreed in 2010 by the Basel Committee on Banking Supervision (BCBS), known as the Basel III framework. Among its many measures, the reform package included the adoption of Regulation (EU) No 575/2013 of the European Parliament and of the Council[1] and Directive 2013/36/EU of the European Parliament and of the Council[2], which strengthened the prudential requirements for credit institutions and investment firms (institutions).

(2) While the reform has rendered the financial system more stable and resilient against many types of possible future shocks and crises, it did not address all identified problems. An important reason for that was that international standard setters, such as the BCBS and the Financial Stability Board (FSB), had not finished their work on internationally agreed solutions to tackle those problems at the time. Now that work on important additional reforms has been completed, the outstanding problems should be addressed.

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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 investment firms and amending Regulation (EU) No 648/2012 (OJ L 176, 27.6.2013, p. 1).

2 Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.6.2013, p. 338).

(3) In its communication of 24 November 2015 entitled "Towards the completion of the Banking Union", the Commission recognised the need for further risk reduction and committed bringing forward a legislative proposal that would build on internationally agreed standards. The need to take further concrete legislative steps in terms of reducing risks in the financial sector has also been recognised by the Council in its conclusions of 17 June 2016 and by the European Parliament in its resolution of 10 March 2016 on the Banking Union – Annual Report 2015[1].

(4) Risk reduction measures should not only further strengthen the resilience of the European banking system and the markets' confidence in it, but also provide the basis for further progress in completing the banking union. Those measures should also be considered against the background of broader challenges affecting the Union economy, in particular the need to promote growth and jobs at times of uncertain economic outlook. In that context, various major policy initiatives, such as the Investment Plan for Europe and the capital markets union, have been launched in order to strengthen the economy of the Union. It is therefore important that all risk reduction measures interact smoothly with those policy initiatives as well as with broader recent reforms in the financial sector.

(5) The provisions of this Regulation should be equivalent to internationally agreed standards and ensure the continued equivalence of Directive 2013/36/EU and Regulation (EU) No 575/2013 with the Basel III framework. The targeted adjustments in order to reflect Union specificities and broader policy considerations should be limited in terms of scope or time in order not to impinge on the overall soundness of the prudential framework.

[1] OJ C 50, 9.2.2018, p. 80.

(6) Existing risk reduction measures and, in particular, reporting and disclosure requirements should also be improved to ensure that they can be applied in a more proportionate way and that they do not create an excessive compliance burden, especially for smaller and less complex institutions.

(7) A precise definition of small and non-complex institutions is necessary for targeted simplifications of requirements with respect to the application of the principle of proportionality. By itself, a single absolute threshold does not take into account the specificities of the national banking markets. It is therefore necessary for Member States to be able to use their discretion to bring the threshold in line with domestic circumstances and adjust it downwards, as appropriate. Since the size of an institution is not in itself the defining factor for its risk profile, it is also necessary to apply additional qualitative criteria to ensure that an institution is only considered to be a small and non-complex institution and able to benefit from more proportionate rules where the institution fulfils all the relevant criteria.

(8) Leverage ratios contribute to preserving financial stability by acting as a backstop to risk based capital requirements and by constraining the building up of excessive leverage during economic upturns. The BCBS has revised the international standard on the leverage ratio in order to specify further certain aspects of the design of that ratio. Regulation (EU) No 575/2013 should be aligned with the revised standard so as to ensure a level playing field internationally for institutions established inside the Union but operating outside the Union, and to ensure that leverage ratio remains an effective complement to risk-based own funds requirements. Therefore, a leverage ratio requirement should be introduced to complement the current system of reporting and disclosure of the leverage ratio.

(9) In order not to unnecessarily constrain lending by institutions to corporates and private households and to prevent unwarranted adverse impacts on market liquidity, the leverage ratio requirement should be set at a level where it acts as a credible backstop to the risk of excessive leverage without hampering economic growth.

(10) The European Supervisory Authority (European Banking Authority) (EBA), established by Regulation (EU) No 1093/2010 of the European Parliament and of the Council[1], concluded in its report of 3 August 2016 on the leverage ratio requirement that a Tier 1 capital leverage ratio calibrated at 3 % for any type of credit institution would constitute a credible backstop function. A 3 % leverage ratio requirement was also agreed upon at international level by the BCBS. The leverage ratio requirement should therefore be calibrated at 3 %.

[1] Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010, p. 12).

(11) A 3 % leverage ratio requirement would however constrain certain business models and lines of business more than others. In particular, public lending by public development banks and officially supported export credits would be impacted disproportionally. The leverage ratio should therefore be adjusted for those types of exposures. Clear criteria that help ascertain the public mandate of such credit institutions should therefore be set out and cover aspects such as their establishment, the type of activities undertaken, their goal, the guarantee arrangements by public bodies and limits to deposit taking activities. The form and manner of establishment of such credit institutions should remain, however, at the discretion of Member State's central government, regional government or local authority and may consist of setting up a new credit institution, acquisition or take-over, including through concessions and in the context of resolution proceedings, of an already existing entity by such public authorities.

(12) A leverage ratio should also not undermine the provision of central clearing services by institutions to clients. Therefore, the initial margin on centrally cleared derivative transactions received by institutions from their clients and that they pass on to central counterparties (CCPs), should be excluded from the total exposure measure.

(13) In exceptional circumstances that warrant the exclusion of certain exposures to central banks from the leverage ratio and in order to facilitate the implementation of monetary policies, competent authorities should be able to exclude such exposures from the total exposure measure on a temporary basis. For that purpose, they should publicly declare, after consultation with the relevant central bank, that such exceptional circumstances exist. The leverage ratio requirement should be recalibrated commensurately to offset the impact of the exclusion. Such recalibration should ensure the exclusion of risks to financial stability affecting the relevant banking sectors, and that the resilience provided by the leverage ratio is maintained.

(14) It is appropriate to implement a leverage ratio buffer requirement for institutions identified as global systemically important institutions (G-SIIs) in accordance with Directive 2013/36/EU and with the BCBSs standard on a leverage ratio buffer for global systemically important banks (G-SIBs) published in December 2017. The leverage ratio buffer was calibrated by the BCBS for the specific purpose of mitigating the comparably larger risks to financial stability posed by G-SIBs and, against that background, should only apply to G-SIIs at this stage. However, further analysis should be done to determine whether it would be appropriate to apply the leverage ratio buffer requirement to other systemically important institutions (O-SIIs), as defined in Directive 2013/36/EU, and, if that is the case, in what manner the calibration should be tailored to the specific features of those institutions.

(15) On 9 November 2015, the FSB published the Total Loss-absorbing Capacity (TLAC) Term Sheet (the "TLAC standard") which was endorsed by the G20 at the November 2015 summit in Turkey. The TLAC standard requires G-SIBs, to hold a sufficient amount of highly loss absorbing (bail-inable) liabilities to ensure smooth and fast absorption of losses and recapitalisation in the event of a resolution. The TLAC standard should be implemented in Union law.

(16) The implementation of the TLAC standard in Union law needs to take into account the existing institution-specific minimum requirement for own funds and eligible liabilities (MREL), set out in Directive 2014/59/EU of the European Parliament and of the Council[1]. As the TLAC standard and the MREL pursue the same objective of ensuring that institutions have sufficient loss absorption capacity, the two requirements should be complementary elements of a common framework. Operationally, the harmonised minimum level of the TLAC standard should be introduced into Regulation (EU) No 575/2013 through a new requirement for own funds and eligible liabilities, while the institution-specific add-on for G-SIIs and the institution-specific requirement for non-G-SIIs should be introduced through targeted amendments to Directive 2014/59/EU and Regulation (EU) No 806/2014 of the European Parliament and of the Council[2]. The provisions introducing the TLAC standard in Regulation (EU) No 575/2013 should be read together with the provisions that are introduced into Directive 2014/59/EU and Regulation (EU) No 806/2014, and with Directive 2013/36/EU.

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[1] Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012, of the European Parliament and of the Council (OJ L 173, 12.6.2014, p. 190).

[2] Regulation (EU) No 806/2014 of the European Parliament and of the Council of 15 July 2014 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation (EU) No 1093/2010 (OJ L 225, 30.7.2014, p. 1).

(17) In accordance with the TLAC standard that only covers G-SIBs, the minimum requirement for a sufficient amount of own funds and highly loss absorbing liabilities introduced in this Regulation should only apply to G-SIIs. However, the rules concerning eligible liabilities introduced in this Regulation should apply to all institutions, in line with the complementary adjustments and requirements set out in Directive 2014/59/EU.

(18) In line with the TLAC standard, the requirement for own funds and eligible liabilities should apply to resolution entities which are either themselves G-SIIs or are part of a group identified as a G-SII. The requirement for own funds and eligible liabilities should apply on either an individual basis or a consolidated basis, depending on whether such resolution entities are stand-alone institutions with no subsidiaries or parent undertakings.

(19) Directive 2014/59/EU allows for resolution tools to be used not only for institutions but also for financial holding companies and mixed financial holding companies. Parent financial holding companies and parent mixed financial holding companies should therefore have sufficient loss absorption capacity in the same way as parent institutions.

(20) To ensure the effectiveness of the requirement for own funds and eligible liabilities, it is essential that the instruments held for meeting that requirement have a high loss absorption capacity. Liabilities that are excluded from the bail-in tool referred to in Directive 2014/59/EU do not have that capacity, and neither do other liabilities that, although bail-inable in principle might raise difficulties for being bailed in in practice. Those liabilities should therefore not be considered eligible for the requirement for own funds and eligible liabilities. On the other hand, capital instruments, as well as subordinated liabilities have a high loss absorption capacity. Also, the loss absorption potential of liabilities that rank *pari passu* with certain excluded liabilities should be recognised up to a certain extent, in line with the TLAC standard.

(21) To avoid double counting of liabilities for the purposes of the requirement for own funds and eligible liabilities, rules should be introduced for the deduction of holdings of eligible liabilities items that mirror the corresponding deduction approach already developed in Regulation (EU) No 575/2013 for capital instruments. Under that approach, holdings of eligible liabilities instruments should first be deducted from eligible liabilities and, to the extent there are not sufficient liabilities, those eligible liabilities instruments should be deducted from Tier 2 instruments.

(22) The TLAC standard contains some eligibility criteria for liabilities that are stricter than the current eligibility criteria for capital instruments. To ensure consistency, eligibility criteria for capital instruments should be aligned as regards the non-eligibility of instruments issued through special purpose entities as of 1 January 2022.

(23) It is necessary to provide for a clear and transparent approval process for Common Equity Tier 1 instruments that can contribute to maintaining the high quality of those instruments. To that end, competent authorities should be responsible for approving those instruments before institutions can classify them as Common Equity Tier 1 instruments. However, competent authorities should not need to require prior permission for Common Equity Tier 1 instruments that are issued on the basis of legal documentation already approved by the competent authority and governed by substantially the same provisions as those governing capital instruments for which the institution has received prior permission from the competent authority to classify as Common Equity Tier 1 instruments. In such a case, instead of requesting prior approval, it should be possible for institutions to notify their competent authorities of their intention to issue such instruments. They should do so sufficiently in advance of the instruments' classification as Common Equity Tier 1 instruments to leave time to competent authorities to review the instruments, if necessary. In view of EBA's role in furthering the convergence of supervisory practices and enhancing the quality of own funds instruments, competent authorities should consult EBA before approving any new form of Common Equity Tier 1 instruments.

(24) Capital instruments are eligible as Additional Tier 1 or Tier 2 instruments only to the extent that they comply with the relevant eligibility criteria. Such capital instruments may consist of equity or liabilities, including subordinated loans that fulfil those criteria.

(25) Capital instruments or parts of capital instruments should only be eligible to qualify as own funds instruments to the extent they are paid up. As long as parts of an instrument are not paid up, those parts should not be eligible to qualify as own funds instruments.

(26) Own funds instruments and eligible liabilities should not be subject to set-off or netting arrangements which would undermine their loss absorption capacity in resolution. This should not mean that the contractual provisions governing the liabilities should contain a clause explicitly stating that the instrument is not subject to set-off or netting rights.

(27) Due to the evolution of the banking sector in an even more digital environment, software is becoming a more important type of asset. Prudently valued software assets, the value of which is not materially affected by the resolution, insolvency or liquidation of an institution, should not be subject to the deduction of intangible assets from Common Equity Tier 1 items. That specification is important, as software is a broad concept that covers many different types of assets, not all of which preserve their value in the situation of a gone concern. In that context, differences in the valuation and amortisation of software assets and the realised sales of such assets should be taken into account. Furthermore, consideration should be given to international developments and differences in the regulatory treatment of investments in software, to different prudential rules that apply to institutions and insurance undertakings, and to the diversity of the financial sector in the Union, including non-regulated entities such as financial technology companies.

(28) In order to avoid cliff-edge effects, it is necessary to grandfather the existing instruments with respect to certain eligibility criteria. For liabilities issued before … [the date of entry into force of this amending Regulation], certain eligibility criteria for own funds instruments and eligible liabilities should be waived. Such a grandfathering should apply to liabilities counting towards, where applicable, the subordinated portion of TLAC, and the subordinated portion of the MREL under Directive 2014/59/EU, as well as to liabilities counting towards, where applicable, the non-subordinated portion of TLAC, and the non-subordinated portion of the MREL under Directive 2014/59/EU. For own funds instruments, the grandfathering should end on … [six years after the date of entry into force of this amending Regulation].

(29) Eligible liabilities instruments, including those which have a residual maturity of less than one year, can only be redeemed after the resolution authority has granted its prior permission. Such prior permission could also be a general prior permission, in which case the redemption would have to occur within the limited period of time and for a predetermined amount covered by the general prior permission.

(30) Since the adoption of Regulation (EU) No 575/2013, the international standard on the prudential treatment of institutions' exposures to CCPs has been amended in order to improve the treatment of institutions' exposures to qualifying CCPs (QCCPs). Notable revisions of that standard included the use of a single method for determining the own funds requirement for exposures due to default fund contributions, an explicit cap on the overall own funds requirements applied to exposures to QCCPs, and a more risk-sensitive approach for capturing the value of derivatives in the calculation of the hypothetical resources of a QCCP. At the same time, the treatment of exposures to non-qualifying CCPs was left unchanged. Given that the revised international standards introduced a treatment that is better suited to the central clearing environment, Union law should be amended to incorporate those standards.

(31) In order to ensure that institutions adequately manage their exposures in the form of units or shares in collective investment undertakings (CIUs), the rules spelling out the treatment of those exposures should be risk sensitive and should promote transparency with respect to the underlying exposures of CIUs. The BCBS has therefore adopted a revised standard that sets a clear hierarchy of approaches to calculate risk-weighted exposure amounts for those exposures. That hierarchy reflects the degree of transparency over the underlying exposures. Regulation (EU) No 575/2013 should be aligned with those internationally agreed rules.

(32) For an institution that provides a minimum value commitment to the ultimate benefit of retail clients for an investment in a unit or share in a CIU including as part of a government-sponsored private pension scheme, no payment by the institution or undertaking included in the same scope of prudential consolidation is required unless the value of the customer's shares or units in the CIU falls below the guaranteed amount at one or more points in time specified in the contract. The likelihood of the commitment being exercised is therefore low in practice. Where an institution's minimum value commitment is limited to a percentage of the amount that a client had originally invested into shares or units in a CIU (fixed-amount minimum value commitment) or to an amount that depends on the performance of financial indicators or market indices up to a given time, any currently positive difference between the value of the customer's shares or units and the present value of the guaranteed amount at a given date constitutes a buffer and reduces the risk for the institution to have to pay out the guaranteed amount. All those reasons justify a reduced conversion factor.

(33) For calculating the exposure value of derivative transactions under the counterparty credit risk framework, Regulation (EU) No 575/2013 currently gives institutions the choice between three different standardised approaches: the Standardised Method (SM), the Mark-to-Market Method (MtMM) and the Original Exposure Method (OEM).

(34) Those standardised approaches however do not recognise appropriately the risk-reducing nature of collateral in the exposures. Their calibrations are outdated and they do not reflect the high level of volatility observed during the financial crisis. Neither do they recognise appropriately netting benefits. To address those shortcomings, the BCBS decided to replace the SM and the MtMM with a new standardised approach for computing the exposure value of derivative exposures, the so-called Standardised Approach for Counterparty Credit Risk (SA-CCR). Given that the revised international standards introduced a new standardised approach that is better suited to the central clearing environment, Union law should be amended to incorporate those standards.

(35) The SA-CCR is more risk sensitive than the SM and the MtMM and should therefore lead to own funds requirements that better reflect the risks related to institutions' derivative transactions. At the same time, for some of the institutions which currently use the MtMM the SA-CCR may prove to be too complex and burdensome to implement. For institutions that meet predefined eligibility criteria, and for institutions that are part of a group which meets those criteria on a consolidated basis, a simplified version of the SA-CCR (the "simplified SA-CCR") should be introduced. Since such a simplified version will be less risk sensitive than the SA-CCR, it should be appropriately calibrated in order to ensure that it does not underestimate the exposure value of derivative transactions.

(36) For institutions which have limited derivative exposures and which currently use the MtMM or the OEM, both the SA-CCR and the simplified SA-CCR could be too complex to implement. The OEM should therefore be reserved as an alternative approach for those institutions that meet predefined eligibility criteria, and for institutions that are part of a group which meets those criteria on a consolidated basis, but should be revised in order to address its major shortcomings.

(37) To guide an institution in its choice of permitted approaches clear criteria should be introduced. Those criteria should be based on the size of the derivative activities of an institution which indicates the degree of sophistication an institution should be able to comply with to compute the exposure value.

(38) During the financial crisis, trading book losses for some institutions established in the Union were substantial. For some of them, the level of capital required against those losses proved insufficient, leading them to seek extraordinary public financial support. Those observations led the BCBS to remove a number of weaknesses in the prudential treatment for trading book positions which are the own funds requirements for market risk.

(39) In 2009, the first set of reforms was finalised at international level and transposed into Union law by means of Directive 2010/76/EU of the European Parliament and of the Council[1]. The 2009 reform, however, did not address the structural weaknesses of the own funds requirements for market risk standards. The lack of clarity about the boundary between the trading and banking books gave opportunities for regulatory arbitrage while the lack of risk sensitivity of the own funds requirements for market risk did not allow to capture the full range of risks to which institutions were exposed.

[1] Directive 2010/76/EU of the European Parliament and of the Council of 24 November 2010 amending Directives 2006/48/EC and 2006/49/EC as regards capital requirements for the trading book and for re-securitisations, and the supervisory review of remuneration policies (OJ L 329, 14.12.2010, p. 3).

(40) The BCBS initiated the fundamental review of the trading book (FRTB) to address the structural weaknesses of the own funds requirements for market risk standards. That work led to the publication in January 2016 of a revised market risk framework.
In December 2017, the Group of Central Bank Governors and Heads of Supervision agreed to extend the implementation date of the revised market risk framework in order to allow institutions additional time to develop the necessary systems infrastructure but also for the BCBS to address certain specific issues related to the framework. This includes a review of the calibrations of the standardised and internal model approaches to ensure consistency with the BCBSs original expectations. Upon finalisation of that review, and before an impact assessment is performed to assess the impact of the resulting revisions to the FRTB framework on institutions in the Union, all institutions that would be subject to the FRTB framework in the Union should start reporting the calculations derived from the revised standardised approach. To that end, in order to make the calculations for reporting requirements fully operational in line with international developments, the power to adopt an act in accordance with Article 290 of the Treaty on the Functioning of the European Union (TFEU) should be delegated to the Commission. The Commission should adopt that delegated act by 31 December 2019. Institutions should start reporting that calculation no later than one year after the adoption of that delegated act. In addition, institutions that obtain approval to use the revised internal model approach of the FRTB framework for reporting purposes should also report the calculation under the internal model approach three years after its full operationalisation.

(41) Introducing reporting requirements for the FRTB approaches should be considered as a first step towards the full implementation of the FRTB framework in the Union. Taking into account the final revisions to the FRTB framework performed by the BCBS, the results of the impact of those revisions on institutions in the Union and on the FRTB approaches already set out in this Regulation for reporting requirements, the Commission should submit, where appropriate, a legislative proposal to the European Parliament and to the Council by 30 June 2020 on how the FRTB framework should be implemented in the Union to establish the own funds requirements for market risk.

(42) A proportionate treatment for market risk should also apply to institutions with limited trading book activities, allowing more institutions with small trading book activities to apply the credit risk framework for banking book positions as set out under a revised version of the derogation for small trading book business. The principle of proportionality should also be taken into account when the Commission reassesses how institutions with medium-sized trading book business should calculate the own funds requirements for market risk. In particular, the calibration of the own funds requirements for market risk for institutions with medium-sized trading book business should be reviewed in light of developments at international level. In the meantime, institutions with medium-sized trading book business, as well institutions with small trading book business, should be exempted from the reporting requirements under the FRTB.

(43) The large exposures framework should be strengthened to improve the ability of institutions to absorb losses and to better comply with international standards. To that end, a higher quality of capital should be used as a capital base for the calculation of the large exposures limit and exposures to credit derivatives should be calculated in accordance with the SA-CCR. Moreover, the limit on the exposures that G-SIIs may have towards other G-SIIs should be lowered to reduce systemic risks related to interlinks among large institutions and the impact that the default of G-SIIs counterparty may have on financial stability.

(44) While the liquidity coverage ratio (LCR) ensures that institutions will be able to withstand severe stress on a short-term basis, it does not ensure that those institutions will have a stable funding structure on a longer-term horizon. It became thus apparent that a detailed binding stable funding requirement should be developed at Union level which should be met at all times with the aim of preventing excessive maturity mismatches between assets and liabilities and overreliance on short-term wholesale funding.

(45) Consistent with the BCBSs stable funding standard, rules should, therefore, be adopted to define the stable funding requirement as a ratio of an institution's amount of available stable funding to its amount of required stable funding over a one-year horizon. That binding requirement should be called the net stable funding ratio (NSFR) requirement. The amount of available stable funding should be calculated by multiplying the institution's liabilities and own funds by appropriate factors that reflect their degree of reliability over the one-year horizon of the NSFR. The amount of required stable funding should be calculated by multiplying the institution's assets and off-balance-sheet exposures by appropriate factors that reflect their liquidity characteristics and residual maturities over the one-year horizon of the NSFR.

(46) The NSFR should be expressed as a percentage and set at a minimum level of 100 %, which indicates that an institution holds sufficient stable funding to meet its funding needs over a one-year horizon under both normal and stressed conditions. Should its NSFR fall below the 100 % level, the institution should comply with the specific requirements laid down in Regulation (EU) No 575/2013 for a timely restoration of its NSFR to the minimum level. The application of supervisory measures in cases of non-compliance with the NSFR requirement should not be automatic. Competent authorities should instead assess the reasons for non-compliance with the NSFR requirement before defining potential supervisory measures.

(47) In accordance with the recommendations made by EBA in its report of 15 December 2015 on net stable funding requirements under Article 510 of Regulation (EU) No 575/2013 the rules for calculating the NSFR should be closely aligned with the BCBSs standards, including developments in those standards regarding the treatment of derivative transactions. The necessity to take into account some European specificities to ensure that the NSFR requirement does not hinder the financing of the European real economy, however, justifies adopting some adjustments to the NSFR developed by the BCBS for the definition of the European NSFR requirement. Those adjustments due to the European context are recommended by EBA and relate mainly to specific treatments for: pass-through models in general and covered bonds issuance in particular; trade finance activities; centralised regulated savings; residential guaranteed loans; credit unions; CCPs and central securities depositories (CSDs) not undertaking any significant maturity transformation. Those proposed specific treatments broadly reflect the preferential treatment granted to those activities in the European LCR compared to the LCR developed by the BCBS. Because the NSFR complements the LCR, those two ratios should be consistent in their definition and calibration. This is in particular the case for required stable funding factors applied to LCR high quality liquid assets for the calculation of the NSFR that should reflect the definitions and haircuts of the European LCR, regardless of compliance with the general and operational requirements set out for the LCR calculation that are not appropriate in the one-year horizon of the NSFR calculation.

(48) Beyond European specificities, the treatment of derivative transactions in the NSFR developed by the BCBS could have an important impact on institutions' derivative activities and, consequently, on European financial markets and on the access to some operations for end-users. Derivative transactions and some interlinked transactions, including clearing activities, could be unduly and disproportionately impacted by the introduction of the NSFR developed by BCBS without having been subject to extensive quantitative impact studies and public consultation. The additional requirement to hold between 5 % and 20 % of stable funding against gross derivative liabilities is very widely seen as a rough measure to capture additional funding risks related to the potential increase of derivative liabilities over a one-year horizon and is under review at BCBS level. That requirement, introduced at a level of 5 % in line with the discretion left to jurisdictions by the BCBS to reduce the required stable funding factor on gross derivative liabilities, could then be amended to take into account developments at the BCBS level and to avoid possible unintended consequences such as hindering the good functioning of the European financial markets and the provision of risk hedging tools to institutions and end-users, including corporates, to ensure their financing as an objective of the capital markets union.

(49) The asymmetric treatment by the BCBS of short-term funding, such as repos (stable funding not recognised) and short-term lending, such as reverse repos (some stable funding required – 10 % if collateralised by level 1 high quality liquid assets (HQLA) as defined in the LCR and 15 % for other transactions) with financial customers is intended to discourage extensive short-term funding links between financial customers, because such links are a source of interconnection and make it more difficult to resolve a particular institution without a contagion of risk to the rest of the financial system in case of failure. However, the calibration of the asymmetry is conservative and may affect the liquidity of securities usually used as collateral in short-term transactions, in particular sovereign bonds, as institutions will probably reduce the volume of their operations on repo markets. It could also undermine market-making activities, because repo markets facilitate the management of the necessary inventory, thereby contradicting the objectives of the capital markets union. To allow for sufficient time for institutions to progressively adapt to that conservative calibration, a transitional period, during which the required stable funding factors would be temporarily reduced, should be introduced. The size of the temporary reduction in the required stable funding factors should depend on the types of transactions and on the type of collateral used in those transactions.

(50) In addition to the temporary recalibration of the BCBS required stable funding factor that applies to short-term reverse repo transactions with financial customers secured by sovereign bonds, some other adjustments have proven to be necessary to ensure that the introduction of the NSFR requirement does not hinder the liquidity of sovereign bonds markets. The BCBS 5 % required stable funding factor that applies to level 1 HQLA, including sovereign bonds, implies that institutions would need to hold ready available long-term unsecured funding in such percentage regardless of the time during which they expect to hold such sovereign bonds. This could potentially further incentivise institutions to deposit cash at central banks rather than to act as primary dealers and provide liquidity in sovereign bond markets. Moreover, it is not consistent with the LCR that recognises the full liquidity of those assets even in time of severe liquidity stress (0 % haircut). The required stable funding factor of level 1 HQLA as defined in the European LCR, excluding extremely high quality covered bonds, should therefore be reduced from 5 % to 0 %.

(51) Furthermore, all level 1 HQLA as defined in the European LCR, excluding extremely high quality covered bonds, received as variation margin in derivative contracts should offset derivative assets while the NSFR developed by the BCBS only accepts cash respecting the conditions of the leverage framework to offset derivative assets. That broader recognition of assets received as variation margin will contribute to the liquidity of sovereign bonds markets, avoid penalising end-users that hold high amounts of sovereign bonds but few cash (like pension funds) and avoid adding additional tensions on the demand for cash on repo markets.

(52) The NSFR requirement should apply to institutions both on an individual and a consolidated basis, unless competent authorities waive the application of the NSFR requirement on an individual basis. Where the application of the NSFR requirement on an individual basis has not been waived, transactions between two institutions belonging to the same group or to the same institutional protection scheme should in principle receive symmetrical available and required stable funding factors to avoid a loss of funding in the internal market and to not impede the effective liquidity management in European groups where liquidity is centrally managed. Such preferential symmetrical treatments should only be granted to intragroup transactions where all the necessary safeguards are in place, on the basis of additional criteria for cross-border transactions, and only with the prior approval of the competent authorities involved as it cannot be assumed that institutions experiencing difficulties in meeting their payment obligations will always receive funding support from other undertakings belonging to the same group or to the same institutional protection scheme.

(53) Small and non-complex institutions should be given the opportunity to use a simplified version of the NSFR requirement. A simplified, less granular version of the NSFR should involve collecting a limited number of data points, which would, reduce the complexity of the calculation for those institutions in accordance with the principle of proportionality, while ensuring that those institutions still maintain a sufficient stable funding factor by means of a calibration that should be at least as conservative as the one of the fully-fledged NSFR requirement. However, competent authorities should be able to require small and non-complex institutions to apply the fully-fledged NSFR requirement instead of the simplified version.

(54) The consolidation of subsidiaries in third countries should take due account of the stable funding requirements applicable in those countries. Accordingly, consolidation rules in the Union should not introduce a more favourable treatment for available and required stable funding in third-country subsidiaries than the treatment which is available under the national law of those third countries.

(55) Institutions should be required to report to their competent authorities in the reporting currency the binding detailed NSFR for all items and separately for items denominated in each significant currency to ensure an appropriate monitoring of possible currencies mismatches. The NSFR requirement should not subject institutions to any double reporting requirements or to reporting requirements not in line with the rules in force and institutions should be granted sufficient time to get prepared to the entry into force of new reporting requirements.

(56) As the provision of meaningful and comparable information to the market on institutions' common key risk metrics is a fundamental tenet of a sound banking system, it is essential to reduce information asymmetry as much as possible and facilitate comparability of credit institutions' risk profiles within and across jurisdictions. The BCBS published the revised Pillar 3 disclosure standards in January 2015 to enhance the comparability, quality and consistency of institutions' regulatory disclosures to the market. It is, therefore, appropriate to amend the existing disclosure requirements to implement those new international standards.

(57) Respondents to the Commission's call for evidence on the EU regulatory framework for financial services regarded current disclosure requirements as disproportionate and burdensome for smaller institutions. Without prejudice to aligning disclosures more closely with international standards, small and non-complex institutions should be required to produce less frequent and detailed disclosures than their larger peers, thus reducing the administrative burden to which they are subject.

(58) Some clarifications should be made to the remuneration disclosures. The disclosure requirements relating to remuneration as set out in this Regulation should be compatible with the aims of the remuneration rules, namely to establish and maintain, for categories of staff whose professional activities have a material impact on the institution's risk profile, remuneration policies and practices that are consistent with effective risk management. Furthermore, institutions benefitting from a derogation from certain remuneration rules should be required to disclose information concerning such derogation.

(59) Small and medium-sized enterprises (SMEs) are one of the pillars of the Union's economy as they play a fundamental role in creating economic growth and providing employment. Given the fact that SMEs carry a lower systematic risk than larger corporates, capital requirements for SME exposures should be lower than those for large corporates to ensure an optimal bank financing of SMEs. Currently, SME exposures of up to EUR 1,5 million are subject to a 23,81 % reduction in risk weighted exposure amount. Given that the threshold of EUR 1,5 million for an SME exposure is not indicative of a change in riskiness of an SME, reduction in capital requirements should be extended to SME exposures of up to EUR 2,5 million and the part of an SME exposure exceeding EUR 2,5 million should be subject to a 15 % reduction in capital requirements.

(60) Investments in infrastructure are essential to strengthen Europe's competitiveness and to stimulate job creation. The recovery and future growth of the Union economy depends largely on the availability of capital for strategic investments of European significance in infrastructure, in particular broadband and energy networks, as well as transport infrastructure including electromobility infrastructure, particularly in industrial centres; education, research and innovation; and renewable energy and energy efficiency. The Investment Plan for Europe aims at promoting additional funding to viable infrastructure projects through, inter alia, the mobilisation of additional private sources of finance. For a number of potential investors the main concern is the perceived absence of viable projects and the limited capacity to properly evaluate risk given their intrinsically complex nature.

(61) In order to encourage private and public investments in infrastructure projects it is essential to lay down a regulatory environment that is able to promote high quality infrastructure projects and reduce risks for investors. In particular, own funds requirements for exposures to infrastructure projects should be reduced, provided they comply with a set of criteria able to reduce their risk profile and enhance predictability of cash flows. The Commission should review the provision on high quality infrastructure projects in order to assess: its impact on the volume of infrastructure investments by institutions and the quality of investments having regard to Union's objectives to move towards a low-carbon, climate-resilient and circular economy; and its adequacy from a prudential standpoint. The Commission should also consider whether the scope of those provisions should be extended to infrastructure investments by corporates.

(62) As recommended by EBA, the European Supervisory Authority (European Securities and Markets Authority) (ESMA) established by Regulation (EU) No 1095/2010 of the European Parliament and of the Council[1] and the European Central Bank, CCPs, due to their distinct business model, should be exempted from the leverage ratio requirement, because they are required to obtain a banking licence simply for the reason of being granted access to overnight central bank facilities and to fulfil their roles as key vehicles for the achievement of important political and regulatory objectives in the financial sector.

[1] Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84).

(63) Furthermore, exposures of CSDs authorised as credit institutions and exposures of credit institutions designated in accordance with Article 54(2) of Regulation (EU) No 909/2014 of the European Parliament and of the Council[1], such as cash balances resulting from the provision of cash accounts to, and accepting deposits from, participants in a securities settlement system and holders of securities accounts, should be excluded from the total exposure measure as they do not create a risk of excessive leverage as those cash balances are used solely for the purpose of settling transaction in securities settlement systems.

(64) Given that the guidance on additional own funds referred to in Directive 2013/36/EU is a capital target that reflects supervisory expectations, it should not be subject either to mandatory disclosure or to the prohibition of disclosure by competent authorities under Regulation (EU) No 575/2013 or that Directive.

[1] Regulation (EU) No 909/2014 of the European Parliament and of the Council of 23 July 2014 on improving securities settlement in the European Union and on central securities depositories and amending Directives 98/26/EC and 2014/65/EU and Regulation (EU) No 236/2012 (OJ L 257, 28.8.2014, p. 1).

(65) In order to ensure an appropriate definition of some specific technical provisions of Regulation (EU) No 575/2013 and to take into account possible developments in standards at international level, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission: in respect of amending the list of products or services the assets and liabilities of which can be considered as interdependent; in respect of amending the list of multilateral development banks; in respect of amending market risk reporting requirements; and in respect of specifying additional liquidity requirements. Before the adoption of those acts it is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Inter-institutional Agreement of 13 April 2016 on Better Law-Making[1]. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

[1] OJ L 123, 12.5.2016, p. 1.

(66) Technical standards should ensure the consistent harmonisation of the requirements laid down in Regulation (EU) No 575/2013. As a body with highly specialised expertise, EBA should be mandated to develop draft regulatory technical standards which do not involve policy choices, for submission to the Commission. Regulatory technical standards should be developed in the areas of prudential consolidation, own funds, TLAC, the treatment of exposures secured by mortgages on immovable property, equity investment into funds, the calculation of loss given defaults under the Internal Ratings Based Approach for credit risk, market risk, large exposures and liquidity. The Commission should be empowered to adopt those regulatory technical standards by means of delegated acts pursuant to Article 290 TFEU and in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010. The Commission and EBA should ensure that those standards and requirements can be applied by all institutions concerned in a manner that is proportionate to the nature, scale and complexity of those institutions and their activities.

(67) To facilitate the comparability of disclosures, EBA should be mandated to develop draft implementing technical standards establishing standardised disclosure templates covering all substantial disclosure requirements set out in Regulation (EU) No 575/2013. When developing those standards, EBA should take into account the size and complexity of institutions, as well as the nature and level of risk of their activities. EBA should report on where proportionality of the Union supervisory reporting package could be improved in terms of scope, granularity or frequency and, at least, submit concrete recommendations as to how the average compliance costs for small institutions can be reduced by ideally 20 % or more and at least 10 % by means of appropriate simplification of requirements. EBA should be mandated to develop draft implementing technical standards that are to accompany that report. The Commission should be empowered to adopt those implementing technical standards by means of implementing acts pursuant to Article 291 TFEU and in accordance with Article 15 of Regulation (EU) No 1093/2010.

(68) In order to facilitate institutions' compliance with the rules set out in this Regulation and in Directive 2013/36/EU, as well as with regulatory technical standards, implementing technical standards, guidelines and templates adopted to implement those rules, EBA should develop an IT tool aimed at guiding institutions through the relevant provisions, standards, guidelines and templates in relation to their size and business model.

(69) In addition to the report on possible cost reductions, by … [twelve months after the date of entry into force of this amending Regulation] EBA should – in cooperation with all relevant authorities, namely those authorities that are responsible for prudential supervision, resolution and deposit guarantee schemes and in particular the European System of Central Banks (ESCB) – prepare a feasibility report regarding the development of a consistent and integrated system for collecting statistical data, resolution data and prudential data. Taking into account the previous work of the ESCB on integrated data collection, that report should provide a cost and benefit analysis regarding the creation of a central data collection point for an integrated data reporting system as regards statistical and regulatory data for all institutions located in the Union. Such a system should, amongst other things, use consistent definitions and standards for the data to be collected, and guarantee a reliable and permanent exchange of information between the competent authorities thereby ensuring strict confidentiality of the data collected, strong authentication and management of access right to the system as well as cybersecurity. By centralising and harmonising the European reporting landscape in such a way, the goal is to prevent multiple requests for similar or identical data from different authorities and thereby to significantly reduce the administrative and financial burden, both for the competent authorities and for the institutions. If appropriate, and taking into account the feasibility report by EBA, the Commission should submit to the European Parliament and to the Council a legislative proposal.

(70) The relevant competent or designated authorities should aim at avoiding any form of duplicative or inconsistent use of the macroprudential powers laid down in Regulation (EU) No 575/2013 and Directive 2013/36/EU. In particular, the relevant competent or designated authorities should duly consider whether the measures that they take under Article 124, 164 or 458 of Regulation (EU) No 575/2013 duplicate or are inconsistent with other existing or upcoming measures under Article 133 of Directive 2013/36/EU.

(71) In view of the amendments to the treatment of exposures to QCCPs, specifically to the treatment of institutions' contributions to QCCPs' default funds, laid down in this Regulation, the relevant provisions in Regulation (EU) No 648/2012[1] which were introduced therein by Regulation (EU) No 575/2013 and which spell out the calculation of the hypothetical capital of CCPs that is then used by institutions to calculate their own funds requirements should therefore be amended accordingly.

[1] Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories (OJ L 201, 27.7.2012, p. 1).

(72) Since the objectives of this Regulation, namely to reinforce and refine already existing Union legal acts ensuring uniform prudential requirements that apply to institutions throughout the Union, cannot be sufficiently achieved by the Member States but can rather, by reason of their scale and effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.

(73) In order to allow for orderly divesting from insurance holdings which are not subject to supplementary supervision, an amended version of the transitional provisions in relation to the exemption from deducting equity holdings in insurance companies should be applied, with retroactive effect from 1 January 2019.

(74) Regulation (EU) No 575/2013 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Amendments to Regulation (EU) No 575/2013

Regulation (EU) No 575/2013 is amended as follows:

(1) Articles 1 and 2 are replaced by the following:

"Article 1

Scope

This Regulation lays down uniform rules concerning general prudential requirements that institutions, financial holding companies and mixed financial holding companies supervised under Directive 2013/36/EU shall comply with in relation to the following items:

(a) own funds requirements relating to entirely quantifiable, uniform and standardised elements of credit risk, market risk, operational risk, settlement risk and leverage;

(b) requirements limiting large exposures;

(c) liquidity requirements relating to entirely quantifiable, uniform and standardised elements of liquidity risk;

(d) reporting requirements related to points (a), (b) and (c);

(e) public disclosure requirements.

This Regulation lays down uniform rules concerning the own funds and eligible liabilities requirements that resolution entities that are global systemically important institutions (G-SIIs) or part of G-SIIs and material subsidiaries of non-EU G-SIIs shall comply with.

This Regulation does not govern publication requirements for competent authorities in the field of prudential regulation and supervision of institutions as set out in Directive 2013/36/EU.

Article 2

Supervisory powers

1. For the purpose of ensuring compliance with this Regulation, competent authorities shall have the powers and shall follow the procedures set out in Directive 2013/36/EU and in this Regulation.

2. For the purpose of ensuring compliance with this Regulation, resolution authorities shall have the powers and shall follow the procedures set out in Directive 2014/59/EU of the European Parliament and of the Council* and in this Regulation.

3. For the purpose of ensuring compliance with the requirements concerning own funds and eligible liabilities, competent authorities and resolution authorities shall cooperate.

4. For the purpose of ensuring compliance within their respective competences, the Single Resolution Board established by Article 42 of Regulation (EU) No 806/2014 of the European Parliament and of the Council**, and the European Central Bank with regard to matters relating to the tasks conferred on it by Council Regulation (EU) No 1024/2013***, shall ensure the regular and reliable exchange of relevant information.

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* Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012, of the European Parliament and of the Council (OJ L 173, 12.6.2014, p. 190).

** Regulation (EU) No 806/2014 of the European Parliament and of the Council of 15 July 2014 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation (EU) No 1093/2010 (OJ L 225, 30.7.2014, p. 1).

*** Council Regulation (EU) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions (OJ L 287, 29.10.2013, p. 63).";

(2) Article 4 is amended as follows:

(a) paragraph 1 is amended as follows:

(i) point (7) is replaced by the following:

"(7) 'collective investment undertaking' or 'CIU' means a UCITS as defined in Article 1(2) of Directive 2009/65/EC of the European Parliament and of the Council* or an alternative investment fund (AIF) as defined in point (a) of Article 4(1) of Directive 2011/61/EU of the European Parliament and of the Council**;

* Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) (OJ L 302, 17.11.2009, p. 32).

** Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010 (OJ L 174, 1.7.2011, p. 1).";

(ii) point (20) is replaced by the following:

"(20) 'financial holding company' means a financial institution, the subsidiaries of which are exclusively or mainly institutions or financial institutions, and which is not a mixed financial holding company; the subsidiaries of a financial institution are mainly institutions or financial institutions where at least one of them is an institution and where more than 50 % of the financial institution's equity, consolidated assets, revenues, personnel or other indicator considered relevant by the competent authority are associated with subsidiaries that are institutions or financial institutions;";

(iii) point (26) is replaced by the following:

"(26) 'financial institution' means an undertaking other than an institution and other than a pure industrial holding company, the principal activity of which is to acquire holdings or to pursue one or more of the activities listed in points 2 to 12 and point 15 of Annex I to Directive 2013/36/EU, including a financial holding company, a mixed financial holding company, a payment institution as defined in point (4) of Article 4 of Directive (EU) 2015/2366 of the European Parliament and of the Council*, and an asset management company, but excluding insurance holding companies and mixed-activity insurance holding companies as defined, respectively, in points (f) and (g) of Article 212(1) of Directive 2009/138/EC;

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* Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC (OJ L 337, 23.12.2015, p. 35).";

(iv) point (28) is replaced by the following:

"(28) 'parent institution in a Member State' means an institution in a Member State which has an institution, a financial institution or an ancillary services undertaking as a subsidiary or which holds a participation in an institution, financial institution or ancillary services undertaking, and which is not itself a subsidiary of another institution authorised in the same Member State, or of a financial holding company or mixed financial holding company set up in the same Member State;";

(v) the following points are inserted:

"(29a) 'parent investment firm in a Member State' means a parent institution in a Member State that is an investment firm;

(29b) 'EU parent investment firm' means an EU parent institution that is an investment firm;

(29c) 'parent credit institution in a Member State' means a parent institution in a Member State that is a credit institution;

(29d) 'EU parent credit institution' means an EU parent institution that is a credit institution;";

(vi) in point (39), the following paragraph is added:

"Two or more natural or legal persons who fulfil the conditions set out in point (a) or (b) because of their direct exposure to the same CCP for clearing activities purposes are not considered as constituting a group of connected clients;";

(vii) point (41) is replaced by the following:

"(41) 'consolidating supervisor' means a competent authority responsible for the exercise of supervision on a consolidated basis in accordance with Article 111 of Directive 2013/36/EU;";

(viii) in point (71), the introductory phrase in point (b) is replaced by the following:

"(b) for the purposes of Article 97 it means the sum of the following:";

(ix) in point (72), point (a) is replaced by the following:

"(a) it is a regulated market or a third-country market that is considered to be equivalent to a regulated market in accordance with the procedure set out in point (a) of Article 25(4) of Directive 2014/65/EU of the European Parliament and of the Council*;

* Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (OJ L 173, 12.6.2014, p. 349).";

(x) point (86) is replaced by the following:

"(86) 'trading book' means all positions in financial instruments and commodities held by an institution either with trading intent or to hedge positions held with trading intent in accordance with Article 104;";

(xi) point (91) is replaced by the following:

"(91) 'trade exposure' means a current exposure, including a variation margin due to the clearing member but not yet received, and any potential future exposure of a clearing member or a client, to a CCP arising from contracts and transactions listed in points (a), (b) and (c) of Article 301(1), as well as initial margin;";

(xii) point (96) is replaced by the following:

"(96) 'internal hedge' means a position that materially offsets the component risk elements between a trading book position and one or more non-trading book positions or between two trading desks;";

(xiii) in point (127), point (a) is replaced by the following:

"(a) the institutions fall within the same institutional protection scheme as referred to in Article 113(7) or are permanently affiliated with a network to a central body;";

(xiv) point (128) is replaced by the following:

"(128) 'distributable items' means the amount of the profits at the end of the last financial year plus any profits brought forward and reserves available for that purpose, before distributions to holders of own funds instruments, less any losses brought forward, any profits which are non-distributable pursuant to Union or national law or the institution's by-laws and any sums placed in non-distributable reserves in accordance with national law or the statutes of the institution, in each case with respect to the specific category of own funds instruments to which Union or national law, institutions' by-laws, or statutes relate; such profits, losses and reserves being determined on the basis of the individual accounts of the institution and not on the basis of the consolidated accounts;";

(xv) the following points are added:

"(130) 'resolution authority' means a resolution authority as defined in point (18) of Article 2(1) of Directive 2014/59/EU;

(131) ‘resolution entity’ means a resolution entity as defined in point (83a) of Article 2(1) of Directive 2014/59/EU;

(132) ‘resolution group’ means a resolution group as defined in point (83b) of Article 2(1) of Directive 2014/59/EU;

(133) ‘global systemically important institution’ or ‘G-SII’ means a G-SII that has been identified in accordance with Article 131(1) and (2) of Directive 2013/36/EU;

(134) ‘non-EU global systemically important institution’ or ‘non-EU G-SII’ means a global systemically important banking group or a bank (G-SIBs) that is not a G-SII and that is included in the list of G-SIBs published by the Financial Stability Board, as regularly updated;

(135) ‘material subsidiary’ means a subsidiary that on an individual or consolidated basis meets any of the following conditions:

(a) the subsidiary holds more than 5 % of the consolidated risk-weighted assets of its original parent undertaking;

(b) the subsidiary generates more than 5 % of the total operating income of its original parent undertaking;

(c) the total exposure measure, referred to in Article 429(4) of this Regulation, of the subsidiary is more than 5 % of the consolidated total exposure measure of its original parent undertaking;

for the purpose of determining the material subsidiary, where Article 21b(2) of Directive 2013/36/EU applies, the two intermediate EU parent undertakings shall count as a single subsidiary on the basis of their consolidated situation;

(136) 'G-SII entity' means an entity with legal personality that is a G-SII or is part of a G-SII or of a non-EU G-SII;

(137) 'bail-in tool' means a bail-in tool as defined in point (57) of Article 2(1) of Directive 2014/59/EU;

(138) 'group' means a group of undertakings of which at least one is an institution and which consists of a parent undertaking and its subsidiaries, or of undertakings that are related to each other as set out in Article 22 of Directive 2013/34/EU of the European Parliament and of the Council*;

(139) 'securities financing transaction' means a repurchase transaction, a securities or commodities lending or borrowing transaction, or a margin lending transaction;

(140) ‘initial margin’ or ‘IM’ means any collateral, other than variation margin, collected from or posted to an entity to cover the current and potential future exposure of a transaction or of a portfolio of transactions in the period needed to liquidate those transactions, or to re-hedge their market risk, following the default of the counterparty to the transaction or portfolio of transactions;

(141) ‘market risk’ means the risk of losses arising from movements in market prices, including in foreign exchange rates or commodity prices;

(142) ‘foreign exchange risk’ means the risk of losses arising from movements in foreign exchange rates;

(143) ‘commodity risk’ means the risk of losses arising from movements in commodity prices;

(144) ‘trading desk’ means a well-identified group of dealers set up by the institution to jointly manage a portfolio of trading book positions in accordance with a well-defined and consistent business strategy and operating under the same risk management structure;

(145) ‘small and non-complex institution’ means an institution that meets all the following conditions:

(a) it is not a large institution;

(b) the total value of its assets on an individual basis or, where applicable, on a consolidated basis in accordance with this Regulation and Directive 2013/36/EU is on average equal to or less than the threshold of EUR 5 billion over the four-year period immediately preceding the current annual reporting period; Member States may lower that threshold;

(c) it is not subject to any obligations, or is subject to simplified obligations, in relation to recovery and resolution planning in accordance with Article 4 of Directive 2014/59/EU;

(d) its trading book business is classified as small within the meaning of Article 94(1);

(e) the total value of its derivative positions held with trading intent does not exceed 2 % of its total on- and off-balance-sheet assets and the total value of its overall derivative positions does not exceed 5 %, both calculated in accordance with Article 273a(3);

(f) more than 75 % of both the institution's consolidated total assets and liabilities, excluding in both cases the intragroup exposures, relate to activities with counterparties located in the European Economic Area;

(g) the institution does not use internal models to meet the prudential requirements in accordance with this Regulation except for subsidiaries using internal models developed at the group level, provided that the group is subject to the disclosure requirements laid down in Article 433a or 433c on a consolidated basis;

(h) the institution has not communicated to the competent authority an objection to being classified as a small and non-complex institution;

(i) the competent authority has not decided that the institution is not to be considered a small and non-complex institution on the basis of an analysis of its size, interconnectedness, complexity or risk profile;

(146) 'large institution' means an institution that meets any of the following conditions:

(a) it is a G-SII;

(b) it has been identified as an other systemically important institution (O-SII) in accordance with Article 131(1) and (3) of Directive 2013/36/EU;

(c) it is, in the Member State in which it is established, one of the three largest institutions in terms of total value of assets;

(d) the total value of its assets on an individual basis or, where applicable, on the basis of its consolidated situation in accordance with this Regulation and Directive 2013/36/EU is equal to or greater than EUR 30 billion;

(147) 'large subsidiary' means a subsidiary that qualifies as a large institution;

(148) 'non-listed institution' means an institution that has not issued securities that are admitted to trading on a regulated market of any Member State, within the meaning of point (21) of Article 4(1) of Directive 2014/65/EU;

(149) 'financial report' means, for the purposes of Part Eight, a financial report within the meaning of Articles 4 and 5 of Directive 2004/109/EC of the European Parliament and of the Council**.

* Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ L 182, 29.6.2013, p. 19).

** Directive 2004/109/EC of the European Parliament and of the Council of 15 December 2004 on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market and amending Directive 2001/34/EC (OJ L 390, 31.12.2004, p. 38).";

(b) the following paragraph is added:

"4. EBA shall develop draft regulatory technical standards specifying in which circumstances the conditions set out in point (39) of paragraph 1 are met.

EBA shall submit those draft regulatory technical standards to the Commission by … [one year after the date of entry into force of this amending Regulation].

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.";

(3) Article 6 is amended as follows:

(a) paragraph 1 is replaced by the following:

"1. Institutions shall comply with the obligations laid down in Parts Two, Three, Four, Seven, Seven A and Eight of this Regulation and in Chapter 2 of Regulation (EU) 2017/2402 on an individual basis, with the exception of point (d) of Article 430(1) of this Regulation.";

(b) the following paragraph is inserted:

"1a. By way of derogation from paragraph 1 of this Article, only institutions identified as resolution entities that are also G-SIIs or that are part of a G-SII, and that do not have subsidiaries shall comply with the requirement laid down in Article 92a on an individual basis.

Material subsidiaries of a non-EU G-SII shall comply with Article 92b on an individual basis, where they meet all the following conditions:

(a) they are not resolution entities;

(b) they do not have subsidiaries;

(c) they are not the subsidiaries of an EU parent institution.";

(c) paragraphs 3, 4 and 5 are replaced by the following:

"3. No institution which is either a parent undertaking or a subsidiary, and no institution included in the consolidation pursuant to Article 18, shall be required to comply with the obligations laid down in Part Eight on an individual basis.

By way of derogation from the first subparagraph of this paragraph, the institutions referred to in paragraph 1a of this Article shall comply with Article 437a and point (h) of Article 447 on an individual basis.

4. Credit institutions, and investment firms that are authorised to provide the investment services and activities listed in points (3) and (6) of Section A of Annex I to Directive 2014/65/EU, shall comply with the obligations laid down in Part Six and in point (d) of Article 430(1) of this Regulation on an individual basis.

The following institutions shall not be required to comply with Article 413(1) and the associated liquidity reporting requirements laid down in Part Seven A of this Regulation:

(a) institutions which are also authorised in accordance with Article 14 of Regulation (EU) No 648/2012;

(b) institutions which are also authorised in accordance with Article 16 and point (a) of Article 54(2) of Regulation (EU) No 909/2014 of the European Parliament and of the Council*, provided that they do not perform any significant maturity transformation; and

(c) institutions which are designated in accordance with point (b) of Article 54(2) of Regulation (EU) No 909/2014, provided that:

(i) their activities are limited to offering banking-type services, which are listed in points (a) to (e) of Section C of the Annex to that Regulation, to central securities depositories authorised in accordance with Article 16 of that Regulation; and

(ii) they do not perform any significant maturity transformation.

Pending the report from the Commission in accordance with Article 508(3), competent authorities may exempt investment firms from complying with the obligations laid down in Part Six and point (d) of Article 430(1) taking into account the nature, scale and complexity of their activities.

5. Investment firms referred to in Articles 95(1) and 96(1) of this Regulation, institutions for which competent authorities have exercised the derogation specified in Article 7(1) or (3) of this Regulation, and institutions which are also authorised in accordance with Article 14 of Regulation (EU) No 648/2012, shall not be required to comply with the obligations laid down in Part Seven and the associated leverage ratio reporting requirements laid down in Part Seven A of this Regulation on an individual basis.

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* Regulation (EU) No 909/2014 of the European Parliament and of the Council of 23 July 2014 on improving securities settlement in the European Union and on central securities depositories and amending Directives 98/26/EC and 2014/65/EU and Regulation (EU) No 236/2012 (OJ L 257, 28.8.2014, p. 1).";

(4) Article 8 is amended as follows:

(a) in paragraph 1, point (b) is replaced by the following:

"(b) the parent institution on a consolidated basis or the subsidiary institution on a sub-consolidated basis monitors and has oversight at all times over the liquidity positions of all institutions within the group or sub-group, that are subject to the waiver, monitors and has oversight at all times over the funding positions of all institutions within the group or sub-group where the net stable funding ratio (NSFR) requirement set out in Title IV of Part Six is waived, and ensures a sufficient level of liquidity, and of stable funding where the NSFR requirement set out in Title IV of Part Six is waived, for all of those institutions;";

(b) in paragraph 3, points (b) and (c) are replaced by the following:

"(b) the distribution of amounts, location and ownership of the required liquid assets to be held within the single liquidity sub-group, where the liquidity coverage ratio (LCR) requirement as laid down in the delegated act referred to in Article 460(1) is waived, and the distribution of amounts and location of available stable funding within the single liquidity sub-group, where the NSFR requirement set out in Title IV of Part Six is waived;

(c) the determination of minimum amounts of liquid assets to be held by institutions for which the application of the LCR requirement as laid down in the delegated act referred to in Article 460(1) is waived and the determination of minimum amounts of available stable funding to be held by institutions for which the application of the NSFR requirement set out in Title IV of Part Six is waived;";

(c) the following paragraph is added:

"6. Where, in accordance with this Article, a competent authority waives, in part or in full, the application of Part Six for an institution, it may also waive the application of the associated liquidity reporting requirements under point (d) of Article 430(1) for that institution.";

(5) in Article 10(1), the introductory phrase of the first subparagraph is replaced by the following:

"1. Competent authorities may, in accordance with national law, partially or fully waive the application of the requirements set out in Parts Two to Eight of this Regulation and Chapter 2 of Regulation (EU) 2017/2402 to one or more credit institutions situated in the same Member State and which are permanently affiliated to a central body which supervises them and which is established in the same Member State, if the following conditions are met:";

(6) Article 11 is amended as follows:

(a) paragraphs 1 and 2 are replaced by the following:

"1. Parent institutions in a Member State shall comply, to the extent and in the manner set out in Article 18, with the obligations laid down in Parts Two, Three, Four, Seven and Seven A on the basis of their consolidated situation, with the exception of point (d) of Article 430(1). The parent undertakings and their subsidiaries that are subject to this Regulation shall set up a proper organisational structure and appropriate internal control mechanisms in order to ensure that the data required for consolidation are duly processed and forwarded. In particular, they shall ensure that subsidiaries not subject to this Regulation implement arrangements, processes and mechanisms to ensure proper consolidation.

2. For the purpose of ensuring that the requirements of this Regulation are applied on a consolidated basis, the terms 'institution', 'parent institution in a Member State', 'EU parent institution' and 'parent undertaking', as the case may be, shall also refer to:

(a) a financial holding company or mixed financial holding company approved in accordance with Article 21a of Directive 2013/36/EU;

(b) a designated institution controlled by a parent financial holding company or parent mixed financial holding company where such a parent is not subject to approval in accordance with Article 21a(4) of Directive 2013/36/EU;

(c) a financial holding company, mixed financial holding company or institution designated in accordance with point (d) of Article 21a(6) of Directive 2013/36/EU.

The consolidated situation of an undertaking referred to in point (b) of the first subparagraph of this paragraph shall be the consolidated situation of the parent financial holding company or the parent mixed financial holding company that is not subject to approval in accordance with Article 21a(4) of Directive 2013/36/EU. The consolidated situation of an undertaking referred to in point (c) of the first subparagraph of this paragraph shall be the consolidated situation of its parent financial holding company or parent mixed financial holding company.";

(b) paragraph 3 is deleted;

(c) the following paragraph is inserted:

"3a. By way of derogation from paragraph 1 of this Article, only parent institutions identified as resolution entities that are G-SIIs, part of a G-SII or part of a non-EU G-SII shall comply with Article 92a of this Regulation on a consolidated basis, to the extent and in the manner set out in Article 18 of this Regulation.

Only EU parent undertakings that are a material subsidiary of a non-EU G-SII and are not resolution entities shall comply with Article 92b of this Regulation on a consolidated basis to the extent and in the manner set out in Article 18 of this Regulation. Where Article 21b(2) of Directive 2013/36/EU applies, the two intermediate EU parent undertakings jointly identified as a material subsidiary shall each comply with Article 92b of this Regulation on the basis of their consolidated situation.";

(d) paragraphs 4 and 5 are replaced by the following:

"4. EU parent institutions shall comply with Part Six and point (d) of Article 430(1) of this Regulation on the basis of their consolidated situation where the group comprises one or more credit institutions or investment firms that are authorised to provide the investment services and activities listed in points (3) and (6) of Section A of Annex I to Directive 2014/65/EU. Pending the report from the Commission referred to in Article 508(2) of this Regulation, and where the group comprises only investment firms, competent authorities may exempt the EU parent institutions from compliance with Part Six and point (d) of Article 430(1) of this Regulation on a consolidated basis, taking into account the nature, scale and complexity of the investment firm's activities.

Where a waiver has been granted under Article 8(1) to (5), the institutions and, where applicable, the financial holding companies or mixed financial holding companies that are part of a liquidity sub-group shall comply with Part Six and point (d) of Article 430(1) on a consolidated basis or on the sub-consolidated basis of the liquidity sub-group.

5. Where Article 10 of this Regulation applies, the central body referred to in that Article shall comply with the requirements of Parts Two to Eight of this Regulation and Chapter 2 of Regulation (EU) 2017/2402 on the basis of the consolidated situation of the whole as constituted by the central body together with its affiliated institutions.

6. In addition to the requirements laid down in paragraphs 1 to 5 of this Article, and without prejudice to other provisions of this Regulation and Directive 2013/36/EU, when it is justified for supervisory purposes by the specificities of the risk or of the capital structure of an institution or where Member States adopt national laws requiring the structural separation of activities within a banking group, competent authorities may require an institution to comply with the obligations laid down in Parts Two to Eight of this Regulation and in Title VII of Directive 2013/36/EU on a sub-consolidated basis.

The application of the approach set out in the first subparagraph shall be without prejudice to effective supervision on a consolidated basis and shall neither entail disproportionate adverse effects on the whole or parts of the financial system in other Member States or in the Union as a whole nor form or create an obstacle to the functioning of the internal market.";

(7) Article 12 is deleted;

(8) the following article is inserted:

"*Article 12a*

Consolidated calculation for G-SIIs with multiple resolution entities

Where at least two G-SII entities belonging to the same G-SII are resolution entities, the EU parent institution of that G-SII shall calculate the amount of own funds and eligible liabilities referred to in point (a) of Article 92a(1) of this Regulation. That calculation shall be undertaken on the basis of the consolidated situation of the EU parent institution as if it were the only resolution entity of the G-SII.

Where the amount calculated in accordance with the first paragraph of this Article is lower than the sum of the amounts of own funds and eligible liabilities referred to in point (a) of Article 92a(1) of this Regulation of all resolution entities belonging to that G-SII, the resolution authorities shall act in accordance with Articles 45d(3) and 45h(2) of Directive 2014/59/EU.

Where the amount calculated in accordance with the first paragraph of this Article is higher than the sum of the amounts of own funds and eligible liabilities referred to in point (a) of Article 92a(1) of this Regulation of all resolution entities belonging to that G-SII, the resolution authorities may act in accordance with Articles 45d(3) and 45h(2) of Directive 2014/59/EU.";

(9) Articles 13 and 14 are replaced by the following:

"*Article 13*

Application of disclosure requirements on a consolidated basis

1. EU parent institutions shall comply with Part Eight on the basis of their consolidated situation.

   Large subsidiaries of EU parent institutions shall disclose the information specified in Articles 437, 438, 440, 442, 450, 451, 451a and 453 on an individual basis or, where applicable in accordance with this Regulation and Directive 2013/36/EU, on a sub-consolidated basis.

2. Institutions identified as resolution entities that are G-SIIs or that are part of a G-SII shall comply with Article 437a and point (h) of Article 447 on the basis of the consolidated situation of their resolution group.

3. The first subparagraph of paragraph 1 shall not apply to EU parent institutions, EU parent financial holding companies, EU parent mixed financial holding companies or resolution entities where they are included in equivalent disclosures on a consolidated basis provided by a parent undertaking established in a third country.

   The second subparagraph of paragraph 1 shall apply to subsidiaries of parent undertakings established in a third country where those subsidiaries qualify as large subsidiaries.

4. Where Article 10 applies, the central body referred to in that Article shall comply with Part Eight on the basis of the consolidated situation of the central body. Article 18(1) shall apply to the central body and the affiliated institutions shall be treated as subsidiaries of the central body.

Article 14

Application of requirements of Article 5 of Regulation (EU) 2017/2402 on a consolidated basis

1. Parent undertakings and their subsidiaries that are subject to this Regulation shall be required to meet the obligations laid down in Article 5 of Regulation (EU) 2017/2402 on a consolidated or sub-consolidated basis, to ensure that their arrangements, processes and mechanisms required by those provisions are consistent and well-integrated and that any data and information relevant to the purpose of supervision can be produced. In particular, they shall ensure that subsidiaries that are not subject to this Regulation implement arrangements, processes and mechanisms to ensure compliance with those provisions.

2. Institutions shall apply an additional risk weight in accordance with Article 270a of this Regulation when applying Article 92 of this Regulation on a consolidated or sub-consolidated basis if the requirements laid down in Article 5 of Regulation (EU) 2017/2402 are breached at the level of an entity established in a third country included in the consolidation in accordance with Article 18 of this Regulation if the breach is material in relation to the overall risk profile of the group.";

(10) in Article 15(1), the introductory phrase of the first subparagraph is replaced by the following:

"1. The consolidating supervisor may waive, on a case-by-case basis, the application of Part Three, the associated reporting requirements in Part Seven A of this Regulation, and Chapter 4 of Title VII of Directive 2013/36/EU, with the exception of point (d) of Article 430(1) of this Regulation on a consolidated basis, provided that the following conditions exist:";

(11) Article 16 is replaced by the following:

"*Article 16*
Derogation from the application of the leverage ratio requirements on a consolidated basis for groups of investment firms

Where all entities in a group of investment firms, including the parent entity, are investment firms that are exempt from the application of the requirements laid down in Part Seven on an individual basis in accordance with Article 6(5), the parent investment firm may choose not to apply the requirements laid down in Part Seven and the associated leverage ratio reporting requirements in Part Seven A on a consolidated basis.";

(12) Article 18 is replaced by the following:

"*Article 18*

Methods of prudential consolidation

1. Institutions, financial holding companies and mixed financial holding companies that are required to comply with the requirements referred to in Section 1 of this Chapter on the basis of their consolidated situation shall carry out a full consolidation of all institutions and financial institutions that are their subsidiaries. Paragraphs 3 to 6 and paragraph 9 of this Article shall not apply where Part Six and point (d) of Article 430(1) apply on the basis of the consolidated situation of an institution, financial holding company or mixed financial holding company or on the sub-consolidated situation of a liquidity sub-group as set out in Articles 8 and 10.

   For the purposes of Article 11(3a), institutions that are required to comply with the requirements referred to in Article 92a or 92b on a consolidated basis shall carry out a full consolidation of all institutions and financial institutions that are their subsidiaries in the relevant resolution groups.

2. Ancillary services undertakings shall be included in consolidation in the cases, and in accordance with the methods, laid down in this Article.

3. Where undertakings are related within the meaning of Article 22(7) of Directive 2013/34/EU, competent authorities shall determine how consolidation is to be carried out.

4. The consolidating supervisor shall require the proportional consolidation according to the share of capital held of participations in institutions and financial institutions managed by an undertaking included in the consolidation together with one or more undertakings not included in the consolidation, where the liability of those undertakings is limited to the share of the capital they hold.

5. In the case of participations or capital ties other than those referred to in paragraphs 1 and 4, competent authorities shall determine whether and how consolidation is to be carried out. In particular, they may permit or require the use of the equity method. That method shall not, however, constitute inclusion of the undertakings concerned in supervision on a consolidated basis.

6. Competent authorities shall determine whether and how consolidation is to be carried out in the following cases:

   (a) where, in the opinion of the competent authorities, an institution exercises a significant influence over one or more institutions or financial institutions, but without holding a participation or other capital ties in those institutions; and

(b) where two or more institutions or financial institutions are placed under single management other than pursuant to a contract, clauses of their memoranda or articles of association.

In particular, competent authorities may permit or require the use of the method provided for in Article 22(7), (8) and (9) of Directive 2013/34/EU. That method shall not, however, constitute inclusion of the undertakings concerned in consolidated supervision.

7. Where an institution has a subsidiary which is an undertaking other than an institution, a financial institution or an ancillary services undertaking or holds a participation in such an undertaking, it shall apply to that subsidiary or participation the equity method. That method shall not, however, constitute inclusion of the undertakings concerned in supervision on a consolidated basis.

By way of derogation from the first subparagraph, competent authorities may allow or require institutions to apply a different method to such subsidiaries or participations, including the method required by the applicable accounting framework, provided that:

(a) the institution does not already apply the equity method on … [18 months after the date of entry into force of this amending Regulation];

(b) it would be unduly burdensome to apply the equity method or the equity method does not adequately reflect the risks that the undertaking referred to in the first subparagraph poses to the institution; and

(c) the method applied does not result in full or proportional consolidation of that undertaking.

8. Competent authorities may require full or proportional consolidation of a subsidiary or an undertaking in which an institution holds a participation where that subsidiary or undertaking is not an institution, financial institution or ancillary services undertaking and where all the following conditions are met:

(a) the undertaking is not an insurance undertaking, a third-country insurance undertaking, a reinsurance undertaking, a third-country reinsurance undertaking, an insurance holding company or an undertaking excluded from the scope of Directive 2009/138/EC in accordance with Article 4 of that Directive;

(b) there is a substantial risk that the institution decides to provide financial support to that undertaking in stressed conditions, in the absence of, or in excess of any contractual obligations to provide such support.

9. EBA shall develop draft regulatory technical standards to specify conditions in accordance with which consolidation shall be carried out in the cases referred to in paragraphs 3 to 6 and paragraph 8.

EBA shall submit those draft regulatory technical standards to the Commission by 31 December 2020.

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.";

(13) Article 22 is replaced by the following

"*Article 22*
Sub-consolidation in case of entities in third countries

1. Subsidiary institutions shall apply the requirements laid down in Articles 89, 90 and 91 and Parts Three, Four and Seven and the associated reporting requirements laid down in Part Seven A on the basis of their sub-consolidated situation if those institutions have an institution or a financial institution as a subsidiary in a third country, or hold a participation in such an undertaking.

2. By way of derogation from paragraph 1 of this Article, subsidiary institutions may choose not to apply the requirements laid down in Articles 89, 90 and 91 and Parts Three, Four and Seven and the associated reporting requirements laid down in Part Seven A on the basis of their sub-consolidated situation where the total assets and off-balance-sheet items of their subsidiaries and participations in third countries are less than 10 % of the total amount of the assets and off-balance-sheet items of the subsidiary institution.";

(14) the title of Part Two is replaced by the following:

"OWN FUNDS AND ELIGIBLE LIABILITIES";

(15) in Article 26, paragraph 3 is replaced by the following:

"3. Competent authorities shall evaluate whether issuances of capital instruments meet the criteria set out in Article 28 or, where applicable, Article 29. Institutions shall classify issuances of capital instruments as Common Equity Tier 1 instruments only after permission is granted by the competent authorities.

By way of derogation from the first subparagraph, institutions may classify as Common Equity Tier 1 instruments subsequent issuances of a form of Common Equity Tier 1 instruments for which they have already received that permission, provided that both of the following conditions are met:

(a) the provisions governing those subsequent issuances are substantially the same as the provisions governing those issuances for which the institutions have already received permission;

(b) institutions have notified those subsequent issuances to the competent authorities sufficiently in advance of their classification as Common Equity Tier 1 instruments.

Competent authorities shall consult EBA before granting permission for new forms of capital instruments to be classified as Common Equity Tier 1 instruments. Competent authorities shall have due regard to EBA's opinion and, where they decide to deviate from it, shall write to EBA within three months from the date of receipt of EBA's opinion setting out the rationale for deviating from the relevant opinion. This subparagraph does not apply to the capital instruments referred to in Article 31.

On the basis of information collected from competent authorities, EBA shall establish, maintain and publish a list of all forms of capital instruments in each Member State that qualify as Common Equity Tier 1 instruments. In accordance with Article 35 of Regulation (EU) No 1093/2010, EBA may collect any information in connection with Common Equity Tier 1 instruments that it considers necessary to establish compliance with the criteria set out in Article 28 or, where applicable, Article 29 of this Regulation and for the purpose of maintaining and updating the list referred to in this subparagraph.

Following the review process set out in Article 80 and where there is sufficient evidence that the relevant capital instruments do not meet or have ceased to meet the criteria set out in Article 28 or, where applicable, Article 29, EBA may decide not to add those instruments to the list referred to in the fourth subparagraph or remove them from that list, as the case may be. EBA shall make an announcement to that effect that shall also refer to the relevant competent authority's position on the matter. This subparagraph does not apply to the capital instruments referred to in Article 31.";

(16) Article 28 is amended as follows:

(a) paragraph 1 is amended as follows:

(i) point (b) is replaced by the following:

"(b) the instruments are fully paid up and the acquisition of ownership of those instruments is not funded directly or indirectly by the institution;";

(ii) the following subparagraph is added:

"For the purposes of point (b) of the first subparagraph, only the part of a capital instrument that is fully paid up shall be eligible to qualify as a Common Equity Tier 1 instrument.";

(b) in paragraph 3, the following subparagraphs are added:

"The condition set out in point (h)(v) of the first subparagraph of paragraph 1 shall be considered to be met notwithstanding a subsidiary being subject to a profit and loss transfer agreement with its parent undertaking, according to which the subsidiary is obliged to transfer, following the preparation of its annual financial statements, its annual result to the parent undertaking, where all the following conditions are met:

(a) the parent undertaking owns 90 % or more of the voting rights and capital of the subsidiary;

(b) the parent undertaking and the subsidiary are located in the same Member State;

(c) the agreement was concluded for legitimate taxation purposes;

(d) in preparing the annual financial statement, the subsidiary has discretion to decrease the amount of distributions by allocating a part or all of its profits to its own reserves or funds for general banking risk before making any payment to its parent undertaking;

(e) the parent undertaking is obliged under the agreement to fully compensate the subsidiary for all losses of the subsidiary;

(f) the agreement is subject to a notice period according to which the agreement can be terminated only by the end of an accounting year, with such termination taking effect no earlier than the beginning of the following accounting year, leaving the parent undertaking's obligation to fully compensate the subsidiary for all losses incurred during the current accounting year unchanged.

Where an institution has entered into a profit and loss transfer agreement, it shall notify the competent authority without delay and provide the competent authority with a copy of the agreement. The institution shall also notify the competent authority without delay of any changes to the profit and loss transfer agreement and the termination thereof. An institution shall not enter into more than one profit and loss transfer agreement.";

(17) in Article 33(1), point (c) is replaced by the following:

"(c) fair value gains and losses on derivative liabilities of the institution that result from changes in the own credit risk of the institution.";

(18) Article 36 is amended as follows:

(a) paragraph 1 is amended as follows:

(i) point (b) is replaced by the following:

"(b) intangible assets with the exception of prudently valued software assets the value of which is not negatively affected by resolution, insolvency or liquidation of the institution;";

(ii) the following point is added:

"(n) for a minimum value commitment referred to in Article 132c(2), any amount by which the current market value of the units or shares in CIUs underlying the minimum value commitment falls short of the present value of the minimum value commitment and for which the institution has not already recognised a reduction of Common Equity Tier 1 items.";

(b) the following paragraph is added:

"4. EBA shall develop draft regulatory technical standards to specify the application of the deductions referred to in point (b) of paragraph 1, including the materiality of negative effects on the value which do not cause prudential concerns.

EBA shall submit those draft regulatory technical standards to the Commission by … [12 months after the date of entry into force of this amending Regulation].

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.";

(19) in Article 37, the following point is added:

"(c) the amount to be deducted shall be reduced by the amount of the accounting revaluation of the subsidiaries' intangible assets derived from the consolidation of subsidiaries attributable to persons other than the undertakings included in the consolidation pursuant to Chapter 2 of Title II of Part One.";

(20) in Article 39(2), in the first subparagraph the introductory phrase is replaced by the following:

"Deferred tax assets that do not rely on future profitability shall be limited to deferred tax assets which were created before 23 November 2016 and which arise from temporary differences, where all the following conditions are met:";

(21) in Article 45, point (a)(i) is replaced by the following:

"(i) the maturity date of the short position is either the same as, or later than the maturity date of the long position or the residual maturity of the short position is at least one year;";

(22) Article 49 is amended as follows:

(a) in paragraph 2, the following subparagraph is added:

"This paragraph shall not apply when calculating own funds for the purposes of the requirements laid down in Articles 92a and 92b, which shall be calculated in accordance with the deduction framework set out in Article 72e(4).";

(b) paragraph 3 is amended as follows:

(i) in point (a)(iv), the last sentence is replaced by the following:

"The consolidated balance sheet or the extended aggregated calculation shall be reported to the competent authorities with the frequency set out in the implementing technical standards referred to in Article 430(7)";

(ii) in point (a)(v), the first sentence is replaced by the following:

"(v) the institutions included in an institutional protection scheme meet together on a consolidated or extended aggregated basis the requirements laid down in Article 92 and carry out reporting of compliance with those requirements in accordance with Article 430.";

(23) Article 52(1) is amended as follows:

(a) point (a) is replaced by the following:

"(a) the instruments are directly issued by an institution and fully paid up;";

(b) the introductory phrase of point (b) is replaced by the following:

"(b) the instruments are not owned by any of the following:";

(c) point (c) is replaced by the following:

"(c) the acquisition of ownership of the instruments is not funded directly or indirectly by the institution;";

(d) point (h) is replaced by the following:

"(h) where the instruments include one or more early redemption options including call options, the options are exercisable at the sole discretion of the issuer;";

(e) point (j) is replaced by the following:

"(j) the provisions governing the instruments do not indicate explicitly or implicitly that the instruments would be called, redeemed or repurchased, as applicable, by the institution other than in the case of the insolvency or liquidation of the institution and the institution does not otherwise provide such an indication;";

(f) point (p) is replaced by the following:

"(p) where the issuer is established in a third country and has been designated in accordance with Article 12 of Directive 2014/59/EU as part of a resolution group the resolution entity of which is established in the Union or where the issuer is established in a Member State, the law or contractual provisions governing the instruments require that, upon a decision by the resolution authority to exercise the write-down and conversion powers referred to in Article 59 of that Directive, the principal amount of the instruments is to be written down on a permanent basis or the instruments are to be converted to Common Equity Tier 1 instruments;

where the issuer is established in a third country and has not been designated in accordance with Article 12 of Directive 2014/59/EU as part of a resolution group the resolution entity of which is established in the Union, the law or contractual provisions governing the instruments require that, upon a decision by the relevant third-country authority, the principal amount of the instruments is to be written down on a permanent basis or the instruments are to be converted into Common Equity Tier 1 instruments;";

(g) the following points are added:

"(q) where the issuer is established in a third country and has been designated in accordance with Article 12 of Directive 2014/59/EU as part of a resolution group the resolution entity of which is established in the Union or where the issuer is established in a Member State, the instruments may only be issued under, or be otherwise subject to the laws of a third country where, under those laws, the exercise of the write-down and conversion powers referred to in Article 59 of that Directive is effective and enforceable on the basis of statutory provisions or legally enforceable contractual provisions that recognise resolution or other write-down or conversion actions;

(r) the instruments are not subject to set-off or netting arrangements that would undermine their capacity to absorb losses.";

(h) the following subparagraph is added:

"For the purposes of point (a) of the first subparagraph, only the part of a capital instrument that is fully paid up shall be eligible to qualify as an Additional Tier 1 instrument.";

(24) in Article 54(1), the following point is added:

"(e) where the Additional Tier 1 instruments have been issued by a subsidiary undertaking established in a third country, the 5,125 % or higher trigger referred to in point (a) shall be calculated in accordance with the national law of that third country or contractual provisions governing the instruments, provided that the competent authority, after consulting EBA, is satisfied that those provisions are at least equivalent to the requirements set out in this Article.";

(25) in Article 59, point (a)(i) is replaced by the following:

"(i) the maturity date of the short position is either the same as, or later than the maturity date of the long position or the residual maturity of the short position is at least one year;";

(26) in Article 62, point (a) is replaced by the following:

"(a) capital instruments where the conditions set out in Article 63 are met, and to the extent specified in Article 64;";

(27) Article 63 is amended as follows:

(a) the introductory phrase is replaced by the following:

"Capital instruments shall qualify as Tier 2 instruments, provided that the following conditions are met:";

(b) point (a) is replaced by the following:

"(a) the instruments are directly issued by an institution and fully paid up;";

(c) in point (b), the introductory phrase is replaced by the following:

"(b) the instruments are not owned by any of the following:";

(d) points (c) and (d) are replaced by the following:

"(c) the acquisition of ownership of the instruments is not funded directly or indirectly by the institution;

(d) the claim on the principal amount of the instruments under the provisions governing the instruments ranks below any claim from eligible liabilities instruments;";

(e) in point (e), the introductory phrase is replaced by the following:

"(e) the instruments are not secured or are not subject to a guarantee that enhances the seniority of the claim by any of the following:";

(f) points (f) to (n) are replaced by the following:

"(f) the instruments are not subject to any arrangement that otherwise enhances the seniority of the claim under the instruments;

(g) the instruments have an original maturity of at least five years;

(h) the provisions governing the instruments do not include any incentive for their principal amount to be redeemed or repaid, as applicable by the institution prior to their maturity;

(i) where the instruments include one or more early repayment options, including call options, the options are exercisable at the sole discretion of the issuer;

(j) the instruments may be called, redeemed, repaid or repurchased early only where the conditions set out in Article 77 are met, and not before five years after the date of issuance, except where the conditions set out in Article 78(4) are met;

(k) the provisions governing the instruments do not indicate explicitly or implicitly that the instruments would be called, redeemed, repaid or repurchased early, as applicable, by the institution other than in the case of the insolvency or liquidation of the institution and the institution does not otherwise provide such an indication;

(l) the provisions governing the instruments do not give the holder the right to accelerate the future scheduled payment of interest or principal, other than in the case of the insolvency or liquidation of the institution;

(m) the level of interest or dividends payments, as applicable, due on the instruments will not be amended on the basis of the credit standing of the institution or its parent undertaking;

(n) where the issuer is established in a third country and has been designated in accordance with Article 12 of Directive 2014/59/EU as part of a resolution group the resolution entity of which is established in the Union or where the issuer is established in a Member State, the law or contractual provisions governing the instruments require that, upon a decision by the resolution authority to exercise the write-down and conversion powers referred to in Article 59 of that Directive, the principal amount of the instruments is to be written down on a permanent basis or the instruments are to be converted to Common Equity Tier 1 instruments;

where the issuer is established in a third country and has not been designated in accordance with Article 12 of Directive 2014/59/EU as a part of a resolution group the resolution entity of which is established in the Union, the law or contractual provisions governing the instruments require that, upon a decision by the relevant third-country authority, the principal amount of the instruments is to be written down on a permanent basis or the instruments are to be converted into Common Equity Tier 1 instruments;";

(g) the following points are added:

"(o) where the issuer is established in a third country and has been designated in accordance with Article 12 of Directive 2014/59/EU as part of a resolution group the resolution entity of which is established in the Union or where the issuer is established in a Member State, the instruments may only be issued under, or be otherwise subject to the laws of a third country where, under those laws, the exercise of the write-down and conversion powers referred to in Article 59 of that Directive is effective and enforceable on the basis of statutory provisions or legally enforceable contractual provisions that recognise resolution or other write-down or conversion actions;

(p) the instruments are not subject to set-off or netting arrangements that would undermine their capacity to absorb losses.";

(h) the following paragraph is added:

"For the purposes of point (a) of the first paragraph, only the part of the capital instrument that is fully paid up shall be eligible to qualify as a Tier 2 instrument.";

(28) Article 64 is replaced by the following:

"*Article 64*

Amortisation of Tier 2 instruments

1. The full amount of Tier 2 instruments with a residual maturity of more than five years shall qualify as Tier 2 items.

2. The extent to which Tier 2 instruments qualify as Tier 2 items during the final five years of maturity of the instruments is calculated by multiplying the result derived from the calculation referred to in point (a) by the amount referred to in point (b) as follows:

   (a) the carrying amount of the instruments on the first day of the final five-year period of their contractual maturity divided by the number of days in that period;

   (b) the number of remaining days of contractual maturity of the instruments.";

(29) in Article 66, the following point is added:

"(e) the amount of items required to be deducted from eligible liabilities items pursuant to Article 72e that exceeds the eligible liabilities items of the institution.";

(30) in Article 69, point (a)(i) is replaced by the following:

"(i) the maturity date of the short position is either the same as, or later than the maturity date of the long position or the residual maturity of the short position is at least one year;";

(31) the following chapter is inserted after Article 72:

"CHAPTER 5a
Eligible liabilities

Section 1
Eligible liabilities items and instruments

Article 72a
Eligible liabilities items

1. Eligible liabilities items shall consist of the following, unless they fall into any of the categories of excluded liabilities laid down in paragraph 2 of this Article, and to the extent specified in Article 72c:

(a) eligible liabilities instruments where the conditions set out in Article 72b are met, to the extent that they do not qualify as Common Equity Tier 1, Additional Tier 1 or Tier 2 items;

(b) Tier 2 instruments with a residual maturity of at least one year, to the extent that they do not qualify as Tier 2 items in accordance with Article 64.

2. The following liabilities shall be excluded from eligible liabilities items:

(a) covered deposits;

(b) sight deposits and short term deposits with an original maturity of less than one year;

(c) the part of eligible deposits from natural persons and micro, small and medium-sized enterprises which exceeds the coverage level referred to in Article 6 of Directive 2014/49/EU of the European Parliament and of the Council*;

(d) deposits that would be eligible deposits from natural persons, micro, small and medium–sized enterprises if they were not made through branches located outside the Union of institutions established in the Union;

(e) secured liabilities, including covered bonds and liabilities in the form of financial instruments used for hedging purposes that form an integral part of the cover pool and that in accordance with national law are secured in a manner similar to covered bonds, provided that all secured assets relating to a covered bond cover pool remain unaffected, segregated and with enough funding and excluding any part of a secured liability or a liability for which collateral has been pledged that exceeds the value of the assets, pledge, lien or collateral against which it is secured;

(f) any liability that arises by virtue of the holding of client assets or client money including client assets or client money held on behalf of collective investment undertakings, provided that such a client is protected under the applicable insolvency law;

(g) any liability that arises by virtue of a fiduciary relationship between the resolution entity or any of its subsidiaries (as fiduciary) and another person (as beneficiary), provided that such a beneficiary is protected under the applicable insolvency or civil law;

(h) liabilities to institutions, excluding liabilities to entities that are part of the same group, with an original maturity of less than seven days;

(i) liabilities with a remaining maturity of less than seven days, owed to:

(i) systems or system operators designated in accordance with Directive 98/26/EC of the European Parliament and of the Council**;

(ii) participants in a system designated in accordance with Directive 98/26/EC and arising from the participation in such a system; or

(iii) third-country CCPs recognised in accordance with Article 25 of Regulation (EU) No 648/2012;

(j) a liability to any of the following:

(i) an employee in relation to accrued salary, pension benefits or other fixed remuneration, except for the variable component of the remuneration that is not regulated by a collective bargaining agreement, and except for the variable component of the remuneration of material risk takers as referred to in Article 92(2) of Directive 2013/36/EU;

(ii) a commercial or trade creditor where the liability arises from the provision to the institution or the parent undertaking of goods or services that are critical to the daily functioning of the institution's or parent undertaking's operations, including IT services, utilities and the rental, servicing and upkeep of premises;

(iii) tax and social security authorities, provided that those liabilities are preferred under the applicable law;

(iv) deposit guarantee schemes where the liability arises from contributions due in accordance with Directive 2014/49/EU;

(k) liabilities arising from derivatives;

(l) liabilities arising from debt instruments with embedded derivatives.

For the purposes of point (l) of the first subparagraph, debt instruments containing early redemption options exercisable at the discretion of the issuer or of the holder, and debt instruments with variable interests derived from a broadly used reference rate such as Euribor or Libor, shall not be considered as debt instruments with embedded derivatives solely because of such features.

Article 72b

Eligible liabilities instruments

1. Liabilities shall qualify as eligible liabilities instruments, provided that they comply with the conditions set out in this Article and only to the extent specified in this Article.

2. Liabilities shall qualify as eligible liabilities instruments, provided that all the following conditions are met:

   (a) the liabilities are directly issued or raised, as applicable, by an institution and are fully paid up;

   (b) the liabilities are not owned by any of the following:

      (i) the institution or an entity included in the same resolution group;

      (ii) an undertaking in which the institution has a direct or indirect participation in the form of ownership, direct or by way of control, of 20 % or more of the voting rights or capital of that undertaking;

(c) the acquisition of ownership of the liabilities is not funded directly or indirectly by the resolution entity;

(d) the claim on the principal amount of the liabilities under the provisions governing the instruments is wholly subordinated to claims arising from the excluded liabilities referred to in Article 72a(2); that subordination requirement shall be considered to be met in any of the following situations:

(i) the contractual provisions governing the liabilities specify that in the event of normal insolvency proceedings as defined in point (47) of Article 2(1) of Directive 2014/59/EU, the claim on the principal amount of the instruments ranks below claims arising from any of the excluded liabilities referred to in Article 72a(2) of this Regulation;

(ii) the applicable law specifies that in the event of normal insolvency proceedings as defined in point (47) of Article 2(1) of Directive 2014/59/EU, the claim on the principal amount of the instruments ranks below claims arising from any of the excluded liabilities referred to in Article 72a(2) of this Regulation;

(iii) the instruments are issued by a resolution entity which does not have on its balance sheet any excluded liabilities as referred to in Article 72a(2) of this Regulation that rank *pari passu* or junior to eligible liabilities instruments;

(e) the liabilities are neither secured, nor subject to a guarantee or any other arrangement that enhances the seniority of the claim by any of the following:

(i) the institution or its subsidiaries;

(ii) the parent undertaking of the institution or its subsidiaries;

(iii) any undertaking that has close links with entities referred to in points (i) and (ii);

(f) the liabilities are not subject to set-off or netting arrangements that would undermine their capacity to absorb losses in resolution;

(g) the provisions governing the liabilities do not include any incentive for their principal amount to be called, redeemed or repurchased prior to their maturity or repaid early by the institution, as applicable, except in the cases referred to in Article 72c(3);

(h) the liabilities are not redeemable by the holders of the instruments prior to their maturity, except in the cases referred to in Article 72c(2);

(i) subject to Article 72c(3) and (4), where the liabilities include one or more early repayment options, including call options, the options are exercisable at the sole discretion of the issuer, except in the cases referred to in Article 72c(2);

(j) the liabilities may only be called, redeemed, repaid or repurchased early where the conditions set out in Articles 77 and 78a are met;

(k) the provisions governing the liabilities do not indicate explicitly or implicitly that the liabilities would be called, redeemed, repaid or repurchased early, as applicable by the resolution entity other than in the case of the insolvency or liquidation of the institution and the institution does not otherwise provide such an indication;

(l) the provisions governing the liabilities do not give the holder the right to accelerate the future scheduled payment of interest or principal, other than in the case of the insolvency or liquidation of the resolution entity;

(m) the level of interest or dividend payments, as applicable, due on the liabilities is not amended on the basis of the credit standing of the resolution entity or its parent undertaking;

(n) for instruments issued after … [two years after the date of entry into force of this amending Regulation] the relevant contractual documentation and, where applicable, the prospectus related to the issuance explicitly refer to the possible exercise of the write-down and conversion powers in accordance with Article 48 of Directive 2014/59/EU.

For the purposes of point (a) of the first subparagraph, only the parts of liabilities that are fully paid up shall be eligible to qualify as eligible liabilities instruments.

For the purposes of point (d) of the first subparagraph of this Article, where some of the excluded liabilities referred to in Article 72a(2) are subordinated to ordinary unsecured claims under national insolvency law, inter alia, due to being held by a creditor who has close links with the debtor, by being or having been a shareholder, in a control or group relationship, a member of the management body or related to any of those persons, subordination shall not be assessed by reference to claims arising from such excluded liabilities.

3. In addition to the liabilities referred to in paragraph 2 of this Article, the resolution authority may permit liabilities to qualify as eligible liabilities instruments up to an aggregate amount that does not exceed 3,5 % of the total risk exposure amount calculated in accordance with Article 92(3) and (4), provided that:

(a) all the conditions set out in paragraph 2 except for the condition set out in point (d) of the first subparagraph of paragraph 2 are met;

(b) the liabilities rank *pari passu* with the lowest ranking excluded liabilities referred to in Article 72a(2) with the exception of the excluded liabilities that are subordinated to ordinary unsecured claims under national insolvency law referred to in the third subparagraph of paragraph 2 of this Article; and

(c) the inclusion of those liabilities in eligible liabilities items would not give rise to a material risk of a successful legal challenge or of valid compensation claims as assessed by the resolution authority in relation to the principles referred to in point (g) of Article 34(1) and Article 75 of Directive 2014/59/EU.

4. The resolution authority may permit liabilities to qualify as eligible liabilities instruments in addition to the liabilities referred to in paragraph 2, provided that:

(a) the institution is not permitted to include in eligible liabilities items liabilities referred to in paragraph 3;

(b) all the conditions set out in paragraph 2, except for the condition set out in point (d) of the first subparagraph of paragraph 2, are met;

(c) the liabilities rank *pari passu* or are senior to the lowest ranking excluded liabilities referred to in Article 72a(2), with the exception of the excluded liabilities subordinated to ordinary unsecured claims under national insolvency law referred to in the third subparagraph of paragraph 2 of this Article;

(d) on the balance sheet of the institution, the amount of the excluded liabilities referred to in Article 72a(2) which rank *pari passu* or below those liabilities in insolvency does not exceed 5 % of the amount of the own funds and eligible liabilities of the institution;

(e) the inclusion of those liabilities in eligible liabilities items would not give rise to a material risk of a successful legal challenge or of valid compensation claims as assessed by the resolution authority in relation to the principles referred to in point (g) of Article 34(1) and Article 75 of Directive 2014/59/EU.

5. The resolution authority may only permit an institution to include liabilities referred to either in paragraph 3 or 4 as eligible liabilities items.

6. The resolution authority shall consult the competent authority when examining whether the conditions set out in this Article are fulfilled.

7. EBA shall develop draft regulatory technical standards to specify:

   (a) the applicable forms and nature of indirect funding of eligible liabilities instruments;

   (b) the form and nature of incentives to redeem for the purposes of the condition set out in point (g) of the first subparagraph of paragraph 2 of this Article and Article 72c(3).

   Those draft regulatory technical standards shall be fully aligned with the delegated act referred to in point (a) of Article 28(5) and in point (a) of Article 52(2).

   EBA shall submit those draft regulatory technical standards to the Commission by … [six months after the date of entry into force of this amending Regulation].

   Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.

Article 72c

Amortisation of eligible liabilities instruments

1. Eligible liabilities instruments with a residual maturity of at least one year shall fully qualify as eligible liabilities items.

   Eligible liabilities instruments with a residual maturity of less than one year shall not qualify as eligible liabilities items.

2. For the purposes of paragraph 1, where a eligible liabilities instrument includes a holder redemption option exercisable prior to the original stated maturity of the instrument, the maturity of the instrument shall be defined as the earliest possible date on which the holder can exercise the redemption option and request redemption or repayment of the instrument.

3. For the purposes of paragraph 1, where an eligible liabilities instrument includes an incentive for the issuer to call, redeem, repay or repurchase the instrument prior to the original stated maturity of the instrument, the maturity of the instrument shall be defined as the earliest possible date on which the issuer can exercise that option and request redemption or repayment of the instrument.

4. For the purposes of paragraph 1, where an eligible liabilities instrument includes early redemption options that are exercisable at the sole discretion of the issuer prior to the original stated maturity of the instrument, but where the provisions governing the instrument do not include any incentive for the instrument to be called, redeemed, repaid or repurchased prior to its maturity and do not include any option for redemption or repayment at the discretion of the holders, the maturity of the instrument shall be defined as the original stated maturity.

Article 72d

Consequences of the eligibility conditions ceasing to be met

Where, in the case of an eligible liabilities instrument, the applicable conditions set out in Article 72b cease to be met, the liabilities shall immediately cease to qualify as eligible liabilities instruments.

Liabilities referred to in Article 72b(2) may continue to count as eligible liabilities instruments as long as they qualify as eligible liabilities instruments under Article 72b(3) or (4).

Section 2

Deductions from eligible liabilities items

Article 72e

Deductions from eligible liabilities items

1. Institutions that are subject to Article 92a shall deduct the following from eligible liabilities items:

   (a) direct, indirect and synthetic holdings by the institution of own eligible liabilities instruments, including own liabilities that that institution could be obliged to purchase as a result of existing contractual obligations;

   (b) direct, indirect and synthetic holdings by the institution of eligible liabilities instruments of G-SII entities with which the institution has reciprocal cross holdings that the competent authority considers to have been designed to artificially inflate the loss absorption and recapitalisation capacity of the resolution entity;

   (c) the applicable amount determined in accordance with Article 72i of direct, indirect and synthetic holdings of eligible liabilities instruments of G-SII entities, where the institution does not have a significant investment in those entities;

(d) direct, indirect and synthetic holdings by the institution of eligible liabilities instruments of G-SII entities, where the institution has a significant investment in those entities, excluding underwriting positions held for five business days or fewer.

2. For the purposes of this Section, all instruments ranking *pari passu* with eligible liabilities instruments shall be treated as eligible liabilities instruments, with the exception of instruments ranking *pari passu* with instruments recognised as eligible liabilities pursuant to Article 72b(3) and (4).

3. For the purposes of this Section, institutions may calculate the amount of holdings of the eligible liabilities instruments referred to in Article 72b(3) as follows:

$$h = \sum_{i} \left(H_i \cdot \frac{l_i}{L_i} \right)$$

where:

h = the amount of holdings of the eligible liabilities instruments referred to in Article 72b(3);

i = the index denoting the issuing institution;

H_i = the total amount of holdings of eligible liabilities of the issuing institution i referred to in Article 72b(3);

l_i = the amount of liabilities included in eligible liabilities items by the issuing institution i within the limits specified in Article 72b(3) according to the latest disclosures by the issuing institution; and

L_i = the total amount of the outstanding liabilities of the issuing institution i referred to in Article 72b(3) according to the latest disclosures by the issuer.

4. Where an EU parent institution or a parent institution in a Member State that is subject to Article 92a has direct, indirect or synthetic holdings of own funds instruments or eligible liabilities instruments of one or more subsidiaries which do not belong to the same resolution group as that parent institution, the resolution authority of that parent institution, after duly considering the opinion of the resolution authorities of any subsidiaries concerned, may permit the parent institution to deduct such holdings by deducting a lower amount specified by the resolution authority of that parent institution. That adjusted amount shall be at least equal to the amount (m) calculated as follows:

$$m_i = \max\{0; OP_i + LP_i - \max\{0; \beta \cdot [O_i + L_i - r_i \cdot aRWA_i]\}\}$$

where:

i = the index denoting the subsidiary;

OP_i = the amount of own funds instruments issued by subsidiary i and held by the parent institution;

LP_i = the amount of eligible liabilities items issued by subsidiary i and held by the parent institution;

β = percentage of own funds instruments and eligible liabilities items issued by subsidiary i and held by the parent undertaking;

O_i = the amount of own funds of subsidiary i, not taking into account the deduction calculated in accordance with this paragraph;

L_i = the amount of eligible liabilities of subsidiary i, not taking into account the deduction calculated in accordance with this paragraph;

r_i = the ratio applicable to subsidiary i at the level of its resolution group in accordance with point (a) of Article 92a(1) of this Regulation and Article 45d of Directive 2014/59/EU; and

$aRWA_i$ = the total risk exposure amount of the G-SII entity i calculated in accordance with Article 92(3) and (4), taking into account the adjustments set out in Article 12a.

Where the parent institution is allowed to deduct the adjusted amount in accordance with the first subparagraph, the difference between the amount of holdings of own funds instruments and eligible liabilities instruments referred to in the first subparagraph and that adjusted amount shall be deducted by the subsidiary.

Article 72f

Deduction of holdings of own eligible liabilities instruments

For the purposes of point (a) of Article 72e(1), institutions shall calculate holdings on the basis of the gross long positions subject to the following exceptions:

(a) institutions may calculate the amount of holdings on the basis of the net long position, provided that both the following conditions are met:

(i) the long and short positions are in the same underlying exposure and the short positions involve no counterparty risk;

(ii) either both the long and the short positions are held in the trading book or both are held in the non-trading book;

(b) institutions shall determine the amount to be deducted for direct, indirect and synthetic holdings of index securities by calculating the underlying exposure to own eligible liabilities instruments in those indices;

(c) institutions may net gross long positions in own eligible liabilities instruments resulting from holdings of index securities against short positions in own eligible liabilities instruments resulting from short positions in underlying indices, including where those short positions involve counterparty risk, provided that both the following conditions are met:

(i) the long and short positions are in the same underlying indices;

(ii) either both the long and the short positions are held in the trading book or both are held in the non-trading book.

Article 72g

Deduction base for eligible liabilities items

For the purposes of points (b), (c) and (d) of Article 72e(1), institutions shall deduct the gross long positions subject to the exceptions laid down in Articles 72h and 72i.

Article 72h

Deduction of holdings of eligible liabilities of other G-SII entities

Institutions not making use of the exception set out in Article 72j shall make the deductions referred to in points (c) and (d) of Article 72e(1) in accordance with the following:

(a) they may calculate direct, indirect and synthetic holdings of eligible liabilities instruments on the basis of the net long position in the same underlying exposure, provided that both the following conditions are met:

(i) the maturity date of the short position is either the same as, or later than the maturity date of the long position or the residual maturity of the short position is at least one year;

(ii) either both the long position and the short position are held in the trading book or both are held in the non-trading book;

(b) they shall determine the amount to be deducted for direct, indirect and synthetic holdings of index securities by looking through to the underlying exposure to the eligible liabilities instruments in those indices.

Article 72i

Deduction of eligible liabilities where the institution does not have a significant investment in G-SII entities

1. For the purposes of point (c) of Article 72e(1), institutions shall calculate the applicable amount to be deducted by multiplying the amount referred to in point (a) of this paragraph by the factor derived from the calculation referred to in point (b) of this paragraph:

   (a) the aggregate amount by which the direct, indirect and synthetic holdings by the institution of the Common Equity Tier 1, Additional Tier 1, Tier 2 instruments of financial sector entities and eligible liabilities instruments of G-SII entities in none of which the institution has a significant investment exceeds 10 % of the Common Equity Tier 1 items of the institution after applying the following:

      (i) Articles 32 to 35;

      (ii) points (a) to (g), points (k)(ii) to (k)(v) and point (l) of Article 36(1), excluding the amount to be deducted for deferred tax assets that rely on future profitability and arise from temporary differences;

      (iii) Articles 44 and 45;

(b) the amount of direct, indirect and synthetic holdings by the institution of the eligible liabilities instruments of G-SII entities in which the institution does not have a significant investment divided by the aggregate amount of the direct, indirect and synthetic holdings by the institution of the Common Equity Tier 1, Additional Tier 1, Tier 2 instruments of financial sector entities and eligible liabilities instruments of G-SII entities in none of which the resolution entity has a significant investment.

2. Institutions shall exclude underwriting positions held for five business days or fewer from the amounts referred to in point (a) of paragraph 1 and from the calculation of the factor in accordance with point (b) of paragraph 1.

3. The amount to be deducted pursuant to paragraph 1 shall be apportioned across each eligible liabilities instrument of a G-SII entity held by the institution. Institutions shall determine the amount of each eligible liabilities instrument that is deducted pursuant to paragraph 1 by multiplying the amount specified in point (a) of this paragraph by the proportion specified in point (b) of this paragraph:

(a) the amount of holdings required to be deducted pursuant to paragraph 1;

(b) the proportion of the aggregate amount of direct, indirect and synthetic holdings by the institution of the eligible liabilities instruments of G-SII entities in which the institution does not have a significant investment represented by each eligible liabilities instrument held by the institution.

4. The amount of holdings referred to in point (c) of Article 72e(1) that is equal to or less than 10 % of the Common Equity Tier 1 items of the institution after applying the provisions laid down in points (a)(i), (a)(ii) and (a)(iii) of paragraph 1 of this Article shall not be deducted and shall be subject to the applicable risk weights in accordance with Chapter 2 or 3 of Title II of Part Three and the requirements laid down in Title IV of Part Three, as applicable.

5. Institutions shall determine the amount of each eligible liabilities instrument that is risk weighted pursuant to paragraph 4 by multiplying the amount of holdings required to be risk weighted pursuant to paragraph 4 by the proportion resulting from the calculation specified in point (b) of paragraph 3.

Article 72j

Trading book exception from deductions from eligible liabilities items

1. Institutions may decide not to deduct a designated part of their direct, indirect and synthetic holdings of eligible liabilities instruments, that in aggregate and measured on a gross long basis is equal to or less than 5 % of the Common Equity Tier 1 items of the institution after applying Articles 32 to 36, provided that all the following conditions are met:

   (a) the holdings are in the trading book;

   (b) the eligible liabilities instruments are held for no longer than 30 business days.

2. The amounts of the items that are not deducted pursuant to paragraph 1 shall be subject to own funds requirements for items in the trading book.

3. Where, in the case of holdings not deducted in accordance with paragraph 1, the conditions set out in that paragraph cease to be met, the holdings shall be deducted in accordance with Article 72g without applying the exceptions laid down in Articles 72h and 72i.

Section 3

Own funds and eligible liabilities

Article 72k

Eligible liabilities

The eligible liabilities of an institution shall consist of the eligible liabilities items of the institution after the deductions referred to in Article 72e.

Article 72l

Own funds and eligible liabilities

The own funds and eligible liabilities of an institution shall consist of the sum of its own funds and its eligible liabilities.

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* Directive 2014/49/EU of the European Parliament and of the Council of 16 April 2014 on deposit guarantee schemes (OJ L 173, 12.6.2014, p. 149).

** Directive 98/26/EC of the European Parliament and of the Council of 19 May 1998 on settlement finality in payment and securities settlement systems (OJ L 166, 11.6.1998, p. 45).”;

(32) in Title I of Part Two, the title of Chapter 6 is replaced by the following:

"General requirements for own funds and eligible liabilities";

(33) Article 73 is amended as follows:

(a) the title is replaced by the following:

"DISTRIBUTIONS ON INSTRUMENTS";

(b) paragraphs 1 to 4 are replaced by the following:

"1. Capital instruments and liabilities for which an institution has the sole discretion to decide to pay distributions in a form other than cash or own funds instruments shall not be eligible to qualify as Common Equity Tier 1, Additional Tier 1, Tier 2 or eligible liabilities instruments, unless the institution has received the prior permission of the competent authority.

2. Competent authorities shall grant the prior permission referred to in paragraph 1 only where they consider all the following conditions to be met:

(a) the ability of the institution to cancel payments under the instrument would not be adversely affected by the discretion referred to in paragraph 1, or by the form in which distributions could be made;

(b) the ability of the capital instrument or of the liability to absorb losses would not be adversely affected by the discretion referred to in paragraph 1, or by the form in which distributions could be made;

(c) the quality of the capital instrument or liability would not otherwise be reduced by the discretion referred to in paragraph 1, or by the form in which distributions could be made.

The competent authority shall consult the resolution authority regarding an institution's compliance with those conditions before granting the prior permission referred to in paragraph 1.

3. Capital instruments and liabilities for which a legal person other than the institution issuing them has the discretion to decide or require that the payment of distributions on those instruments or liabilities shall be made in a form other than cash or own funds instruments shall not be eligible to qualify as Common Equity Tier 1, Additional Tier 1, Tier 2 or eligible liabilities instruments.

4. Institutions may use a broad market index as one of the bases for determining the level of distributions on Additional Tier 1, Tier 2 and eligible liabilities instruments.";

(c) paragraph 6 is replaced by the following:

"6. Institutions shall report and disclose the broad market indices on which their capital instruments and eligible liabilities instruments rely.";

(34) in Article 75, the introductory phrase is replaced by the following:

"The maturity requirements for short positions referred to in point (a) of Article 45, point (a) of Article 59, point (a) of Article 69 and point (a) of Article 72h shall be considered to be met in respect of positions held where all the following conditions are met:";

(35) in Article 76, paragraphs 1, 2 and 3 are replaced by the following:

"1. For the purposes of point (a) of Article 42, point (a) of Article 45, point (a) of Article 57, point (a) of Article 59, point (a) of Article 67, point (a) of Article 69 and point (a) of Article 72h, institutions may reduce the amount of a long position in a capital instrument by the portion of an index that is made up of the same underlying exposure that is being hedged, provided that all the following conditions are met:

(a) either both the long position being hedged and the short position in an index used to hedge that long position are held in the trading book or both are held in the non-trading book;

(b) the positions referred to in point (a) are held at fair value on the balance sheet of the institution;

(c) the short position referred to in point (a) qualifies as an effective hedge under the internal control processes of the institution;

(d) the competent authorities assess the adequacy of the internal control processes referred to in point (c) on at least an annual basis and are satisfied with their continuing appropriateness.

2. Where the competent authority has granted its prior permission, an institution may use a conservative estimate of the underlying exposure of the institution to instruments included in indices as an alternative to an institution calculating its exposure to the items referred to in one or more of the following points:

(a) own Common Equity Tier 1, Additional Tier 1, Tier 2 and eligible liabilities instruments included in indices;

(b) Common Equity Tier 1, Additional Tier 1 and Tier 2 instruments of financial sector entities, included in indices;

(c) eligible liabilities instruments of institutions, included in indices.

3. Competent authorities shall grant the prior permission referred to in paragraph 2 only where the institution has demonstrated to their satisfaction that it would be operationally burdensome for the institution to monitor its underlying exposure to the items referred to in one or more of the points of paragraph 2, as applicable.";

(36) Article 77 is replaced by the following:

"*Article 77*
Conditions for reducing own funds and eligible liabilities

1. An institution shall obtain the prior permission of the competent authority to do any of the following:

(a) reduce, redeem or repurchase Common Equity Tier 1 instruments issued by the institution in a manner that is permitted under applicable national law;

(b) reduce, distribute or reclassify as another own funds item the share premium accounts related to own funds instruments;

(c) effect the call, redemption, repayment or repurchase of Additional Tier 1 or Tier 2 instruments prior to the date of their contractual maturity.

2. An institution shall obtain the prior permission of the resolution authority to effect the call, redemption, repayment or repurchase of eligible liabilities instruments that are not covered by paragraph 1, prior to the date of their contractual maturity.";

(37) Article 78 is replaced by the following:

"*Article 78*
Supervisory permission to reduce own funds

1. The competent authority shall grant permission for an institution to reduce, call, redeem, repay or repurchase Common Equity Tier 1, Additional Tier 1 or Tier 2 instruments, or to reduce, distribute or reclassify related share premium accounts, where either of the following conditions is met:

(a) before or at the same time as any of the actions referred to in Article 77(1), the institution replaces the instruments or the related share premium accounts referred to in Article 77(1) with own funds instruments of equal or higher quality at terms that are sustainable for the income capacity of the institution;

(b) the institution has demonstrated to the satisfaction of the competent authority that the own funds and eligible liabilities of the institution would, following the action referred to in Article 77(1) of this Regulation, exceed the requirements laid down in this Regulation and in Directives 2013/36/EU and 2014/59/EU by a margin that the competent authority considers necessary.

Where an institution provides sufficient safeguards as to its capacity to operate with own funds above the amounts required in this Regulation and in Directive 2013/36/EU, the competent authority may grant that institution a general prior permission to take any of the actions set out in Article 77(1) of this Regulation, subject to criteria that ensure that any such future action will be in accordance with the conditions set out in points (a) and (b) of this paragraph. That general prior permission shall be granted only for a specified period, which shall not exceed one year, after which it may be renewed. The general prior permission shall be granted for a certain predetermined amount, which shall be set by the competent authority. In the case of Common Equity Tier 1 instruments, that predetermined amount shall not exceed 3 % of the relevant issue and shall not exceed 10 % of the amount by which Common Equity Tier 1 capital exceeds the sum of the Common Equity Tier 1 capital requirements laid down in this Regulation, in Directives 2013/36/EU and 2014/59/EU by a margin that the competent authority considers necessary. In the case of Additional Tier 1 or Tier 2 instruments, that predetermined amount shall not exceed 10 % of the relevant issue and shall not exceed 3 % of the total amount of outstanding Additional Tier 1 or Tier 2 instruments, as applicable.

Competent authorities shall withdraw the general prior permission where an institution breaches any of the criteria provided for the purposes of that permission.

2. When assessing the sustainability of the replacement instruments for the income capacity of the institution referred to in point (a) of paragraph 1, competent authorities shall consider the extent to which those replacement capital instruments would be more costly for the institution than those capital instruments or share premium accounts they would replace.

3. Where an institution takes an action referred to in point (a) of Article 77(1) and the refusal of redemption of Common Equity Tier 1 instruments referred to in Article 27 is prohibited by applicable national law, the competent authority may waive the conditions set out in paragraph 1 of this Article, provided that the competent authority requires the institution to limit the redemption of such instruments on an appropriate basis.

4. Competent authorities may permit institutions to call, redeem, repay or repurchase Additional Tier 1 or Tier 2 instruments or related share premium accounts during the five years following their date of issuance where the conditions set out in paragraph 1 and one of the following conditions is met:

(a) there is a change in the regulatory classification of those instruments that would be likely to result in their exclusion from own funds or reclassification as own funds of lower quality, and both the following conditions are met:

(i) the competent authority considers such a change to be sufficiently certain;

(ii) the institution demonstrates to the satisfaction of the competent authority that the regulatory reclassification of those instruments was not reasonably foreseeable at the time of their issuance;

(b) there is a change in the applicable tax treatment of those instruments which the institution demonstrates to the satisfaction of the competent authority is material and was not reasonably foreseeable at the time of their issuance;

(c) the instruments and related share premium accounts are grandfathered under Article 494b;

(d) before or at the same time as the action referred to in Article 77(1), the institution replaces the instruments or related share premium accounts referred to in Article 77(1) with own funds instruments of equal or higher quality at terms that are sustainable for the income capacity of the institution and the competent authority has permitted that action on the basis of the determination that it would be beneficial from a prudential point of view and justified by exceptional circumstances;

(e) the Additional Tier 1 or Tier 2 instruments are repurchased for market making purposes.

5. EBA shall develop draft regulatory technical standards to specify the following:

(a) the meaning of 'sustainable for the income capacity of the institution';

(b) the appropriate bases of limitation of redemption referred to in paragraph 3;

(c) the process including the limits and procedures for granting approval in advance by competent authorities for an action listed in Article 77(1), and data requirements for an application by an institution for the permission of the competent authority to carry out an action listed therein, including the process to be applied in the case of redemption of shares issued to members of cooperative societies, and the time period for processing such an application.

EBA shall submit those draft regulatory technical standards to the Commission by 28 July 2013.

Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.";

(38) the following article is inserted:

"*Article 78a*
Permission to reduce eligible liabilities instruments

1. The resolution authority shall grant permission for an institution to call, redeem, repay or repurchase eligible liabilities instruments where one of the following conditions is met:

   (a) before or at the same time as any of the actions referred to in Article 77(2), the institution replaces the eligible liabilities instruments with own funds or eligible liabilities instruments of equal or higher quality at terms that are sustainable for the income capacity of the institution;

   (b) the institution has demonstrated to the satisfaction of the resolution authority that the own funds and eligible liabilities of the institution would, following the action referred to in Article 77(2) of this Regulation, exceed the requirements for own funds and eligible liabilities laid down in this Regulation and in Directives 2013/36/EU and 2014/59/EU by a margin that the resolution authority, in agreement with the competent authority, considers necessary;

(c) the institution has demonstrated to the satisfaction of the resolution authority that the partial or full replacement of the eligible liabilities with own funds instruments is necessary to ensure compliance with the own funds requirements laid down in this Regulation and in Directive 2013/36/EU for continuing authorisation.

Where an institution provides sufficient safeguards as to its capacity to operate with own funds and eligible liabilities above the amount of the requirements laid down in this Regulation and in Directives 2013/36/EU and 2014/59/EU, the resolution authority, after consulting the competent authority, may grant that institution a general prior permission to effect calls, redemptions, repayments or repurchases of eligible liabilities instruments, subject to criteria that ensure that any such future action will be in accordance with the conditions set out in points (a) and (b) of this paragraph. That general prior permission shall be granted only for a specified period, which shall not exceed one year, after which it may be renewed. The general prior permission shall be granted for a certain predetermined amount, which shall be set by the resolution authority. Resolution authorities shall inform the competent authorities about any general prior permission granted.

The resolution authority shall withdraw the general prior permission where an institution breaches any of the criteria provided for the purposes of that permission.

2. When assessing the sustainability of the replacement instruments for the income capacity of the institution referred to in point (a) of paragraph 1, resolution authorities shall consider the extent to which those replacement capital instruments or replacement eligible liabilities would be more costly for the institution than those they would replace.

3. EBA shall develop draft regulatory technical standards to specify the following:

(a) the process of cooperation between the competent authority and the resolution authority;

(b) the procedure, including the time limits and information requirements, for granting the permission in accordance with the first subparagraph of paragraph 1;

(c) the procedure, including the time limits and information requirements, for granting the general prior permission in accordance with the second subparagraph of paragraph 1;

(d) the meaning of ‘sustainable for the income capacity of the institution’.

For the purposes of point (d) of the first subparagraph of this paragraph, the draft regulatory technical standards shall be fully aligned with the delegated act referred to in Article 78.

EBA shall submit those draft regulatory technical standards to the Commission by … [six months after the date of entry into force of this amending Regulation].

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.";

(39) Article 79 is amended as follows:

(a) the title is replaced by the following:

"Temporary waiver from deduction from own funds and eligible liabilities";

(b) paragraph 1 is replaced by the following:

"1. Where an institution holds capital instruments or liabilities that qualify as own funds instruments in a financial sector entity or as eligible liabilities instruments in an institution and where the competent authority considers those holdings to be for the purposes of a financial assistance operation designed to reorganise and restore the viability of that entity or that institution, the competent authority may waive on a temporary basis the provisions on deduction that would otherwise apply to those instruments.";

(40) the following article is inserted:

"*Article 79a*
Assessment of compliance with the conditions for own funds and eligible liabilities instruments

Institutions shall have regard to the substantial features of instruments and not only their legal form when assessing compliance with the requirements laid down in Part Two. The assessment of the substantial features of an instrument shall take into account all arrangements related to the instruments, even where those are not explicitly set out in the terms and conditions of the instruments themselves, for the purpose of determining that the combined economic effects of such arrangements are compliant with the objective of the relevant provisions.";

(41) Article 80 is amended as follows:

(a) the title is replaced by the following:

"Continuing review of the quality of own funds and eligible liabilities instruments";

(b) paragraph 1 is replaced by the following:

"1. EBA shall monitor the quality of own funds and eligible liabilities instruments issued by institutions across the Union and shall notify the Commission immediately where there is significant evidence that those instruments do not meet the respective eligibility criteria set out in this Regulation.

Competent authorities shall, without delay and upon request by EBA, forward all information to EBA that EBA considers relevant concerning new capital instruments or new types of liabilities issued in order to enable EBA to monitor the quality of own funds and eligible liabilities instruments issued by institutions across the Union.";

(c) in paragraph 3, the introductory phrase is replaced by the following:

"3. EBA shall provide technical advice to the Commission on any significant changes it considers to be required to the definition of own funds and eligible liabilities as a result of any of the following:";

(42) in Article 81, paragraph 1 is replaced by the following:

"1. Minority interests shall comprise the sum of Common Equity Tier 1 items of a subsidiary where the following conditions are met:

(a) the subsidiary is one of the following:

(i) an institution;

(ii) an undertaking that is subject by virtue of applicable national law to the requirements of this Regulation and Directive 2013/36/EU;

(iii) an intermediate financial holding company in a third country that is subject to prudential requirements as stringent as those applied to credit institutions of that third country and where the Commission has decided in accordance with Article 107(4) that those prudential requirements are at least equivalent to those of this Regulation;

(b) the subsidiary is included fully in the consolidation pursuant to Chapter 2 of Title II of Part One;

(c) the Common Equity Tier 1 items, referred to in the introductory part of this paragraph, are owned by persons other than the undertakings included in the consolidation pursuant to Chapter 2 of Title II of Part One.";

(43) Article 82 is replaced by the following:

"*Article 82*
Qualifying Additional Tier 1, Tier 1, Tier 2 capital and qualifying own funds

Qualifying Additional Tier 1, Tier 1, Tier 2 capital and qualifying own funds shall comprise the minority interest, Additional Tier 1 or Tier 2 instruments, as applicable, plus the related retained earnings and share premium accounts, of a subsidiary where the following conditions are met:

(a) the subsidiary is either of the following:

(i) an institution;

(ii) an undertaking that is subject by virtue of the applicable national law to the requirements of this Regulation and Directive 2013/36/EU;

(iii) an intermediate financial holding company in a third country that is subject to prudential requirements as stringent as those applied to credit institutions of that third country and where the Commission has decided in accordance with Article 107(4) that those prudential requirements are at least equivalent to those of this Regulation;

(b) the subsidiary is included fully in the scope of consolidation pursuant to Chapter 2 of Title II of Part One;

(c) those instruments are owned by persons other than the undertakings included in the consolidation pursuant to Chapter 2 of Title II of Part One.";

(44) in Article 83(1), the introductory phrase is replaced by the following:

"1. Additional Tier 1 and Tier 2 instruments issued by a special purpose entity, and the related share premium accounts, are included until 31 December 2021 in qualifying Additional Tier 1, Tier 1 or Tier 2 capital or qualifying own funds, as applicable, only where the following conditions are met:";

(45) the following article is inserted:

"*Article 88a*

Qualifying eligible liabilities instruments

Liabilities issued by a subsidiary established in the Union that belongs to the same resolution group as the resolution entity shall qualify for inclusion in the consolidated eligible liabilities instruments of an institution subject to Article 92a, provided that all the following conditions are met:

(a) they are issued in accordance with point (a) of Article 45f(2) of Directive 2014/59/EU;

(b) they are bought by an existing shareholder that is not part of the same resolution group as long as the exercise of the write-down or conversion powers in accordance with Articles 59 to 62 of Directive 2014/59/EU does not affect the control of the subsidiary by the resolution entity;

(c) they do not exceed the amount determined by subtracting the amount referred to in point (i) from the amount referred to in point (ii):

(i) the sum of the liabilities issued to and bought by the resolution entity either directly or indirectly through other entities in the same resolution group and the amount of own funds instruments issued in accordance with point (b) of Article 45f(2) of Directive 2014/59/EU;

(ii) the amount required in accordance with Article 45f(1) of Directive 2014/59/EU.";

(46) Article 92 is amended as follows:

(a) in paragraph 1, the following point is added:

"(d) a leverage ratio of 3 %;";

(b) the following paragraph is inserted:

"1a. In addition to the requirement laid down in point (d) paragraph 1 of this Article, a G-SII shall maintain a leverage ratio buffer equal to the G-SIIs total exposure measure referred to in Article 429(4) of this Regulation multiplied by 50 % of the G-SII buffer rate applicable to the G-SII in accordance with Article 131 of Directive 2013/36/EU.

A G-SII shall meet the leverage ratio buffer requirement with Tier 1 capital only. Tier 1 capital that is used to meet the leverage ratio buffer requirement shall not be used towards meeting any of the leverage based requirements set out in this Regulation and in Directive 2013/36/EU, unless explicitly otherwise provided therein.

Where a G-SII does not meet the leverage ratio buffer requirement, it shall be subject to the capital conservation requirement in accordance with Article 141b of Directive 2013/36/EU.

Where a G-SII does not meet at the same time the leverage ratio buffer requirement and the combined buffer requirement as defined in point (6) of Article 128 of Directive 2013/36/EU, it shall be subject to the higher of the capital conservation requirements in accordance with Articles 141 and 141b of that Directive.";

(c) paragraph 3 is amended as follows:

(i) points (b) and (c) are replaced by the following:

"(b) the own funds requirements for the trading-book business of an institution for the following:

(i) market risk as determined in accordance with Title IV of this Part, excluding the approaches set out in Chapters 1a and 1b of that Title;

(ii) large exposures exceeding the limits specified in Articles 395 to 401, to the extent that an institution is permitted to exceed those limits, as determined in accordance with Part Four;

(c) the own funds requirements for market risk as determined in Title IV of this Part, excluding the approaches set out in Chapters 1a and 1b of that Title, for all business activities that are subject to foreign exchange risk or commodity risk;";

(ii) the following point is inserted:

"(ca) the own funds requirements calculated in accordance with Title V of this Part, with the exception of Article 379 for settlement risk.";

(47) the following articles are inserted:

"*Article 92a*
Requirements for own funds and eligible liabilities for G-SIIs

1. Subject to Articles 93 and 94 and to the exceptions set out in paragraph 2 of this Article, institutions identified as resolution entities and that are a G-SII or part of a G-SII shall at all times satisfy the following requirements for own funds and eligible liabilities:

(a) a risk-based ratio of 18 %, representing the own funds and eligible liabilities of the institution expressed as a percentage of the total risk exposure amount calculated in accordance with Article 92(3) and (4);

(b) a non-risk-based ratio of 6,75 %, representing the own funds and eligible liabilities of the institution expressed as a percentage of the total exposure measure referred to in Article 429(4).

2. The requirements laid down in paragraph 1 shall not apply in the following cases:

(a) within the three years following the date on which the institution or the group of which the institution is part has been identified as a G-SII;

(b) within the two years following the date on which the resolution authority has applied the bail-in tool in accordance with Directive 2014/59/EU;

(c) within the two years following the date on which the resolution entity has put in place an alternative private sector measure referred to in point (b) of Article 32(1) of Directive 2014/59/EU by which capital instruments and other liabilities have been written down or converted into Common Equity Tier 1 items in order to recapitalise the resolution entity without the application of resolution tools.

3. Where the aggregate resulting from the application of the requirement laid down in point (a) of paragraph 1 of this Article to each resolution entity of the same G-SII exceeds the requirement for own funds and eligible liabilities calculated in accordance with Article 12a of this Regulation, the resolution authority of the EU parent institution may, after having consulted the other relevant resolution authorities, act in accordance with Article 45d(3) or 45h(1) of Directive 2014/59/EU.

Article 92b

Requirement for own funds and eligible liabilities for non-EU G-SIIs

1. Institutions that are material subsidiaries of non-EU G-SIIs and that are not resolution entities shall at all times satisfy requirements for own funds and eligible liabilities equal to 90 % of the requirements for own funds and eligible liabilities laid down in Article 92a.

2. For the purpose of complying with paragraph 1, Additional Tier 1, Tier 2 and eligible liabilities instruments shall only be taken into account where those instruments are owned by the ultimate parent undertaking of the non-EU G-SII and have been issued directly or indirectly through other entities within the same group, provided that all such entities are established in the same third country as that ultimate parent undertaking or in a Member State.

3. An eligible liabilities instrument shall only be taken into account for the purpose of complying with paragraph 1 where it fulfils all the following additional conditions:

   (a) in the event of normal insolvency proceedings as defined in point (47) of Article 2(1) of Directive 2014/59/EU, the claim resulting from the liability ranks below claims resulting from liabilities that do not fulfil the conditions set out in paragraph 2 of this Article and that do not qualify as own funds;

   (b) it is subject to the write-down or conversion powers in accordance with Articles 59 to 62 of Directive 2014/59/EU.";

(48) Article 94 is replaced by the following:

"*Article 94*

Derogation for small trading book business

1. By way of derogation from point (b) of Article 92(3), institutions may calculate the own funds requirement for their trading-book business in accordance with paragraph 2 of this Article, provided that the size of the institutions' on- and off-balance-sheet trading-book business is equal to or less than both of the following thresholds on the basis of an assessment carried out on a monthly basis using the data as of the last day of the month:

   (a) 5 % of the institution's total assets;

   (b) EUR 50 million.

2. Where both conditions set out in points (a) and (b) of paragraph 1 are met, institutions may calculate the own funds requirement for their trading-book business as follows:

   (a) for the contracts listed in point 1 of Annex II, contracts relating to equities which are referred to in point 3 of that Annex and credit derivatives, institutions may exempt those positions from the own funds requirement referred to in point (b) of Article 92(3);

(b) for trading book positions other than those referred to in point (a) of this paragraph, institutions may replace the own funds requirement referred to in point (b) of Article 92(3) with the requirement calculated in accordance with point (a) of Article 92(3).

3. Institutions shall calculate the size of their on- and off-balance-sheet trading book business on the basis of data as of the last day of each month for the purposes of paragraph 1 in accordance with the following requirements:

(a) all the positions assigned to the trading book in accordance with Article 104 shall be included in the calculation except for the following:

(i) positions concerning foreign exchange and commodities;

(ii) positions in credit derivatives that are recognised as internal hedges against non-trading book credit risk exposures or counterparty risk exposures and the credit derivate transactions that perfectly offset the market risk of those internal hedges as referred to in Article 106(3);

(b) all positions included in the calculation in accordance with point (a) shall be valued at their market value on that given date; where the market value of a position is not available on a given date, institutions shall take a fair value for the position on that date; where the market value and fair value of a position are not available on a given date, institutions shall take the most recent of the market value or fair value for that position;

(c) the absolute value of long positions shall be summed with the absolute value of short positions.

4. Where both conditions set out in points (a) and (b) of paragraph 1 of this Article are met, irrespective of the obligations set out in Articles 74 and 83 of Directive 2013/36/EU, Article 102(3) and (4), Articles 103 and 104b of this Regulation shall not apply.

5. Institutions shall notify the competent authorities when they calculate, or cease to calculate, the own funds requirements of their trading-book business in accordance with paragraph 2.

6. An institution that no longer meets one or more of the conditions set out in paragraph 1 shall immediately notify the competent authority thereof.

7. An institution shall cease to calculate the own funds requirements of its trading-book business in accordance with paragraph 2 within three months of one of the following occurring:

(a) the institution does not meet the conditions set out in point (a) or (b) of paragraph 1 for three consecutive months;

(b) the institution does not meet the conditions set out in point (a) or (b) of paragraph 1 during more than 6 out of the last 12 months.

8. Where an institution has ceased to calculate the own funds requirements of its trading-book business in accordance with this Article, it shall only be permitted to calculate the own funds requirements of its trading-book business in accordance with this Article where it demonstrates to the competent authority that all the conditions set out in paragraph 1 have been met for an uninterrupted full-year period.

9. Institutions shall not enter into, buy or sell a trading-book position for the sole purpose of complying with any of the conditions set out in paragraph 1 during the monthly assessment.";

(49) in Title I of Part Three, Chapter 2 is deleted;

(50) Article 102 is amended as follows:

(a) paragraphs 2, 3 and 4 are replaced by the following:

"2. Trading intent shall be evidenced on the basis of the strategies, policies and procedures set up by the institution to manage the position or portfolio in accordance with Articles 103, 104 and 104a.

3. Institutions shall establish and maintain systems and controls to manage their trading book in accordance with Article 103.

4. For the purposes of the reporting requirements set out in Article 430b(3), trading book positions shall be assigned to trading desks established in accordance with Article 104b.";

(b) the following paragraphs are added:

"5. Positions in the trading book shall be subject to the requirements for prudent valuation specified in Article 105.

6. Institutions shall treat internal hedges in accordance with Article 106.";

(51) Article 103 is replaced by the following:

"*Article 103*
Management of the trading book

1. Institutions shall have in place clearly defined policies and procedures for the overall management of the trading book. Those policies and procedures shall at least address:

(a) the activities which the institution considers to be trading business and as constituting part of the trading book for own funds requirement purposes;

(b) the extent to which a position can be marked-to-market daily by reference to an active, liquid two-way market;

(c) for positions that are marked-to-model, the extent to which the institution can:

(i) identify all material risks of the position;

(ii) hedge all material risks of the position with instruments for which an active, liquid two-way market exists;

(iii) derive reliable estimates for the key assumptions and parameters used in the model;

(d) the extent to which the institution can, and is required to, generate valuations for the position that can be validated externally in a consistent manner;

(e) the extent to which legal restrictions or other operational requirements would impede the institution's ability to effect a liquidation or hedge of the position in the short term;

(f) the extent to which the institution can, and is required to, actively manage the risks of positions within its trading operation;

(g) the extent to which the institution may reclassify risk or positions between the non-trading and trading books and the requirements for such reclassifications as referred to in Article 104a.

2. In managing its positions or portfolios of positions in the trading book, the institution shall comply with all the following requirements:

(a) the institution shall have in place a clearly documented trading strategy for the position or portfolios in the trading book, which shall be approved by senior management and include the expected holding period;

(b) the institution shall have in place clearly defined policies and procedures for the active management of positions or portfolios in the trading book; those policies and procedures shall include the following:

(i) which positions or portfolios of positions may be entered into by each trading desk or, as the case may be, by designated dealers;

(ii) the setting of position limits and monitoring them for appropriateness;

(iii) ensuring that dealers have the autonomy to enter into and manage the position within agreed limits and according to the approved strategy;

(iv) ensuring that positions are reported to senior management as an integral part of the institution's risk management process;

(v) ensuring that positions are actively monitored with reference to market information sources and an assessment is made of the marketability or hedgeability of the position or its component risks, including the assessment, the quality and availability of market inputs to the valuation process, level of market turnover, sizes of positions traded in the market;

(vi) active anti-fraud procedures and controls;

(c) the institution shall have in place clearly defined policies and procedures to monitor the positions against the institution's trading strategy, including the monitoring of turnover and positions for which the originally intended holding period has been exceeded.";

(52) in Article 104, paragraph 2 is deleted;

(53) the following articles are inserted:

"*Article 104a*
Reclassification of a position

1. Institutions shall have in place clearly defined policies for identifying the exceptional circumstances which justify the reclassification of a trading book position as a non-trading book position or, conversely, the reclassification of a non-trading book position as a trading book position, for the purpose of determining their own funds requirements to the satisfaction of the competent authorities. The institutions shall review those policies at least annually.

EBA shall monitor the range of supervisory practices and shall issue guidelines in accordance with Article 16 of Regulation (EU) No 1093/2010 by … [five years after the date of entry into force of this amending Regulation] on the meaning of exceptional circumstances for the purposes of the first subparagraph of this paragraph. Until EBA issues those guidelines, competent authorities shall notify EBA of, and shall provide a rationale for, their decisions on whether or not to permit an institution to reclassify a position as referred to in paragraph 2 of this Article.

2. Competent authorities shall grant permission to reclassify a trading book position as a non-trading book position or conversely a non-trading book position as a trading book position for the purpose of determining their own funds requirements only where the institution has provided the competent authorities with written evidence that its decision to reclassify that position is the result of an exceptional circumstance that is consistent with the policies the institution has in place in accordance with paragraph 1 of this Article. For that purpose, the institution shall provide sufficient evidence that the position no longer meets the condition to be classified as a trading book or non-trading book position pursuant to Article 104.

The decision referred to in the first subparagraph shall be approved by the management body.

3. Where the competent authority has granted permission for the reclassification of a position in accordance with paragraph 2, the institution which received that permission shall:

(a) publicly disclose, without delay,

(i) information that its position has been reclassified, and

(ii) where the effect of that reclassification is a reduction in the institution's own funds requirements, the size of that reduction; and

(b) where the effect of that reclassification is a reduction in the institution's own funds requirements, not recognise that effect until the position matures, unless the institution's competent authority permits it to recognise that effect at an earlier date.

4. The institution shall calculate the net change in the amount of its own funds requirements arising from the reclassification of the position as the difference between the own funds requirements immediately after the reclassification and the own funds requirements immediately before the reclassification, each calculated in accordance with Article 92. The calculation shall not take into account the effects of any factors other than the reclassification.

5. The reclassification of a position in accordance with this Article shall be irrevocable.

Article 104b

Requirements for trading desk

1. For the purposes of the reporting requirements set out in Article 430b(3), institutions shall establish trading desks and shall assign each of their trading book positions to one of those trading desks. Trading book positions shall be attributed to the same trading desk only where they satisfy the agreed business strategy for the trading desk and are consistently managed and monitored in accordance with paragraph 2 of this Article.

2. Institutions' trading desks shall at all times meet all the following requirements:

(a) each trading desk shall have a clear and distinctive business strategy and a risk management structure that is adequate for its business strategy;

(b) each trading desk shall have a clear organisational structure; positions in a given trading desk shall be managed by designated dealers within the institution; each dealer shall have dedicated functions in the trading desk; each dealer shall be assigned to one trading desk only;

(c) position limits shall be set within each trading desk according to the business strategy of that trading desk;

(d) reports on the activities, profitability, risk management and regulatory requirements at the trading desk level shall be produced at least on a weekly basis and communicated to the management body on a regular basis;

(e) each trading desk shall have a clear annual business plan including a well-defined remuneration policy on the basis of sound criteria used for performance measurement;

(f) reports on maturing positions, intra-day trading limit breaches, daily trading limit breaches and actions taken by the institution to address those breaches, as well as assessments of market liquidity, shall be prepared for each trading desk on a monthly basis and made available to the competent authorities.

3. By way of derogation from point (b) of paragraph 2, an institution may assign a dealer to more than one trading desk, provided that the institution demonstrates to the satisfaction of its competent authority that the assignment has been made due to business or resource considerations and the assignment preserves the other qualitative requirements set out in this Article applicable to dealers and trading desks.

4. Institutions shall notify the competent authorities of the manner in which they comply with paragraph 2. Competent authorities may require an institution to change the structure or organisation of its trading desks to comply with this Article.";

(54) Article 105 is amended as follows:

(a) paragraph 1 is replaced by the following:

"1. All trading book positions and non-trading book positions measured at fair value shall be subject to the standards for prudent valuation specified in this Article. Institutions shall in particular ensure that the prudent valuation of their trading book positions achieves an appropriate degree of certainty having regard to the dynamic nature of trading book positions and non-trading book positions measured at fair value, the demands of prudential soundness and the mode of operation and purpose of capital requirements in respect of trading book positions and non-trading book positions measured at fair value.";

(b) paragraphs 3 and 4 are replaced by the following:

"3. Institutions shall revalue trading book positions at fair value at least on a daily basis. Changes in the value of those positions shall be reported in the profit and loss account of the institution.

4. Institutions shall mark their trading book positions and non-trading book positions measured at fair value to market whenever possible, including when applying the relevant capital treatment to those positions.";

(c) paragraph 6 is replaced by the following:

"6. Where marking to market is not possible, institutions shall conservatively mark to model their positions and portfolios, including when calculating own funds requirements for positions in the trading book and positions measured at fair value in the non-trading book.";

(d) in paragraph 7, the second subparagraph is replaced by the following:

"For the purposes of point (d) of the first subparagraph, the model shall be developed or approved independently of the trading desks and shall be independently tested, including validation of the mathematics, assumptions and software implementation.";

(e) in paragraph 11, point (a) is replaced by the following:

"(a) the additional amount of time it would take to hedge out the position or the risks within the position beyond the liquidity horizons that have been assigned to the risk factors of the position in accordance with Article 325bd;";

(55) Article 106 is amended as follows:

(a) paragraphs 2 and 3 are replaced by the following:

"2. The requirements set out in paragraph 1 shall apply without prejudice to the requirements applicable to the hedged position in the non-trading book or in the trading book, where relevant.

3. Where an institution hedges a non-trading book credit risk exposure or counterparty risk exposure using a credit derivative booked in its trading book, that credit derivative position shall be recognised as an internal hedge of the non-trading book credit risk exposure or counterparty risk exposure for the purpose of calculating the risk-weighted exposure amounts referred to in point (a) of Article 92(3) where the institution enters into another credit derivative transaction with an eligible third party protection provider that meets the requirements for unfunded credit protection in the non-trading book and perfectly offsets the market risk of the internal hedge.

Both an internal hedge recognised in accordance with the first subparagraph and the credit derivative entered into with the third party shall be included in the trading book for the purpose of calculating the own funds requirements for market risk.";

(b) the following paragraphs are added:

"4. Where an institution hedges a non-trading book equity risk exposure using an equity derivative booked in its trading book, that equity derivative position shall be recognised as an internal hedge of the non-trading book equity risk exposure for the purpose of calculating the risk-weighted exposure amounts referred to in point (a) of Article 92(3) where the institution enters into another equity derivative transaction with an eligible third party protection provider that meets the requirements for unfunded credit protection in the non-trading book and perfectly offsets the market risk of the internal hedge.

Both an internal hedge recognised in accordance with the first subparagraph and the equity derivative entered into with the eligible third party protection provider shall be included in the trading book for the purpose of calculating the own funds requirements for market risk.

5. Where an institution hedges non-trading book interest rate risk exposures using an interest rate risk position booked in its trading book, that interest rate risk position shall be considered to be an internal hedge for the purpose of assessing the interest rate risk arising from non-trading positions in accordance with Articles 84 and 98 of Directive 2013/36/EU where the following conditions are met:

(a) the position has been assigned to a separate portfolio from the other trading book position, the business strategy of which is solely dedicated to manage and mitigate the market risk of internal hedges of interest rate risk exposure; for that purpose, the institution may assign to that portfolio other interest rate risk positions entered into with third parties, or its own trading book as long as the institution perfectly offsets the market risk of those interest rate risk positions entered into with its own trading book by entering into opposite interest rate risk positions with third parties;

(b) for the purposes of the reporting requirements set out in Article 430b(3), the position has been assigned to a trading desk established in accordance with Article 104b the business strategy of which is solely dedicated to manage and mitigate the market risk of internal hedges of interest rate risk exposure; for that purpose, that trading desk may enter into other interest rate risk positions with third parties or other trading desks of the institution, as long as those other trading desks perfectly offset the market risk of those other interest rate risk positions by entering into opposite interest rate risk positions with third parties;

(c) the institution has fully documented how the position mitigates the interest rate risk arising from non-trading book positions for the purposes of the requirements laid down in Articles 84 and 98 of Directive 2013/36/EU.

6. The own funds requirements for the market risk of all the positions assigned to a separate portfolio as referred to in point (a) of paragraph 5 shall be calculated on a stand-alone basis and shall be in addition to the own funds requirements for the other trading book positions.

7. For the purposes of the reporting requirements set out in Article 430b, the calculation of the own funds requirements for market risk of all the positions assigned to the separate portfolio as referred to in point (a) of paragraph 5 of this Article or to the trading desk or entered into by the trading desk referred to in point (b) of paragraph 5 of this Article, where appropriate, shall be calculated on a stand-alone basis as a separate portfolio and shall be additional to the calculation of own funds requirements for the other trading book positions.";

(56) in Article 107, paragraph 3 is replaced by the following:

"3. For the purposes of this Regulation, exposures to a third-country investment firm, a third-country credit institution and a third-country exchange shall be treated as exposures to an institution only where the third country applies prudential and supervisory requirements to that entity that are at least equivalent to those applied in the Union.";

(57) in Article 117, paragraph 2 is amended as follows:

(a) the following points are added:

"(o) the International Development Association;

(p) the Asian Infrastructure Investment Bank.";

(b) the following subparagraph is added:

"The Commission is empowered to amend this Regulation by adopting delegated acts in accordance with Article 462 amending, in accordance with international standards, the list of multilateral development banks referred to in the first subparagraph.";

(58) in Article 118, point (a) is replaced by the following:

"(a) the European Union and the European Atomic Energy Community;";

(59) in Article 123, the following paragraph is added:

"Exposures due to loans granted by a credit institution to pensioners or employees with a permanent contract against the unconditional transfer of part of the borrower's pension or salary to that credit institution shall be assigned a risk weight of 35 %, provided that all the following conditions are met:

(a) in order to repay the loan, the borrower unconditionally authorises the pension fund or employer to make direct payments to the credit institution by deducting the monthly payments on the loan from the borrower's monthly pension or salary;

(b) the risks of death, inability to work, unemployment or reduction of the net monthly pension or salary of the borrower are properly covered through an insurance policy underwritten by the borrower to the benefit of the credit institution;

(c) the monthly payments to be made by the borrower on all loans that meet the conditions set out in points (a) and (b) do not in aggregate exceed 20 % of the borrower's net monthly pension or salary;

(d) the maximum original maturity of the loan is equal to or less than ten years.";

(60) Article 124 is replaced by the following:

"*Article 124*
Exposures secured by mortgages on immovable property

1. An exposure or any part of an exposure fully secured by mortgage on immovable property shall be assigned a risk weight of 100 %, where the conditions set out in Article 125 or 126 are not met, except for any part of the exposure which is assigned to another exposure class. The part of the exposure that exceeds the mortgage value of the immovable property shall be assigned the risk weight applicable to the unsecured exposures of the counterparty involved.

The part of an exposure that is treated as fully secured by immovable property shall not be greater than the pledged amount of the market value or in those Member States that have laid down rigorous criteria for the assessment of the mortgage lending value in statutory or regulatory provisions, the mortgage lending value of the immovable property in question.

1a. Member States shall designate an authority to be responsible for the application of paragraph 2. That authority shall be the competent authority or the designated authority.

Where the authority designated by the Member State for the application of this Article is the competent authority, it shall ensure that the relevant national bodies and authorities which have a macroprudential mandate are duly informed of the competent authority's intention to make use of this Article, and are appropriately involved in the assessment of financial stability concerns in its Member State in accordance with paragraph 2.

Where the authority designated by the Member State for the application of this Article is different from the competent authority, the Member State shall adopt the necessary provisions to ensure proper coordination and exchange of information between the competent authority and the designated authority for the proper application of this Article. In particular, authorities shall be required to cooperate closely and to share all the information that may be necessary for the adequate performance of the duties imposed upon the designated authority pursuant to this Article. That cooperation shall aim at avoiding any form of duplicative or inconsistent action between the competent authority and the designated authority, as well as ensuring that the interaction with other measures, in particular measures taken under Article 458 of this Regulation and Article 133 of Directive 2013/36/EU, is duly taken into account.

2. Based on the data collected under Article 430a and on any other relevant indicators, the authority designated in accordance with paragraph 1a of this Article shall periodically, and at least annually, assess whether the risk weight of 35 % for exposures to one or more property segments secured by mortgages on residential property referred to in Article 125 located in one or more parts of the territory of the Member State of the relevant authority and the risk weight of 50 % for exposures secured by mortgages on commercial immovable property referred to in Article 126 located in one or more parts of the territory of the Member State of the relevant authority are appropriately based on:

(a) the loss experience of exposures secured by immovable property;

(b) forward-looking immovable property markets developments.

Where, on the basis of the assessment referred to in the first subparagraph of this paragraph, the authority designated in accordance with paragraph 1a of this Article concludes that the risk weights set out in Article 125(2) or 126(2) do not adequately reflect the actual risks related to exposures to one or more property segments fully secured by mortgages on residential property or on commercial immovable property located in one or more parts of the territory of the Member State of the relevant authority, and if it considers that the inadequacy of the risk weights could adversely affect current or future financial stability in its Member State, it may increase the risk weights applicable to those exposures within the ranges determined in the fourth subparagraph of this paragraph or impose stricter criteria than those set out in Article 125(2) or 126(2).

The authority designated in accordance with paragraph 1a of this Article shall notify EBA and the ESRB of any adjustments to risk weights and criteria applied pursuant to this paragraph. Within one month of receipt of that notification, EBA and the ESRB shall provide their opinion to the Member State concerned. EBA and the ESRB shall publish the risk weights and criteria for exposures referred to in Articles 125, 126 and point (a) of Article 199(1) as implemented by the relevant authority.

For the purposes of the second subparagraph of this paragraph, the authority designated in accordance with paragraph 1a may set the risk weights within the following ranges:

(a) 35 % to 150 % for exposures secured by mortgages on residential property;

(b) 50 % to 150 % for exposures secured by mortgages on commercial immovable property.

3. Where the authority designated in accordance with paragraph 1a sets higher risk weights or stricter criteria pursuant to the second subparagraph of paragraph 2, institutions shall have a six-month transitional period to apply them.

4. EBA, in close cooperation with the ESRB, shall develop draft regulatory technical standards to specify the rigorous criteria for the assessment of the mortgage lending value referred to in paragraph 1 and the types of factors to be considered for the assessment of the appropriateness of the risk weights referred in the first subparagraph of paragraph 2.

EBA shall submit those draft regulatory technical standards to the Commission by 31 December 2019.

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.

5. The ESRB may, by means of recommendations in accordance with Article 16 of Regulation (EU) No 1092/2010, and in close cooperation with EBA, give guidance to authorities designated in accordance with paragraph 1a of this Article on the following:

   (a) factors which could 'adversely affect current or future financial stability' referred to in the second subparagraph of paragraph 2; and

   (b) indicative benchmarks that the authority designated in accordance with paragraph 1a is to take into account when determining higher risk weights.

6. The institutions of a Member State shall apply the risk weights and criteria that have been determined by the authorities of another Member State in accordance with paragraph 2 to all their corresponding exposures secured by mortgages on residential property or commercial immovable property located in one or more parts of that Member State.";

(61) in Article 128, paragraphs 1 and 2 are replaced by the following:

"1. Institutions shall assign a 150 % risk weight to exposures that are associated with particularly high risks.

2. For the purposes of this Article, institutions shall treat any of the following exposures as exposures associated with particularly high risks:

(a) investments in venture capital firms, except where those investments are treated in accordance with Article 132;

(b) investments in private equity, except where those investments are treated in accordance with Article 132;

(c) speculative immovable property financing.";

(62) Article 132 is replaced by the following:

"*Article 132*
Own funds requirements for exposures in the form of units or shares in CIUs

1. Institutions shall calculate the risk-weighted exposure amount for their exposures in the form of units or shares in a CIU by multiplying the risk-weighted exposure amount of the CIU's exposures, calculated in accordance with the approaches referred to in the first subparagraph of paragraph 2, with the percentage of units or shares held by those institutions.

2. Where the conditions set out in paragraph 3 of this Article are met, institutions may apply the look-through approach in accordance with Article 132a(1) or the mandate-based approach in accordance with Article 132a(2).

Subject to Article 132b(2), institutions that do not apply the look-through approach or the mandate-based approach shall assign a risk weight of 1 250 % ('fall-back approach') to their exposures in the form of units or shares in a CIU.

Institutions may calculate the risk-weighted exposure amount for their exposures in the form of units or shares in a CIU by using a combination of the approaches referred to in this paragraph, provided that the conditions for using those approaches are met.

3. Institutions may determine the risk-weighted exposure amount of a CIU's exposures in accordance with the approaches set out in Article 132a where all the following conditions are met:

(a) the CIU is one of the following:

(i) an undertaking for collective investment in transferable securities (UCITS), governed by Directive 2009/65/EC;

(ii) an AIF managed by an EU AIFM registered under Article 3(3) of Directive 2011/61/EU;

(iii) an AIF managed by an EU AIFM authorised under Article 6 of Directive 2011/61/EU;

(iv) an AIF managed by a non-EU AIFM authorised under Article 37 of Directive 2011/61/EU;

(v) a non-EU AIF managed by a non-EU AIFM and marketed in accordance with Article 42 of Directive 2011/61/EU;

(vi) a non-EU AIF not marketed in the Union and managed by a non-EU AIFM established in a third country that is covered by a delegated act referred to in Article 67(6) of Directive 2011/61/EU;

(b) the CIU's prospectus or equivalent document includes the following:

(i) the categories of assets in which the CIU is authorised to invest;

(ii) where investment limits apply, the relative limits and the methodologies to calculate them;

(c) reporting by the CIU or the CIU management company to the institution complies with the following requirements:

(i) the exposures of the CIU are reported at least as frequently as those of the institution;

(ii) the granularity of the financial information is sufficient to allow the institution to calculate the CIU's risk -weighted exposure amount in accordance with the approach chosen by the institution;

(iii) where the institution applies the look-through approach, information about the underlying exposures is verified by an independent third party.

By way of derogation from point (a) of the first subparagraph of this paragraph, multilateral and bilateral development banks and other institutions that co-invest in a CIU with multilateral or bilateral development banks may determine the risk-weighted exposure amount of that CIU's exposures in accordance with the approaches set out in Article 132a, provided that the conditions set out in points (b) and (c) of the first subparagraph of this paragraph are met and that the CIU's investment mandate limits the types of assets that the CIU can invest in to assets that promote sustainable development in developing countries.

Institutions shall notify their competent authority of the CIUs to which they apply the treatment referred to in the second subparagraph.

By way of derogation from point (c)(i) of the first subparagraph, where the institution determines the risk-weighted exposure amount of a CIU's exposures in accordance with the mandate-based approach, the reporting by the CIU or the CIU management company to the institution may be limited to the investment mandate of the CIU and any changes thereof and may be done only when the institution incurs the exposure to the CIU for the first time and when there is a change in the investment mandate of the CIU.

4. Institutions that do not have adequate data or information to calculate the risk-weighted exposure amount of a CIU's exposures in accordance with the approaches set out in Article 132a may rely on the calculations of a third party, provided that all the following conditions are met:

(a) the third party is one of the following:

(i) the depository institution or the depository financial institution of the CIU, provided that the CIU exclusively invests in securities and deposits all securities at that depository institution or depository financial institution;

(ii) for CIUs not covered by point (i) of this point, the CIU management company, provided that the company meets the condition set out in point (a) of paragraph 3;

(b) the third party carries out the calculation in accordance with the approaches set out in Article 132a(1), (2) or (3), as applicable;

(c) an external auditor has confirmed the correctness of the third party's calculation.

Institutions that rely on third-party calculations shall multiply the risk-weighted exposure amount of a CIU's exposures resulting from those calculations by a factor of 1,2.

By way of derogation from the second subparagraph, where the institution has unrestricted access to the detailed calculations carried out by the third party, the factor of 1,2 shall not apply. The institution shall provide those calculations to its competent authority upon request.

5. Where an institution applies the approaches referred to in Article 132a for the purpose of calculating the risk-weighted exposure amount of a CIU's exposures ('level 1 CIU'), and any of the underlying exposures of the level 1 CIU is an exposure in the form of units or shares in another CIU ('level 2 CIU'), the risk-weighted exposure amount of the level 2 CIU's exposures may be calculated by using any of the three approaches described in paragraph 2 of this Article. The institution may use the look-through approach to calculate the risk-weighted exposure amounts of CIUs' exposures in level 3 and any subsequent level only where it used that approach for the calculation in the preceding level. In any other scenario it shall use the fall-back approach.

6. The risk-weighted exposure amount of a CIU's exposures calculated in accordance with the look-through approach and the mandate-based approach set out in Article 132a(1) and (2) shall be capped at the risk-weighted amount of that CIU's exposures calculated in accordance with the fall-back approach.

7. By way of derogation from paragraph 1 of this Article, institutions that apply the look-through approach in accordance with Article 132a(1) may calculate the risk-weighted exposure amount for their exposures in the form of units or shares in a CIU by multiplying the exposure values of those exposures, calculated in accordance with Article 111, with the risk weight (RW_i^*) calculated in accordance with the formula set out in Article 132c, provided that the following conditions are met:

   (a) the institutions measure the value of their holdings of units or shares in a CIU at historical cost but measure the value of the underlying assets of the CIU at fair value if they apply the look-through approach;

   (b) a change in the market value of the units or shares for which institutions measure the value at historical cost changes neither the amount of own funds of those institutions nor the exposure value associated with those holdings.";

(63) the following articles are inserted:

"*Article 132a*

Approaches for calculating risk-weighted exposure amounts of CIUs

1. Where the conditions set out in Article 132(3) are met, institutions that have sufficient information about the individual underlying exposures of a CIU shall look through to those exposures to calculate the risk-weighted exposure amount of the CIU, risk weighting all underlying exposures of the CIU as if they were directly held by those institutions.

2. Where the conditions set out in Article 132(3) are met, institutions that do not have sufficient information about the individual underlying exposures of a CIU to use the look-through approach may calculate the risk-weighted exposure amount of those exposures in accordance with the limits set in the CIU's mandate and relevant law.

   Institutions shall carry out the calculations referred to in the first subparagraph under the assumption that the CIU first incurs exposures to the maximum extent allowed under its mandate or relevant law in the exposures attracting the highest own funds requirement and then continues incurring exposures in descending order until the maximum total exposure limit is reached, and that the CIU applies leverage to the maximum extent allowed under its mandate or relevant law, where applicable.

Institutions shall carry out the calculations referred to in the first subparagraph in accordance with the methods set out in this Chapter, in Chapter 5, and in Section 3, 4 or 5 of Chapter 6 of this Title.

3. By way of derogation from point (d) of Article 92(3), institutions that calculate the risk-weighted exposure amount of a CIU's exposures in accordance with paragraph 1 or 2 of this Article may calculate the own funds requirement for the credit valuation adjustment risk of derivative exposures of that CIU as an amount equal to 50 % of the own funds requirement for those derivative exposures calculated in accordance with Section 3, 4 or 5 of Chapter 6 of this Title, as applicable.

   By way of derogation from the first subparagraph, an institution may exclude from the calculation of the own funds requirement for credit valuation adjustment risk derivative exposures which would not be subject to that requirement if they were incurred directly by the institution.

4. EBA shall develop draft regulatory technical standards to specify how institutions shall calculate the risk-weighted exposure amount referred to in paragraph 2 where one or more of the inputs required for that calculation are not available.

   EBA shall submit those draft regulatory technical standards to the Commission by … [nine months after the date of entry into force of this amending Regulation].

   Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.

Article 132b

Exclusions from the approaches for calculating risk-weighted exposure amounts of CIUs

1. Institutions may exclude from the calculations referred to in Article 132 Common Equity Tier 1, Additional Tier 1, Tier 2 instruments and eligible liabilities instruments held by a CIU which institutions shall deduct in accordance with Article 36(1) and Articles 56, 66 and 72e respectively.

2. Institutions may exclude from the calculations referred to in Article 132 exposures in the form of units or shares in CIUs referred to in points (g) and (h) of Article 150(1) and instead apply the treatment set out in Article 133 to those exposures.

Article 132c

Treatment of off-balance-sheet exposures to CIUs

1. Institutions shall calculate the risk-weighted exposure amount for their off-balance-sheet items with the potential to be converted into exposures in the form of units or shares in a CIU by multiplying the exposure values of those exposures calculated in accordance with Article 111, with the following risk weight:

   (a) for all exposures for which institutions use one of the approaches set out in Article 132a:

$$RW_i^* = \frac{RWAE_i}{E_i^*} \cdot \frac{A_i}{EQ_i}$$

where:

RW_i^* = the risk weight;

i = the index denoting the CIU:

$RWAE_i$ = the amount calculated in accordance with Article 132a for a CIU_i;

E_i^*= the exposure value of the exposures of CIU_i;

A_i= the accounting value of assets of CIU_i; and

EQ_i = the accounting value of the equity of CIU_i.

(b) for all other exposures, $RW_i^* = 1\,250\ \%$.

2. Institutions shall calculate the exposure value of a minimum value commitment that meets the conditions set out in paragraph 3 of this Article as the discounted present value of the guaranteed amount using a default risk-free discount factor. Institutions may reduce the exposure value of the minimum value commitment by any losses recognised with respect to the minimum value commitment under the applicable accounting standard.

Institutions shall calculate the risk-weighted exposure amount for off-balance-sheet exposures arising from minimum value commitments that meet all the conditions set out in paragraph 3 of this Article by multiplying the exposure value of those exposures by a conversion factor of 20 % and the risk weight derived under Article 132 or 152.

3. Institutions shall determine the risk-weighted exposure amount for off-balance-sheet exposures arising from minimum value commitments in accordance with paragraph 2 where all the following conditions are met:

(a) the off-balance-sheet exposure of the institution is a minimum value commitment for an investment into units or shares of one or more CIUs under which the institution is only obliged to pay out under the minimum value commitment where the market value of the underlying exposures of the CIU or CIUs is below a predetermined threshold at one or more points in time, as specified in the contract;

(b) the CIU is any of the following:

(i) a UCITS as defined in Directive 2009/65/EC; or

(ii) an AIF as defined in point (a) of Article 4(1) of Directive 2011/61/EU which solely invests in transferable securities or in other liquid financial assets referred to in Article 50(1) of Directive 2009/65/EC, where the mandate of the AIF does not allow a leverage higher than that allowed under Article 51(3) of Directive 2009/65/EC;

(c) the current market value of the underlying exposures of the CIU underlying the minimum value commitment without considering the effect of the off-balance-sheet minimum value commitments covers or exceeds the present value of the threshold specified in the minimum value commitment;

(d) when the excess of the market value of the underlying exposures of the CIU or CIUs over the present value of the minimum value commitment declines, the institution, or another undertaking in so far as it is covered by the supervision on a consolidated basis to which the institution itself is subject in accordance with this Regulation and Directive 2013/36/EU or Directive 2002/87/EC, can influence the composition of the underlying exposures of the CIU or CIUs or limit the potential for a further reduction of the excess in other ways;

(e) the ultimate direct or indirect beneficiary of the minimum value commitment is typically a retail client as defined in point (11) of Article 4(1) of Directive 2014/65/EU.";

(64) in Article 144(1), point (g) is replaced by the following:

"(g) the institution has calculated under the IRB Approach the own funds requirements resulting from its risk parameters estimates and is able to submit the reporting as required by Article 430;";

(65) Article 152 is replaced by the following:

"*Article 152*

Treatment of exposures in the form of units or shares in CIUs

1. Institutions shall calculate the risk-weighted exposure amounts for their exposures in the form of units or shares in a CIU by multiplying the risk-weighted exposure amount of the CIU, calculated in accordance with the approaches set out in paragraphs 2 and 5, with the percentage of units or shares held by those institutions.

2. Where the conditions set out in Article 132(3) are met, institutions that have sufficient information about the individual underlying exposures of a CIU shall look through to those underlying exposures to calculate the risk-weighted exposure amount of the CIU, risk weighting all underlying exposures of the CIU as if they were directly held by the institutions.

3. By way of derogation from point (d) of Article 92(3), institutions that calculate the risk-weighted exposure amount of the CIU in accordance with paragraph 1 or 2 of this Article may calculate the own funds requirement for credit valuation adjustment risk of derivative exposures of that CIU as an amount equal to 50 % of the own funds requirement for those derivative exposures calculated in accordance with Section 3, 4 or 5 of Chapter 6 of this Title, as applicable.

By way of derogation from the first subparagraph, an institution may exclude from the calculation of the own funds requirement for credit valuation adjustment risk derivative exposures which would not be subject to that requirement if they were incurred directly by the institution.

4. Institutions that apply the look-through approach in accordance with paragraphs 2 and 3 of this Article and that meet the conditions for permanent partial use in accordance with Article 150, or that do not meet the conditions for using the methods set out in this Chapter or one or more of the methods set out in Chapter 5 for all or parts of the underlying exposures of the CIU, shall calculate risk-weighted exposure amounts and expected loss amounts in accordance with the following principles:

   (a) for exposures assigned to the equity exposure class referred to in point (e) of Article 147(2), institutions shall apply the simple risk-weight approach set out in Article 155(2);

   (b) for exposures assigned to the items representing securitisation positions referred to in point (f) of Article 147(2), institutions shall apply the treatment set out in Article 254 as if those exposures were directly held by those institutions;

   (c) for all other underlying exposures, institutions shall apply the Standardised Approach laid down in Chapter 2 of this Title.

For the purposes of point (a) of the first subparagraph, where the institution is unable to differentiate between private equity exposures, exchange-traded exposures and other equity exposures, it shall treat the exposures concerned as other equity exposures.

5. Where the conditions set out in Article 132(3) are met, institutions that do not have sufficient information about the individual underlying exposures of a CIU may calculate the risk-weighted exposure amount for those exposures in accordance with the mandate-based approach set out in Article 132a(2). However, for the exposures listed in points (a), (b) and (c) of paragraph 4 of this Article, institutions shall apply the approaches set out therein.

6. Subject to Article 132b(2), institutions that do not apply the look-through approach in accordance with paragraphs 2 and 3 of this Article or the mandate-based approach in accordance with paragraph 5 of this Article shall apply the fall-back approach referred to in Article 132(2).

7. Institutions may calculate the risk-weighted exposure amount for their exposures in the form of units or shares in a CIU by using a combination of the approaches referred to in this Article, provided that the conditions for using those approaches are met.

8. Institutions that do not have adequate data or information to calculate the risk-weighted amount of a CIU in accordance with the approaches set out in paragraphs 2, 3, 4 and 5 may rely on the calculations of a third party, provided that all the following conditions are met:

(a) the third party is one of the following:

(i) the depository institution or the depository financial institution of the CIU, provided that the CIU exclusively invests in securities and deposits all securities at that depository institution or depository financial institution;

(ii) for CIUs not covered by point (i) of this point, the CIU management company, provided that the CIU management company meets the criteria set out in point (a) of Article 132(3);

(b) for exposures other than those listed in points (a), (b) and (c) of paragraph 4 of this Article, the third party carries out the calculation in accordance with the look-through approach set out in Article 132a(1);

(c) for exposures listed in points (a), (b) and (c) of paragraph 4, the third party carries out the calculation in accordance with the approaches set out therein;

(d) an external auditor has confirmed the correctness of the third party's calculation.

Institutions that rely on third-party calculations shall multiply the risk weighted exposure amounts of a CIU's exposures resulting from those calculations by a factor of 1,2.

By way of derogation from the second subparagraph, where the institution has unrestricted access to the detailed calculations carried out by the third party, the 1,2 factor shall not apply. The institution shall provide those calculations to its competent authority upon request.

9. For the purposes of this Article, Article 132(5) and (6) and Article 132b shall apply. For the purposes of this Article, Article 132c shall apply, using the risk weights calculated in accordance with Chapter 3 of this Title.";

(66) in Article 158, the following paragraph is inserted:

"9a. The expected loss amount for a minimum value commitment that meets all the requirements set out in Article 132c(3) shall be zero.";

(67) Article 164 is replaced by the following:

"*Article 164*

Loss Given Default (LGD)

1. Institutions shall provide own estimates of LGDs subject to the requirements specified in Section 6 of this Chapter and permission of the competent authorities granted in accordance with Article 143. For dilution risk of purchased receivables, an LGD value of 75 % shall be used. If an institution can decompose its EL estimates for dilution risk of purchased receivables into PDs and LGDs in a reliable manner, the institution may use its own LGD estimate.

2. Unfunded credit protection may be recognised as eligible by adjusting PD or LGD estimates subject to requirements as specified in Article 183(1), (2) and (3) and the permission of the competent authorities either in support of an individual exposure or a pool of exposures. An institution shall not assign guaranteed exposures an adjusted PD or LGD such that the adjusted risk weight would be lower than that of a comparable, direct exposure to the guarantor.

3. For the purposes of Article 154(2), the LGD of a comparable direct exposure to the protection provider referred to in Article 153(3) shall either be the LGD associated with an unhedged facility to the guarantor or the unhedged facility of the obligor, depending upon whether, in the event both the guarantor and obligor default during the life of the hedged transaction, available evidence and the structure of the guarantee indicate that the amount recovered would depend on the financial condition of the guarantor or obligor, respectively.

4. The exposure-weighted average LGD for all retail exposures secured by residential property and not benefiting from guarantees from central governments shall not be lower than 10 %.

   The exposure-weighted average LGD for all retail exposures secured by commercial immovable property and not benefiting from guarantees from central governments shall not be lower than 15 %.

5. Member States shall designate an authority to be responsible for the application of paragraph 6. That authority shall be the competent authority or the designated authority.

Where the authority designated by the Member State for the application of this Article is the competent authority, it shall ensure that the relevant national bodies and authorities which have a macroprudential mandate are duly informed of the competent authority's intention to make use of this Article, and are appropriately involved in the assessment of financial stability concerns in its Member State in accordance with paragraph 6.

Where the authority designated by the Member State for the application of this Article is different from the competent authority, the Member State shall adopt the necessary provisions to ensure proper coordination and exchange of information between the competent authority and the designated authority for the proper application of this Article. In particular, authorities shall be required to cooperate closely and to share all the information that may be necessary for the adequate performance of the duties imposed upon the designated authority pursuant to this Article. That cooperation shall aim at avoiding any form of duplicative or inconsistent action between the competent authority and the designated authority, as well as ensuring that the interaction with other measures, in particular measures taken under Article 458 of this Regulation and Article 133 of Directive 2013/36/EU, is duly taken into account.

6. Based on the data collected under Article 430a and on any other relevant indicators, and taking into account forward-looking immovable property market developments the authority designated in accordance with paragraph 5 of this Article shall periodically, and at least annually, assess whether the minimum LGD values referred to in paragraph 4 of this Article, are appropriate for exposures secured by mortgages on residential property or commercial immovable property located in one or more parts of the territory of the Member State of the relevant authority.

Where, on the basis of the assessment referred to in the first subparagraph of this paragraph, the authority designated in accordance with paragraph 5 concludes that the minimum LGD values referred to in paragraph 4 are not adequate, and if it considers that the inadequacy of LGD values could adversely affect current or future financial stability in its Member State, it may set higher minimum LGD values for those exposures located in one or more parts of the territory of the Member State of the relevant authority. Those higher minimum values may also be applied at the level of one or more property segments of such exposures.

The authority designated in accordance with paragraph 5 shall notify EBA and the ESRB before making the decision referred to in this paragraph. Within one month of receipt of that notification EBA and the ESRB shall provide their opinion to the Member State concerned. EBA and the ESRB shall publish those LGD values.

7. Where the authority designated in accordance with paragraph 5 sets higher minimum LGD values pursuant to paragraph 6, institutions shall have a six-month transitional period to apply them.

8. EBA, in close cooperation with the ESRB, shall develop draft regulatory technical standards to specify the conditions that the authority designated in accordance with paragraph 5 shall take into account when assessing the appropriateness of LGD values as part of the assessment referred to in paragraph 6.

   EBA shall submit those draft regulatory technical standards to the Commission by 31 December 2019.

   Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.

9. The ESRB may, by means of recommendations in accordance with Article 16 of Regulation (EU) No 1092/2010, and in close cooperation with EBA, give guidance to authorities designated in accordance with paragraph 5 of this Article on the following:

   (a) factors which could ‘adversely affect current or future financial stability’ referred to in paragraph 6; and

(b) indicative benchmarks that the authority designated in accordance with paragraph 5 is to take into account when determining higher minimum LGD values.

10. The institutions of a Member State shall apply the higher minimum LGD values that have been determined by the authorities of another Member State in accordance with paragraph 6 to all their corresponding exposures secured by mortgages on residential property or commercial immovable property located in one or more parts of that Member State.";

(68) in Article 201(1), point (h) is replaced by the following:

"(h) qualifying central counterparties.";

(69) the following article is inserted:

"*Article 204a*
Eligible types of equity derivatives

1. Institutions may use equity derivatives which are total return swaps or economically effectively similar, as eligible credit protection only for the purpose of conducting internal hedges.

Where an institution buys credit protection through a total return swap and records the net payments received on the swap as net income, but does not record the offsetting deterioration in the value of the asset that is protected either through reductions in fair value or by an addition to reserves, that credit protection shall not qualify as eligible credit protection.

2. Where an institution conducts an internal hedge using an equity derivative, in order for the internal hedge to qualify as eligible credit protection for the purposes of this Chapter, the credit risk transferred to the trading book shall be transferred out to a third party or parties.

Where an internal hedge has been conducted in accordance with the first subparagraph and the requirements in this Chapter have been met, institutions shall apply the rules set out in Sections 4 to 6 of this Chapter for the calculation of risk-weighted exposure amounts and expected loss amounts where they acquire unfunded credit protection.";

(70) Article 223 is amended as follows:

(a) in paragraph 3, the second subparagraph is replaced by the following:

"In the case of OTC derivative transactions, institutions using the method laid down in Section 6 of Chapter 6 shall calculate E_{VA} as follows:

$$E_{VA} = E.";$$

(b) in paragraph 5, the following subparagraph is added:

"In the case of OTC derivative transactions, institutions using the methods laid down in Sections 3, 4 and 5 of Chapter 6 shall take into account the risk-mitigating effects of collateral in accordance with the provisions laid down in Sections 3, 4 and 5 of Chapter 6, as applicable.";

(71) Article 272 is amended as follows:

(a) point (6) is replaced by the following:

"(6) 'hedging set' means a group of transactions within a single netting set for which full or partial offsetting is allowed for determining the potential future exposure under the methods set out in Section 3 or 4 of this Chapter;";

(b) the following point is inserted:

"(7a) 'one way margin agreement' means a margin agreement under which an institution is required to post variation margin to a counterparty but is not entitled to receive variation margin from that counterparty or vice-versa;";

(c) point (12) is replaced by the following:

"(12) 'current market value' or 'CMV' means the net market value of all the transactions within a netting set gross of any collateral held or posted where positive and negative market values are netted in computing the CMV;"

(d) the following point is inserted:

"(12a) 'net independent collateral amount' or 'NICA' means the sum of the volatility-adjusted value of net collateral received or posted, as applicable, to the netting set other than variation margin;";

(72) Article 273 is amended as follows:

(a) paragraph 1 is replaced by the following:

"1. Institutions shall calculate the exposure value for the contracts listed in Annex II on the basis of one of the methods set out in Sections 3 to 6 in accordance with this Article.

An institution which does not meet the conditions set out in Article 273a(1) shall not use the method set out in Section 4. An institution which does not meet the conditions set out in Article 273a(2) shall not use the method set out in Section 5.

Institutions may use in combination the methods set out in Sections 3 to 6 on a permanent basis within a group. A single institution shall not use in combination the methods set out in Sections 3 to 6 on a permanent basis.";

(b) paragraphs 6, 7 and 8 are replaced by the following:

"6. Under the methods set out in Sections 3 to 6, the exposure value for a given counterparty shall be equal to the sum of the exposure values calculated for each netting set with that counterparty.

By way of derogation from the first subparagraph, where one margin agreement applies to multiple netting sets with that counterparty and the institution is using one of the methods set out in Sections 3 to 6 to calculate the exposure value of those netting sets, the exposure value shall be calculated in accordance with the relevant Section.

For a given counterparty, the exposure value for a given netting set of OTC derivative instruments listed in Annex II calculated in accordance with this Chapter shall be the greater of zero and the difference between the sum of exposure values across all netting sets with the counterparty and the sum of credit valuation adjustments for that counterparty being recognised by the institution as an incurred write-down. The credit valuation adjustments shall be calculated without taking into account any offsetting debit value adjustment attributed to the own credit risk of the firm that has been already excluded from own funds in accordance with point (c) of Article 33(1).

7. In calculating the exposure value in accordance with the methods set out in Sections 3, 4 and 5, institutions may treat two OTC derivative contracts included in the same netting agreement that are perfectly matching as if they were a single contract with a notional principal equal to zero.

For the purposes of the first subparagraph, two OTC derivative contracts are perfectly matching when they meet all the following conditions:

(a) their risk positions are opposite;

(b) their features, with the exception of the trade date, are identical;

(c) their cash flows fully offset each other.

8. Institutions shall determine the exposure value for exposures arising from long settlement transactions by any of the methods set out in Sections 3 to 6 of this Chapter, regardless of which method the institution has chosen for treating OTC derivatives and repurchase transactions, securities or commodities lending or borrowing transactions, and margin lending transactions. In calculating the own funds requirements for long settlement transactions, an institution that uses the approach set out in Chapter 3 may assign the risk weights under the approach set out in Chapter 2 on a permanent basis and irrespective of the materiality of those positions.";

(c) the following paragraph is added:

"9. For the methods set out in Sections 3 to 6 of this Chapter, institutions shall treat transactions where Specific Wrong-Way risk has been identified in accordance with Article 291(2), (4), (5), and (6).";

(73) the following articles are inserted:

"*Article 273a*
Conditions for using simplified methods for calculating the exposure value

1. An institution may calculate the exposure value of its derivative positions in accordance with the method set out in Section 4, provided that the size of its on- and off-balance-sheet derivative business is equal to or less than both of the following thresholds on the basis of an assessment carried out on a monthly basis using the data as of the last day of the month:

(a) 10 % of the institution's total assets;

(b) EUR 300 million.

2. An institution may calculate the exposure value of its derivative positions in accordance with the method set out in Section 5, provided that the size of its on- and off-balance-sheet derivative business is equal to or less than both of the following thresholds on the basis of an assessment carried out on a monthly basis using the data as of the last day of the month:

   (a) 5 % of the institution's total assets;

   (b) EUR 100 million.

3. For the purposes of paragraphs 1 and 2, institutions shall calculate the size of their on- and off-balance-sheet derivative business on the basis of data as of the last day of each month in accordance with the following requirements:

   (a) derivative positions shall be valued at their market values on that given date; where the market value of a position is not available on a given date, institutions shall take a fair value for the position on that date; where the market value and fair value of a position are not available on a given date, institutions shall take the most recent of the market value or fair value for that position;

   (b) the absolute value of long derivative positions shall be summed with the absolute value of short derivative positions;

(c) all derivative positions shall be included, except credit derivatives that are recognised as internal hedges against non-trading book credit risk exposures.

4. By way of derogation from paragraph 1 or 2, as applicable, where the derivative business on a consolidated basis does not exceed the thresholds set out in paragraph 1 or 2, as applicable, an institution which is included in the consolidation and which would have to apply the method set out in Section 3 or 4 because it exceeds those thresholds on an individual basis, may, subject to the approval of competent authorities, instead choose to apply the method that would apply on a consolidated basis.

5. Institutions shall notify the competent authorities of the methods set out in Section 4 or 5 that they use, or cease to use, as applicable, to calculate the exposure value of their derivative positions.

6. Institutions shall not enter into a derivative transaction or buy or sell a derivative instrument for the sole purpose of complying with any of the conditions set out in paragraphs 1 and 2 during the monthly assessment.

Article 273b

Non-compliance with the conditions for using simplified methods for calculating the exposure value of derivatives

1. An institution that no longer meets one or more of the conditions set out in Article 273a(1) or (2) shall immediately notify the competent authority thereof.

2. An institution shall cease to calculate the exposure values of its derivative positions in accordance with Section 4 or 5, as applicable, within three months of one of the following occurring:

(a) the institution does not meet the conditions set out in point (a) of Article 273a(1) or (2), as applicable, or the conditions set out in point (b) of Article 273a(1) or (2), as applicable, for three consecutive months;

(b) the institution does not meet the conditions set out in point (a) of Article 273a(1) or (2), as applicable, or the conditions set out in point (b) of Article 273a(1) or (2), as applicable, for more than six of the preceding 12 months.

3. Where an institution has ceased to calculate the exposure values of its derivative positions in accordance with Section 4 or 5, as applicable, it shall only be permitted to resume calculating the exposure value of its derivative positions as set out in Section 4 or 5 where it demonstrates to the competent authority that all the conditions set out in Article 273a(1) or (2) have been met for an uninterrupted period of one year.";

(74) in Chapter 6 of Title II of Part Three, Sections 3, 4 and 5 are replaced by the following:

"Section 3

Standardised approach for counterparty credit risk

Article 274

Exposure value

1. An institution may calculate a single exposure value at netting set level for all the transactions covered by a contractual netting agreement where all the following conditions are met:

   (a) the netting agreement belongs to one of the types of contractual netting agreements referred to in Article 295;

   (b) the netting agreement has been recognised by competent authorities in accordance with Article 296;

   (c) the institution has fulfilled the obligations laid down in Article 297 in respect of the netting agreement.

   Where any of the conditions set out in the first subparagraph are not met, the institution shall treat each transaction as if it was its own netting set.

2. Institutions shall calculate the exposure value of a netting set under the standardised approach for counterparty credit risk as follows:

$$\text{Exposure value} = \alpha \cdot (\text{RC} + \text{PFE})$$

where:

RC = the replacement cost calculated in accordance with Article 275; and

PFE = the potential future exposure calculated in accordance with Article 278;

$\alpha = 1{,}4$.

3. The exposure value of a netting set that is subject to a contractual margin agreement shall be capped at the exposure value of the same netting set not subject to any form of margin agreement.

4. Where multiple margin agreements apply to the same netting set, institutions shall allocate each margin agreement to the group of transactions in the netting set to which that margin agreement contractually applies to and calculate an exposure value separately for each of those grouped transactions.

5. Institutions may set to zero the exposure value of a netting set that satisfies all the following conditions:

   (a) the netting set is solely composed of sold options;

   (b) the current market value of the netting set is at all times negative;

(c) the premium of all the options included in the netting set has been received upfront by the institution to guarantee the performance of the contracts;

(d) the netting set is not subject to any margin agreement.

6. In a netting set, institutions shall replace a transaction which is a finite linear combination of bought or sold call or put options with all the single options that form that linear combination, taken as an individual transaction, for the purpose of calculating the exposure value of the netting set in accordance with this Section. Each such combination of options shall be treated as an individual transaction in the netting set in which the combination is included for the purpose of calculating the exposure value.

7. The exposure value of a credit derivative transaction representing a long position in the underlying may be capped to the amount of outstanding unpaid premium provided it is treated as its own netting set that is not subject to a margin agreement.

Article 275

Replacement cost

1. Institutions shall calculate the replacement cost RC for netting sets that are not subject to a margin agreement, in accordance with the following formula:

$$\mathrm{RC} = \max\{\mathrm{CMV} - \mathrm{NICA}, 0\}$$

2. Institutions shall calculate the replacement cost for single netting sets that are subject to a margin agreement in accordance with the following formula:

$$RC = \max\{CMV - VM - NICA, TH + MTA - NICA, 0\}$$

where:

RC = the replacement cost;

VM = the volatility-adjusted value of the net variation margin received or posted, as applicable, to the netting set on a regular basis to mitigate changes in the netting set's CMV;

TH = the margin threshold applicable to the netting set under the margin agreement below which the institution cannot call for collateral; and

MTA = the minimum transfer amount applicable to the netting set under the margin agreement.

3. Institutions shall calculate the replacement cost for multiple netting sets that are subject to the same margin agreement in accordance with the following formula:

$$RC = \max\left\{\sum_i \max\{CMV_i, 0\} - \max\{VM_{MA} + NICA_{MA}, 0\}, 0\right\} + \max\left\{\sum_i \min\{CMV_i, 0\} - \min\{VM_{MA} + NICA_{MA}, 0\}, 0\right\}$$

where:

RC = the replacement cost;

i = the index that denotes the netting sets that are subject to the single margin agreement;

CMV_i = the CMV of netting set i;

VM_{MA} = the sum of the volatility-adjusted value of collateral received or posted, as applicable, to multiple netting sets on a regular basis to mitigate changes in their CMV; and

$NICA_{MA}$ = the sum of the volatility-adjusted value of collateral received or posted, as applicable, to multiple netting sets other than VM_{MA}.

For the purposes of the first subparagraph, $NICA_{MA}$ may be calculated at trade level, at netting set level or at the level of all the netting sets to which the margin agreement applies depending on the level at which the margin agreement applies.

Article 276

Recognition and treatment of collateral

1. For the purposes of this Section, institutions shall calculate the collateral amounts of VM, VM_{MA}, NICA and $NICA_{MA}$, by applying all the following requirements:

   (a) where all the transactions included in a netting set belong to the trading book, only collateral that is eligible under Articles 197 and 299 shall be recognised;

   (b) where a netting set contains at least one transaction that belongs to the non-trading book, only collateral that is eligible under Article 197 shall be recognised;

   (c) collateral received from a counterparty shall be recognised with a positive sign and collateral posted to a counterparty shall be recognised with a negative sign;

   (d) the volatility-adjusted value of any type of collateral received or posted shall be calculated in accordance with Article 223; for the purposes of that calculation, institutions shall not use the method set out in Article 225;

   (e) the same collateral item shall not be included in both VM and NICA at the same time;

   (f) the same collateral item shall not be included in both VM_{MA} and $NICA_{MA}$ at the same time;

(g) any collateral posted to the counterparty that is segregated from the assets of that counterparty and, as a result of that segregation, is bankruptcy remote in the event of the default or insolvency of that counterparty shall not be recognised in the calculation of NICA and $NICA_{MA}$.

2. For the calculation of the volatility-adjusted value of collateral posted referred to in point (d) of paragraph 1 of this Article, institutions shall replace the formula set out in Article 223(2) with the following formula:

$$C_{VA} = C \cdot (1 + H_C + H_{fx})$$

where:

C_{VA} = the volatility-adjusted value of collateral posted; and

C = the collateral;

H_c and H_{fx} are defined in accordance with Article 223(2).

3. For the purposes of point (d) of paragraph 1, institutions shall set the liquidation period relevant for the calculation of the volatility-adjusted value of any collateral received or posted in accordance with one of the following time horizons:

(a) one year for the netting sets referred to in Article 275(1);

(b) the margin period of risk determined in accordance with point (b) of Article 279c(1) for the netting sets referred to in Article 275(2) and (3).

Article 277

Mapping of transactions to risk categories

1. Institutions shall map each transaction of a netting set to one of the following risk categories to determine the potential future exposure of the netting set referred to in Article 278:

   (a) interest rate risk;

   (b) foreign exchange risk;

   (c) credit risk;

   (d) equity risk;

   (e) commodity risk;

   (f) other risks.

2. Institutions shall conduct the mapping referred to in paragraph 1 on the basis of the primary risk driver of a derivative transaction. The primary risk driver shall be the only material risk driver of a derivative transaction.

3. By way of derogation from paragraph 2, institutions shall map derivative transactions that have more than one material risk driver to more than one risk category. Where all the material risk drivers of one of those transactions belong to the same risk category, institutions shall only be required to map that transaction once to that risk category on the basis of the most material of those risk drivers. Where the material risk drivers of one of those transactions belong to different risk categories, institutions shall map that transaction once to each risk category for which the transaction has at least one material risk driver, on the basis of the most material of the risk drivers in that risk category.

4. Notwithstanding paragraphs 1, 2 and 3, when mapping transactions to the risk categories listed in paragraph 1, institutions shall apply the following requirements:

   (a) where the primary risk driver of a transaction, or the most material risk driver in a given risk category for transactions referred to in paragraph 3, is an inflation variable, institutions shall map the transaction to the interest rate risk category;

   (b) where the primary risk driver of a transaction, or the most material risk driver in a given risk category for transactions referred to in paragraph 3, is a climatic conditions variable, institutions shall map the transaction to the commodity risk category.

5. EBA shall develop draft regulatory technical standards to specify:

(a) the method for identifying transactions with only one material risk driver;

(b) the method for identifying transactions with more than one material risk driver and for identifying the most material of those risk drivers for the purposes of paragraph 3.

EBA shall submit those draft regulatory technical standards to the Commission by … [six months after the date of entry into force of this amending Regulation].

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.

Article 277a

Hedging sets

1. Institutions shall establish the relevant hedging sets for each risk category of a netting set and assign each transaction to those hedging sets as follows:

(a) transactions mapped to the interest rate risk category shall be assigned to the same hedging set only where their primary risk driver, or the most material risk driver in the given risk category for transactions referred to in Article 277(3), is denominated in the same currency;

(b) transactions mapped to the foreign exchange risk category shall be assigned to the same hedging set only where their primary risk driver, or the most material risk driver in the given risk category for transactions referred to in Article 277(3), is based on the same currency pair;

(c) all the transactions mapped to the credit risk category shall be assigned to the same hedging set;

(d) all the transactions mapped to the equity risk category shall be assigned to the same hedging set;

(e) transactions mapped to the commodity risk category shall be assigned to one of the following hedging sets on the basis of the nature of their primary risk driver or the most material risk driver in the given risk category for transactions referred to in Article 277(3):

(i) energy;

(ii) metals;

(iii) agricultural goods;

(iv) other commodities;

(v) climatic conditions;

(f) transactions mapped to the other risks category shall be assigned to the same hedging set only where their primary risk driver, or the most material risk driver in the given risk category for transactions referred to in Article 277(3), is identical.

For the purposes of point (a) of the first subparagraph of this paragraph, transactions mapped to the interest rate risk category that have an inflation variable as the primary risk driver shall be assigned to separate hedging sets, other than the hedging sets established for transactions mapped to the interest rate risk category that do not have an inflation variable as the primary risk driver. Those transactions shall be assigned to the same hedging set only where their primary risk driver, or the most material risk driver in the given risk category for transactions referred to in Article 277(3), is denominated in the same currency.

2. By way of derogation from paragraph 1 of this Article, institutions shall establish separate individual hedging sets in each risk category for the following transactions:

(a) transactions for which the primary risk driver, or the most material risk driver in the given risk category for transactions referred to in Article 277(3), is either the market implied volatility or the realised volatility of a risk driver or the correlation between two risk drivers;

(b) transactions for which the primary risk driver, or the most material risk driver in the given risk category for transactions referred to in Article 277(3), is the difference between two risk drivers mapped to the same risk category or transactions that consist of two payment legs denominated in the same currency and for which a risk driver from the same risk category of the primary risk driver is contained in the other payment leg than the one containing the primary risk driver.

For the purposes of point (a) of the first subparagraph of this paragraph, institutions shall assign transactions to the same hedging set of the relevant risk category only where their primary risk driver, or the most material risk driver in the given risk category for transactions referred to in Article 277(3), is identical.

For the purposes of point (b) of the first subparagraph, institutions shall assign transactions to the same hedging set of the relevant risk category only where the pair of risk drivers in those transactions as referred to therein is identical and the two risk drivers contained in this pair are positively correlated. Otherwise, institutions shall assign transactions referred to in point (b) of the first subparagraph to one of the hedging sets established in accordance with paragraph 1, on the basis of only one of the two risk drivers referred to in point (b) of the first subparagraph.

3. Institutions shall make available upon request by the competent authorities the number of hedging sets established in accordance with paragraph 2 of this Article for each risk category, with the primary risk driver, or the most material risk driver in the given risk category for transactions referred to in Article 277(3), or the pair of risk drivers of each of those hedging sets and with the number of transactions in each of those hedging sets.

Article 278

Potential future exposure

1. Institutions shall calculate the potential future exposure of a netting set as follows:

$$\text{PFE} = \text{multiplier} \cdot \sum_{a} \text{AddOn}^{(a)}$$

where:

PFE = the potential future exposure;

a = the index that denotes the risk categories included in the calculation of the potential future exposure of the netting set;

$\text{AddOn}^{(a)}$ = the add-on for risk category a calculated in accordance with Articles 280a to 280f, as applicable; and

multiplier = the multiplication factor calculated in accordance with the formula referred to in paragraph 3.

For the purpose of this calculation, institutions shall include the add-on of a given risk category in the calculation of the potential future exposure of a netting set where at least one transaction of the netting set has been mapped to that risk category.

2. The potential future exposure of multiple netting sets that are subject to one margin agreement, as referred in Article 275(3), shall be calculated as the sum of the potential future exposures of all the individual netting sets as if they were not subject to any form of a margin agreement.

3. For the purposes of paragraph 1, the multiplier shall be calculated as follows:

$$\text{multiplier} = \begin{cases} 1 \text{ if } z \geq 0 \\ \min\left\{1, \text{Floor}_m + (1 - \text{Floor}_m) \cdot \exp\left(\frac{z}{y}\right)\right\} \text{ if } z < 0 \end{cases}$$

where:

Floor_m = 5 %;

$y = 2 \cdot (1 - \text{Floor}_m) \cdot \sum_a \text{AddOn}^{(a)}$

$$z = \begin{cases} \text{CMV} - \text{NICA for the netting sets referred to in Article 275(1)} \\ \text{CMV} - \text{VM} - \text{NICA for the netting sets referred to in Article 275(2)} \\ \text{CMV}_i - \text{NICA}_i \text{ for the netting sets referred to in Article 275(3)} \end{cases}$$

NICA_i = the net independent collateral amount calculated only for transactions that are included in netting set i. NICA_i shall be calculated at trade level or at netting set level depending on the margin agreement.

Article 279

Calculation of the risk position

For the purpose of calculating the risk category add-ons referred to in Articles 280a to 280f, institutions shall calculate the risk position of each transaction of a netting set as follows:

$$\text{RiskPosition} = \delta \cdot \text{AdjNot} \cdot \text{MF}$$

where:

δ = the supervisory delta of the transaction calculated in accordance with the formula laid down in Article 279a;

AdjNot = the adjusted notional amount of the transaction calculated in accordance with Article 279b; and

MF = the maturity factor of the transaction calculated in accordance with the formula laid down in Article 279c.

Article 279a

Supervisory delta

1. Institutions shall calculate the supervisory delta as follows:

   (a) for call and put options that entitle the option buyer to purchase or sell an underlying instrument at a positive price on a single or multiple dates in the future, except where those options are mapped to the interest rate risk category, institutions shall use the following formula:

$$\delta = \text{sign} \cdot N\left(\text{type} \cdot \frac{\ln\left(P/K\right) + 0{,}5 \cdot \sigma^2 \cdot T}{\sigma \cdot \sqrt{T}}\right)$$

   where:

   δ = the supervisory delta;

   sign = -1 where the transaction is a sold call option or a bought put option;

   sign = +1 where the transaction is a bought call option or sold put option;

   type = -1 where the transaction is a put option;

   type = +1 where the transaction is a call option;

   N(x) = the cumulative distribution function for a standard normal random variable meaning the probability that a normal random variable with mean zero and variance of one is less than or equal to x;

P = the spot or forward price of the underlying instrument of the option; for options the cash flows of which depend on an average value of the price of the underlying instrument, P shall be equal to the average value at the calculation date;

K = the strike price of the option;

T = the expiry date of the option; for options which can be exercised at one future date only, the expiry date is equal to that date; for options which can be exercised at multiple future dates, the expiry date is equal to the latest of those dates; the expiry date shall be expressed in years using the relevant business day convention; and

σ = the supervisory volatility of the option determined in accordance with Table 1 on the basis of the risk category of the transaction and the nature of the underlying instrument of the option.

Table 1

Risk category	Underlying instrument	Supervisory volatility
Foreign exchange	All	15 %
Credit	Single-name instrument	100 %
	Multiple-names instrument	80 %
Equity	Single-name instrument	120 %
	Multiple-names instrument	75 %
Commodity	Electricity	150 %
	Other commodities (excluding electricity)	70 %
Others	All	150 %

Institutions using the forward price of the underlying instrument of an option shall ensure that:

(i) the forward price is consistent with the characteristics of the option;

(ii) the forward price is calculated using a relevant interest rate prevailing at the reporting date;

(iii) the forward price integrates the expected cash flows of the underlying instrument before the expiry of the option;

(b) for tranches of a synthetic securitisation and a nth-to-default credit derivative, institutions shall use the following formula:

$$\delta = \text{sign} \cdot \frac{15}{(1 + 14 \cdot A) \cdot (1 + 14 \cdot D)}$$

where:

$$\text{sign} = \begin{cases} +1 \text{ where credit protection has been obtained through the transaction} \\ -1 \text{ where credit protection has been provided through the transaction} \end{cases}$$

A = the attachment point of the tranche; for a nth-to-default credit derivative transaction based on reference entities k, A = (n-1)/k; and

D = the detachment point of the tranche; for a nth-to-default credit derivative transaction based on reference entities k, D = n/k;

(c) for transactions not referred to in point (a) or (b), institutions shall use the following supervisory delta:

$$\delta = \begin{cases} \text{+1 if the transaction is a long position in the primary risk driver or in the most material risk driver in the given risk category} \\ \text{-1 if the transaction is a short position in the primary risk driver or in the most material risk driver in the given risk category} \end{cases}$$

2. For the purposes of this Section, a long position in the primary risk driver or in the most material risk driver in the given risk category for transactions referred to in Article 277(3) means that the market value of the transaction increases when the value of that risk driver increases and a short position in the primary risk driver or in the most material risk driver in the given risk category for transactions referred to in Article 277(3) means that the market value of the transaction decreases when the value of that risk driver increases.

3. EBA shall develop draft regulatory technical standards to specify:

   (a) in accordance with international regulatory developments, the formula that institutions shall use to calculate the supervisory delta of call and put options mapped to the interest rate risk category compatible with market conditions in which interest rates may be negative as well as the supervisory volatility that is suitable for that formula;

   (b) the method for determining whether a transaction is a long or short position in the primary risk driver or in the most material risk driver in the given risk category for transactions referred to in Article 277(3).

   EBA shall submit those draft regulatory technical standards to the Commission by … [six months after the date of entry into force of this amending Regulation].

   Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.

Article 279b

Adjusted notional amount

1. Institutions shall calculate the adjusted notional amount as follows:

   (a) for transactions mapped to the interest rate risk category or the credit risk category, institutions shall calculate the adjusted notional amount as the product of the notional amount of the derivative contract and the supervisory duration factor, which shall be calculated as follows:

$$\text{supervisory duration factor} = \frac{\exp(-\mathrm{R} \cdot \mathrm{S}) - \exp(-\mathrm{R} \cdot \mathrm{E})}{\mathrm{R}}$$

   where:

   R = the supervisory discount rate; R = 5 %;

   S = the period between the start date of a transaction and the reporting date, which shall be expressed in years using the relevant business day convention; and

   E = the period between the end date of a transaction and the reporting date, which shall be expressed in years using the relevant business day convention.

The start date of a transaction is the earliest date at which at least a contractual payment under the transaction, to or from the institution, is either fixed or exchanged, other than payments related to the exchange of collateral in a margin agreement. Where the transaction has already been fixing or making payments at the reporting date, the start date of a transaction shall be equal to 0.

Where a transaction involves one or more contractual future dates on which the institution or the counterparty may decide to terminate the transaction prior to its contractual maturity, the start date of a transaction shall be equal to the earliest of the following:

(i) the date or the earliest of the multiple future dates at which the institution or the counterparty may decide to terminate the transaction earlier than its contractual maturity;

(ii) the date at which a transaction starts fixing or making payments, other than payments related to the exchange of collateral in a margin agreement.

Where a transaction has a financial instrument as the underlying instrument that may give rise to contractual obligations additional to those of the transaction, the start date of a transaction shall be determined on the basis of the earliest date at which the underlying instrument starts fixing or making payments.

The end date of a transaction is the latest date at which a contractual payment under the transaction, to or from the institution, is or may be exchanged.

Where a transaction has a financial instrument as an underlying instrument that may give rise to contractual obligations additional to those of the transaction, the end date of a transaction shall be determined on the basis of the last contractual payment of the underlying instrument of the transaction.

Where a transaction is structured to settle an outstanding exposure following specified payment dates and where the terms are reset so that the market value of the transaction is zero on those specified dates, the settlement of the outstanding exposure at those specified dates is considered a contractual payment under the same transaction;

(b) for transactions mapped to the foreign exchange risk category, institutions shall calculate the adjusted notional amount as follows:

(i) where the transaction consists of one payment leg, the adjusted notional amount shall be the notional amount of the derivative contract;

(ii) where the transaction consists of two payment legs and the notional amount of one payment leg is denominated in the institution's reporting currency, the adjusted notional amount shall be the notional amount of the other payment leg;

(iii) where the transaction consists of two payment legs and the notional amount of each payment leg is denominated in a currency other than the institution's reporting currency, the adjusted notional amount shall be the largest of the notional amounts of the two payment legs after those amounts have been converted into the institution's reporting currency at the prevailing spot exchange rate;

(c) for transactions mapped to the equity risk category or commodity risk category, institutions shall calculate the adjusted notional amount as the product of the market price of one unit of the underlying instrument of the transaction and the number of units in the underlying instrument referenced by the transaction;

where a transaction mapped to the equity risk category or commodity risk category is contractually expressed as a notional amount, institutions shall use the notional amount of the transaction rather than the number of units in the underlying instrument as the adjusted notional amount;

(d) for transactions mapped to the other risks category, institutions shall calculate the adjusted notional amount on the basis of the most appropriate method among the methods set out in points (a), (b) and (c), depending on the nature and characteristics of the underlying instrument of the transaction.

2. Institutions shall determine the notional amount or number of units of the underlying instrument for the purpose of calculating the adjusted notional amount of a transaction referred to in paragraph 1 as follows:

(a) where the notional amount or the number of units of the underlying instrument of a transaction is not fixed until its contractual maturity:

(i) for deterministic notional amounts and numbers of units of the underlying instrument, the notional amount shall be the weighted average of all the deterministic values of notional amounts or number of units of the underlying instrument, as applicable, until the contractual maturity of the transaction, where the weights are the proportion of the time period during which each value of notional amount applies;

(ii) for stochastic notional amounts and numbers of units of the underlying instrument, the notional amount shall be the amount determined by fixing current market values within the formula for calculating the future market values;

(b) for contracts with multiple exchanges of the notional amount, the notional amount shall be multiplied by the number of remaining payments still to be made in accordance with the contracts;

(c) for contracts that provide for a multiplication of the cash-flow payments or a multiplication of the underlying of the derivative contract, the notional amount shall be adjusted by an institution to take into account the effects of the multiplication on the risk structure of those contracts.

3. Institutions shall convert the adjusted notional amount of a transaction into their reporting currency at the prevailing spot exchange rate where the adjusted notional amount is calculated under this Article from a contractual notional amount or a market price of the number of units of the underlying instrument denominated in another currency.

Article 279c

Maturity Factor

1. Institutions shall calculate the maturity factor as follows:

(a) for transactions included in the netting sets referred to in Article 275(1), institutions shall use the following formula:

$$\mathrm{MF} = \sqrt{\min\{\max\{\mathrm{M}, 10/\mathrm{OneBusinessYear}\}, 1\}}$$

where:

MF = the maturity factor;

M = the remaining maturity of the transaction which is equal to the period of time needed for the termination of all contractual obligations of the transaction; for that purpose, any optionality of a derivative contract shall be considered to be a contractual obligation; the remaining maturity shall be expressed in years using the relevant business day convention;

where a transaction has another derivative contract as underlying instrument that may give rise to additional contractual obligations beyond the contractual obligations of the transaction, the remaining maturity of the transaction shall be equal to the period of time needed for the termination of all contractual obligations of the underlying instrument;

where a transaction is structured to settle outstanding exposure following specified payment dates and where the terms are reset so that the market value of the transaction is zero on those specified dates, the remaining maturity of the transaction shall be equal to the time until the next reset date; and

OneBusinessYear = one year expressed in business days using the relevant business day convention;

(b) for transactions included in the netting sets referred to in Article 275(2) and (3), the maturity factor is defined as:

$$\mathrm{MF} = \frac{3}{2}\sqrt{\frac{\mathrm{MPOR}}{\mathrm{OneBusinessYear}}}$$

where:

MF = the maturity factor;

MPOR = the margin period of risk of the netting set determined in accordance with Article 285(2) to (5); and

OneBusinessYear = one year expressed in business days using the relevant business day convention.

When determining the margin period of risk for transactions between a client and a clearing member, an institution acting either as the client or as the clearing member shall replace the minimum period set out in point (b) of Article 285(2) with five business days.

2. For the purposes of paragraph 1, the remaining maturity shall be equal to the period of time until the next reset date for transactions that are structured to settle outstanding exposure following specified payment dates and where the terms are reset in such a way that the market value of the contract shall be zero on those specified payment dates.

Article 280

Hedging set supervisory factor coefficient

For the purpose of calculating the add-on of a hedging set as referred to in Articles 280a to 280f, the hedging set supervisory factor coefficient ‘ϵ’ shall be the following:

$$\epsilon_{A_r} = \begin{cases} 1 \text{ for the hedging sets established in accordance with Article 277a(1)} \\ 5 \text{ for the hedging sets established in accordance with point (a) of Article 277a(2)} \\ 0{,}5 \text{ for the hedging sets established in accordance with point (b) of Article 277a(2)} \end{cases}$$

ticle 280a

Interest rate risk category add-on

1. For the purposes of Article 278, institutions shall calculate the interest rate risk category add-on for a given netting set as follows:

$$\text{AddOn}^{\text{IR}} = \sum_{j} \text{AddOn}_{j}^{\text{IR}}$$

where:

AddOn^{IR} = the interest rate risk category add-on;

j = the index that denotes all the interest rate risk hedging sets established in accordance with point (a) of Article 277a(1) and with Article 277a(2) for the netting set; and

$\text{AddOn}_{j}^{\text{IR}}$ = the interest rate risk category add-on for hedging set j calculated in accordance with paragraph 2.

2. Institutions shall calculate the interest rate risk category add-on for hedging set j as follows:

$$\mathrm{AddOn}_j^{IR} = \epsilon_j \cdot \mathrm{SF}^{IR} \cdot \mathrm{EffNot}_j^{IR}$$

where:

ϵ_j = the hedging set supervisory factor coefficient of hedging set j determined in accordance with the applicable value specified in Article 280;

SF^{IR} = the supervisory factor for the interest rate risk category with a value equal to 0,5 %; and

EffNot_j^{IR} = the effective notional amount of hedging set j calculated in accordance with paragraph 3.

3. For the purpose of calculating the effective notional amount of hedging set j, institutions shall first map each transaction of the hedging set to the appropriate bucket in Table 2. They shall do so on the basis of the end date of each transaction as determined under point (a) of Article 279b(1):

Table 2

Bucket	End date (in years)
1	>0 and <=1
2	>1 and <= 5
3	> 5

Institutions shall then calculate the effective notional amount of hedging set j in accordance with the following formula:

$$\mathrm{EffNot}_{j}^{IR} = \sqrt{\left[\left(D_{j,1}\right)^2 + \left(D_{j,2}\right)^2 + \left(D_{j,3}\right)^2 + 1{,}4 \cdot D_{j,1} \cdot D_{j,2} + 1{,}4 \cdot D_{j,2} \cdot D_{j,3} + 0{,}6 \cdot D_{j,1} \cdot D_{j,3}\right]}$$

where:

EffNot_{j}^{IR} = the effective notional amount of hedging set j; and

$D_{j,k}$ = the effective notional amount of bucket k of hedging set j calculated as follows:

$$D_{j,k} = \sum_{l \in \text{Bucket } k} \mathrm{RiskPosition}_{l}$$

where:

l = the index that denotes the risk position.

Article 280b

Foreign exchange risk category add-on

1. For the purposes of Article 278, institutions shall calculate the foreign exchange risk category add-on for a given netting set as follows:

$$\mathrm{AddOn}^{\mathrm{FX}} = \sum_{j} \mathrm{AddOn}_{j}^{\mathrm{FX}}$$

where:

$\mathrm{AddOn}^{\mathrm{FX}}$ = the foreign exchange risk category add on;

j = the index that denotes the foreign exchange risk hedging sets established in accordance with point (b) of Article 277a(1) and with Article 277a(2) for the netting set; and

$\mathrm{AddOn}_{j}^{\mathrm{FX}}$ = the foreign exchange risk category add-on for hedging set j calculated in accordance with paragraph 2.

2. Institutions shall calculate the foreign exchange risk category add-on for hedging set j as follows:

$$\mathrm{AddOn}_{j}^{\mathrm{FX}} = \epsilon_{j} \cdot \mathrm{SF}^{\mathrm{FX}} \cdot \left|\mathrm{EffNot}_{j}^{\mathrm{FX}}\right|$$

where:

ϵ_j = the hedging set supervisory factor coefficient of hedging set j determined in accordance with Article 280;

SF^{FX} = the supervisory factor for the foreign exchange risk category with a value equal to 4 %;

$EffNot_j^{FX}$= = the effective notional amount of hedging set j calculated as follows:

$$EffNot_j^{FX} = \sum_{l \in \text{Hedging set j}} RiskPosition_l$$

where:

l = the index that denotes the risk position.

Article 280c

Credit risk category add-on

1. For the purposes of paragraph 2, institutions shall establish the relevant credit reference entities of the netting set in accordance with the following:

   (a) there shall be one credit reference entity for each issuer of a reference debt instrument that underlies a single-name transaction allocated to the credit risk category; single-name transactions shall be assigned to the same credit reference entity only where the underlying reference debt instrument of those transactions is issued by the same issuer;

(b) there shall be one credit reference entity for each group of reference debt instruments or single-name credit derivatives that underlie a multi-name transaction allocated to the credit risk category; multi-names transactions shall be assigned to the same credit reference entity only where the group of underlying reference debt instruments or single-name credit derivatives of those transactions have the same constituents.

2. For the purposes of Article 278, institution shall calculate the credit risk category add-on for a given netting set as follows:

$$\text{AddOn}^{\text{Credit}} = \sum_{j} \text{AddOn}_{j}^{\text{Credit}}$$

where:

$\text{AddOn}^{\text{Credit}}$ = credit risk category add-on;

j = the index that denotes all the credit risk hedging sets established in accordance with point (c) of Article 277a(1) and with Article 277a(2) for the netting set; and

$\text{AddOn}_{j}^{\text{Credit}}$ = the credit risk category add-on for hedging set j calculated in accordance with paragraph 3.

3. Institutions shall calculate the credit risk category add-on for hedging set j as follows:

$$\mathrm{AddOn}_{j}^{\mathrm{Credit}} = \epsilon_{j} \cdot \sqrt{\left(\sum_{k} \rho_{k}^{\mathrm{Credit}} \cdot \mathrm{AddOn}(\mathrm{Entity}_{k})\right)^{2} + \sum_{k} \left(1 - \left(\rho_{k}^{\mathrm{Credit}}\right)^{2}\right) \cdot \left(\mathrm{AddOn}(\mathrm{Entity}_{k})\right)^{2}}$$

where:

$\mathrm{AddOn}_{j}^{\mathrm{Credit}}$ = the credit risk category add-on for hedging set j;

ϵ_j = the hedging set supervisory factor coefficient of hedging set j determined in accordance with Article 280;

k = the index that denotes the credit reference entities of the netting set established in accordance with paragraph 1;

$\rho_{k}^{\mathrm{Credit}}$ = the correlation factor of the credit reference entity k; where the credit reference entity k has been established in accordance with point (a) of paragraph 1, $\rho_{k}^{\mathrm{Credit}}$ = 50 %, where the credit reference entity k has been established in accordance with point (b) of paragraph 1, $\rho_{k}^{\mathrm{Credit}}$ = 80 %; and

$\mathrm{AddOn}(\mathrm{Entity}_k)$ = the add-on for the credit reference entity k determined in accordance with paragraph 4.

4. Institutions shall calculate the add-on for the credit reference entity k as follows:

$$\text{AddOn}(\text{Entity}_k) = \text{EffNot}_k^{\text{Credit}}$$

where:

$\text{EffNot}_k^{\text{Credit}}$ = the effective notional amount of the credit reference entity k calculated as follows:

$$\text{EffNot}_k^{\text{Credit}} = \sum_{l \in \text{Credit reference entity k}} \text{SF}_{k,l}^{\text{Credit}} \cdot \text{RiskPosition}_l$$

where:

l = the index that denotes the risk position; and

$\text{SF}_{k,l}^{\text{Credit}}$ = the supervisory factor applicable to the credit reference entity k calculated in accordance with paragraph 5.

5. Institutions shall calculate the supervisory factor applicable to the credit reference entity k as follows:

(a) for the credit reference entity k established in accordance with point (a) of paragraph 1, $SF_{k,l}^{Credit}$ shall be mapped to one of the six supervisory factors set out in Table 3 of this paragraph on the basis of an external credit assessment by a nominated ECAI of the corresponding individual issuer; for an individual issuer for which a credit assessment by a nominated ECAI is not available:

(i) an institution using the approach referred to in Chapter 3 shall map the internal rating of the individual issuer to one of the external credit assessments;

(ii) an institution using the approach referred to in Chapter 2 shall assign $SF_{k,l}^{Credit}$ = 0,54 % to that credit reference entity; however, where an institution applies Article 128 to risk weight counterparty credit risk exposures to that individual issuer, $SF_{k,l}^{Credit}$ = 1,6 % shall be assigned to that credit reference entity;

(b) for the credit reference entity k established in accordance with point (b) of paragraph 1:

(i) where a risk position l assigned to the credit reference entity k is a credit index listed on a recognised exchange, $SF_{k,l}^{Credit}$ shall be mapped to one of the two supervisory factors set out in Table 4 of this paragraph on the basis of the credit quality of the majority of its individual constituents;

(ii) where a risk position l assigned to the credit reference entity k is not referred to in point (i) of this point, $SF_{k,l}^{Credit}$ shall be the weighted average of the supervisory factors mapped to each constituent in accordance with the method set out in point (a), where the weights are defined by the proportion of notional of the constituents in that position.

Table 3

Credit quality step	Supervisory factor for single-name transactions
1	0,38 %
2	0,42 %
3	0,54 %
4	1,06 %
5	1,6 %
6	6,0 %

Table 4

Dominant credit quality	Supervisory factor for quoted indices
Investment grade	0,38 %
Non-investment grade	1,06 %

Article 280d

Equity risk category add-on

1. For the purposes of paragraph 2, institutions shall establish the relevant equity reference entities of the netting set in accordance with the following:

   (a) there shall be one equity reference entity for each issuer of a reference equity instrument that underlies a single-name transaction allocated to the equity risk category; single-name transactions shall be assigned to the same equity reference entity only where the underlying reference equity instrument of those transactions is issued by the same issuer;

(b) there shall be one equity reference entity for each group of reference equity instruments or single-name equity derivatives that underlie a multi-name transaction allocated to the equity risk category; multi-names transactions shall be assigned to the same equity reference entity only where the group of underlying reference equity instruments or single-name equity derivatives of those transactions, as applicable, has the same constituents.

2. For the purposes of Article 278, institutions shall calculate the equity risk category add-on for a given netting set as follows:

$$\text{AddOn}^{\text{Equity}} = \sum_{j} \text{AddOn}_{j}^{\text{Equity}}$$

where:

$\text{AddOn}^{\text{Equity}}$ = the equity risk category add-on;

j = the index that denotes all the equity risk hedging sets established in accordance with point (d) of Article 277a(1) and Article 277a(2) for the netting set; and

$\text{AddOn}_{j}^{\text{Equity}}$ = the equity risk category add-on for hedging set j calculated in accordance with paragraph 3.

3. Institutions shall calculate the equity risk category add-on for hedging set j as follows:

$$\mathrm{AddOn}_{j}^{\mathrm{Equity}} = \epsilon_{j} \cdot \sqrt{\left(\sum_{k} \rho_{k}^{\mathrm{Equity}} \cdot \mathrm{AddOn}(\mathrm{Entity}_{k})\right)^{2} + \sum_{k} \left(1 - \left(\rho_{k}^{\mathrm{Equity}}\right)^{2}\right) \cdot \left(\mathrm{AddOn}(\mathrm{Entity}_{k})\right)^{2}}$$

where:

$\mathrm{AddOn}_{j}^{\mathrm{Equity}}$ = the equity risk category add-on for hedging set j;

ϵ_j = the hedging set supervisory factor coefficient of hedging set j determined in accordance with Article 280;

k = the index that denotes the equity reference entities of the netting set established in accordance with paragraph 1;

$\rho_{k}^{\mathrm{Equity}}$= the correlation factor of the equity reference entity k; where the equity reference entity k has been established in accordance with point (a) of paragraph 1, $\rho_{k}^{\mathrm{Equity}}$ =50 %; where the equity reference entity k has been established in accordance with point (b) of paragraph 1, $\rho_{k}^{\mathrm{Equity}}$ =80 %; and

$\mathrm{AddOn}(\mathrm{Entity}_k)$ = the add-on for the equity reference entity k determined in accordance with paragraph 4.

4. Institutions shall calculate the add-on for the equity reference entity k as follows:

$$\mathrm{AddOn}(\mathrm{Entity_k}) = \mathrm{SF_k^{Equity}} \cdot \mathrm{EffNot_k^{Equity}}$$

where:

$\mathrm{AddOn}(\mathrm{Entity_k})$ = the add-on for the equity reference entity k;

$\mathrm{SF_k^{Equity}}$ = the supervisory factor applicable to the equity reference entity k; where the equity reference entity k has been established in accordance with point (a) of paragraph 1, $\mathrm{SF_k^{Equity}}$ = 32 %; where the equity reference entity k has been established in accordance with point (b) of paragraph 1, $\mathrm{SF_k^{Equity}}$ = 20 %; and

$\mathrm{EffNot_k^{Equity}}$ = the effective notional amount of the equity reference entity k calculated as follows:

$$\mathrm{EffNot_k^{Equity}} = \sum_{\mathrm{l} \in \text{Equity reference entity k}} \mathrm{RiskPosition_l}$$

where:

l = the index that denotes the risk position.

Article 280e

Commodity risk category add-on

1. For the purposes of Article 278, institutions shall calculate the commodity risk category add-on for a given netting set as follows:

$$\text{AddOn}^{\text{Com}} = \sum_{j} \text{AddOn}_{j}^{\text{Com}}$$

where:

$\text{AddOn}^{\text{Com}}$ = the commodity risk category add-on;

j = the index that denotes the commodity hedging sets established in accordance with point (e) of Article 277a(1) and with Article 277a(2) for the netting set; and

$\text{AddOn}_{j}^{\text{Com}}$ = the commodity risk category add-on for hedging set j calculated in accordance with paragraph 4.

2. For the purpose of calculating the add-on for a commodity hedging set of a given netting set in accordance with paragraph 4, institutions shall establish the relevant commodity reference types of each hedging set. Commodity derivative transactions shall be assigned to the same commodity reference type only where the underlying commodity instrument of those transactions has the same nature, irrespective of the delivery location and quality of the commodity instrument.

3. By way of derogation from paragraph 2, competent authorities may require an institution which is significantly exposed to the basis risk of different positions sharing the same nature as referred to in paragraph 2 to establish the commodity reference types for those positions using more characteristics than just the nature of the underlying commodity instrument. In such a situation, commodity derivative transactions shall be assigned the same commodity reference type only where they share those characteristics.

4. Institutions shall calculate the commodity risk category add-on for hedging set j as follows:

$$\mathrm{AddOn}_{j}^{\mathrm{Com}} = \epsilon_{j} \cdot \sqrt{\left(\rho^{\mathrm{Com}} \cdot \sum_{k} \mathrm{AddOn}\left(\mathrm{Type}_{k}^{j}\right)\right)^{2} + \left(1 - \left(\rho^{\mathrm{Com}}\right)^{2}\right) \cdot \sum_{k} \left(\mathrm{AddOn}\left(\mathrm{Type}_{k}^{j}\right)\right)^{2}}$$

where:

$\mathrm{AddOn}_{j}^{\mathrm{Com}}$ = the commodity risk category add-on for hedging set j;

ϵ_{j} = the hedging set supervisory factor coefficient of hedging set j determined in accordance with Article 280;

ρ^{Com} = the correlation factor of the commodity risk category with a value equal to 40 %;

k = the index that denotes the commodity reference types of the netting set established in accordance with paragraph 2; and

$\mathrm{AddOn}\left(\mathrm{Type}_k^j\right)$= the add-on for the commodity reference type k calculated in accordance with paragraph 5.

5. Institutions shall calculate the add-on for the commodity reference type k as follows:

$$\mathrm{AddOn}\left(\mathrm{Type}_k^j\right) = \mathrm{SF}_k^{\mathrm{Com}} \cdot \mathrm{EffNot}_k^{\mathrm{Com}}$$

where:

$\mathrm{AddOn}\left(\mathrm{Type}_k^j\right)$ = the add-on for the commodity reference type k;

$\mathrm{SF}_k^{\mathrm{Com}}$ = the supervisory factor applicable to the commodity reference type k; where the commodity reference type k corresponds to transactions allocated to the hedging set referred to in point (e)(i) of Article 277a(1), excluding transactions concerning electricity, $\mathrm{SF}_k^{\mathrm{Com}}$ = 18 %; for transactions concerning electricity, $\mathrm{SF}_k^{\mathrm{Com}}$ = 40 %; and

$\mathrm{EffNot}_k^{\mathrm{Com}}$ = the effective notional amount of the commodity reference type k calculated as follows:

$$\mathrm{EffNot}_k^{\mathrm{Com}} = \sum_{l \in \text{Commodity reference type k}} \mathrm{RiskPosition}_l$$

where:

l = the index that denotes the risk position.

Article 280f

Other risks category add-on

1. For the purposes of Article 278, institutions shall calculate the other risks category add-on for a given netting set as follows:

$$\text{AddOn}^{\text{Other}} = \sum_{j} \text{AddOn}_{j}^{\text{Other}}$$

where:

$\text{AddOn}^{\text{Other}}$ = the other risks category add-on;

j = the index that denotes the other risk hedging sets established in accordance with point (f) of Article 277a(1) and Article 277a(2) for the netting set; and

$\text{AddOn}_{j}^{\text{Other}}$ = the other risks category add-on for hedging set j calculated in accordance with paragraph 2.

2. Institutions shall calculate the other risks category add-on for hedging set j as follows:

$$\text{AddOn}_j^{\text{Other}} = \epsilon_j \cdot \text{SF}^{\text{Other}} \cdot \left|\text{EffNot}_j^{\text{Other}}\right|$$

where:

$\text{AddOn}_j^{\text{Other}}$ = the other risks category add-on for hedging set j;

ϵ_j = the hedging set supervisory factor coefficient of hedging set j determined in accordance with Article 280; and

SF^{Other} = the supervisory factor for the other risk category with a value equal to 8 %;

$\text{EffNot}_j^{\text{Other}}$ = the effective notional amount of hedging set j calculated as follows:

$$\text{EffNot}_j^{\text{Other}} = \sum_{l \in \text{Hedging set j}} \text{RiskPosition}_l$$

where:

l = the index that denotes the risk position.

Section 4

Simplified standardised approach for counterparty credit risk

Article 281

Calculation of the exposure value

1. Institutions shall calculate a single exposure value at netting set level in accordance with Section 3, subject to paragraph 2 of this Article.

2. The exposure value of a netting set shall be calculated in accordance with the following requirements:

   (a) institutions shall not apply the treatment referred to in Article 274(6);

   (b) by way of derogation from Article 275(1), for netting sets that are not referred to in Article 275(2), institutions shall calculate the replacement cost in accordance with the following formula:

   $$RC = \max\{CMV, 0\}$$

   where:

   RC = the replacement cost; and

   CMV = the current market value.

(c) by way of derogation from Article 275(2) of this Regulation, for netting sets of transactions: that are traded on a recognised exchange; that are centrally cleared by a central counterparty authorised in accordance with Article 14 of Regulation (EU) No 648/2012 or recognised in accordance with Article 25 of that Regulation; or for which collateral is exchanged bilaterally with the counterparty in accordance with Article 11 of Regulation (EU) No 648/2012, institutions shall calculate the replacement cost in accordance with the following formula:

$$RC = TH + MTA$$

where:

RC = the replacement cost;

TH = the margin threshold applicable to the netting set under the margin agreement below which the institution cannot call for collateral; and

MTA = the minimum transfer amount applicable to the netting set under the margin agreement;

(d) by way of derogation from Article 275(3), for multiple netting sets that are subject to a margin agreement, institutions shall calculate the replacement cost as the sum of the replacement cost of each individual netting set, calculated in accordance with paragraph 1 as if they were not margined;

(e) all hedging sets shall be established in accordance with Article 277a(1);

(f) institutions shall set to 1 the multiplier in the formula that is used to calculate the potential future exposure in Article 278(1), as follows:

$$\text{PFE} = \sum_{a} \text{AddOn}^{(a)}$$

where:

PFE = the potential future exposure; and

$\text{AddOn}^{(a)}$ = the add-on for risk category a;

(g) by way of derogation from Article 279a(1), for all transactions, institutions shall calculate the supervisory delta as follows:

$$\delta = \begin{cases} +1 \text{ where the transaction is a long position in the primary risk driver} \\ -1 \text{ where the transaction is a short position in the primary risk driver} \end{cases}$$

where:

δ = the supervisory delta;

(h) the formula referred to in point (a) of Article 279b(1) that is used to compute the supervisory duration factor shall read as follows:

$$\text{supervisory duration factor} = \text{E} - \text{S}$$

where:

E = the period between the end date of a transaction and the reporting date; and

S = the period between the start date of a transaction and the reporting date;

(i) the maturity factor referred to in Article 279c(1) shall be calculated as follows:

(i) for transactions included in netting sets referred to in Article 275(1), MF = 1;

(ii) for transactions included in netting sets referred to in Article 275(2) and (3), MF = 0,42;

(j) the formula referred to in Article 280a(3) that is used to calculate the effective notional amount of hedging set j shall read as follows:

$$\mathrm{EffNot}_{\mathrm{j}}^{\mathrm{IR}} = \left|\mathrm{D}_{\mathrm{j},1}\right| + \left|\mathrm{D}_{\mathrm{j},2}\right| + \left|\mathrm{D}_{\mathrm{j},3}\right|$$

where:

$\mathrm{EffNot}_{\mathrm{j}}^{\mathrm{IR}}$ = the effective notional amount of hedging set j; and

$\mathrm{D}_{\mathrm{j,k}}$ = the effective notional amount of bucket k of hedging set j;

(k) the formula referred to in Article 280c(3) that is used to calculate the credit risk category add-on for hedging set j shall read as follows:

$$\mathrm{AddOn}_{j}^{\mathrm{Credit}} = \sum_{k} |\mathrm{AddOn}(\mathrm{Entity}_{k})|$$

where:

$\mathrm{AddOn}_{j}^{\mathrm{Credit}}$ = the credit risk category add-on for hedging set j; and

$\mathrm{AddOn}(\mathrm{Entity}_{k})$ = the add-on for the credit reference entity k;

(l) the formula referred to in Article 280d(3) that is used to calculate the equity risk category add-on for hedging set j shall read as follows:

$$\mathrm{AddOn}_{j}^{\mathrm{Equity}} = \sum_{k} |\mathrm{AddOn}(\mathrm{Entity}_{k})|$$

where:

$\mathrm{AddOn}_{j}^{\mathrm{Equity}}$ = the equity risk category add-on for hedging set j; and

$\mathrm{AddOn}(\mathrm{Entity}_{k})$ = the add-on for the credit reference entity k;

(m) the formula referred to in Article 280e(4) that is used to calculate the commodity risk category add-on for hedging set j shall read as follows:

$$\mathrm{AddOn}_{j}^{Com} = \sum_{k} \left|\mathrm{AddOn}\left(\mathrm{Type}_{k}^{j}\right)\right|$$

where:

AddOn_{j}^{Com} = the commodity risk category add-on for hedging set j; and

$\mathrm{AddOn}\left(\mathrm{Type}_{k}^{j}\right)$ = the add-on for the commodity reference type k.

Section 5

Original exposure method

Article 282

Calculation of the exposure value

1. Institutions may calculate a single exposure value for all the transactions within a contractual netting agreement where all the conditions set out in Article 274(1) are met. Otherwise, institutions shall calculate an exposure value separately for each transaction, which shall be treated as its own netting set.

2. The exposure value of a netting set or a transaction shall be the product of 1,4 times the sum of the current replacement cost and the potential future exposure.

3. The current replacement cost referred to in paragraph 2 shall be calculated as follows:

(a) for netting sets of transactions: that are traded on a recognised exchange; centrally cleared by a central counterparty authorised in accordance with Article 14 of Regulation (EU) No 648/2012 or recognised in accordance with Article 25 of that Regulation; or for which collateral is exchanged bilaterally with the counterparty in accordance with Article 11 of Regulation (EU) No 648/2012, institutions shall use the following formula:

$$RC = TH + MTA$$

where:

RC = the replacement cost;

TH = the margin threshold applicable to the netting set under the margin agreement below which the institution cannot call for collateral; and

MTA = the minimum transfer amount applicable to the netting set under the margin agreement;

(b) for all other netting sets or individual transactions, institutions shall use the following formula:

$$RC = \max\{CMV, 0\}$$

where:

RC = the replacement cost; and

CMV = the current market value.

In order to calculate the current replacement cost, institutions shall update current market values at least monthly.

4. Institutions shall calculate the potential future exposure referred to in paragraph 2 as follows:

(a) the potential future exposure of a netting set is the sum of the potential future exposure of all the transactions included in the netting set, calculated in accordance with point (b);

(b) the potential future exposure of a single transaction is its notional amount multiplied by:

(i) the product of 0,5 % and the residual maturity of the transaction expressed in years for interest-rate derivative contracts;

(ii) the product of 6 % and the residual maturity of the transaction expressed in years for credit derivative contracts;

(iii) 4 % for foreign-exchange derivatives;

(iv) 18 % for gold and commodity derivatives other than electricity derivatives;

(v) 40 % for electricity derivatives;

(vi) 32 % for equity derivatives;

(c) the notional amount referred to in point (b) of this paragraph shall be determined in accordance with Article 279b(2) and (3) for all derivatives listed in that point; in addition, the notional amount of the derivatives referred to in points (b)(iii) to (b)(vi) of this paragraph shall be determined in accordance with points (b) and (c) of Article 279b(1);

(d) the potential future exposure of netting sets referred to in point (a) of paragraph 3 shall be multiplied by 0,42.

For calculating the potential exposure of interest-rate derivatives and credit derivatives in accordance with points b(i) and (b)(ii), an institution may choose to use the original maturity instead of the residual maturity of the contracts.";

(75) in Article 283, paragraph 4 is replaced by the following:

"4. For all OTC derivative transactions, and for long settlement transactions for which an institution has not received permission under paragraph 1 to use the IMM, the institution shall use the methods set out in Section 3. Those methods may be used in combination on a permanent basis within a group.";

(76) Article 298 is replaced by the following:

"*Article 298*
Effects of recognition of netting as risk-reducing

Netting for the purposes of Sections 3 to 6 shall be recognised as set out in those Sections.";

(77) in Article 299(2), point (a) is deleted;

(78) Article 300 is amended as follows:

(a) the introductory sentence is replaced by the following:

"For the purposes of this Section and of Part Seven, the following definitions apply:";

(b) the following points are added:

"(5) 'cash transaction' means a transaction in cash, debt instruments or equities, a spot foreign exchange transaction or a spot commodities transaction; however, repurchase transactions, securities or commodities lending transactions, and securities or commodities borrowing transactions, are not cash transactions;

(6) 'indirect clearing arrangement' means an arrangement that meets the conditions set out in the second subparagraph of Article 4(3) of Regulation (EU) No 648/2012;

(7) 'higher-level client' means an entity providing clearing services to a lower-level client;

(8) 'lower-level client' means an entity accessing the services of a CCP through a higher-level client;

(9) 'multi-level client structure' means an indirect clearing arrangement under which clearing services are provided to an institution by an entity which is not a clearing member, but is itself a client of a clearing member or of a higher-level client;

(10) ‘unfunded contribution to a default fund’ means a contribution that an institution that acts as a clearing member has contractually committed to provide to a CCP after the CCP has depleted its default fund to cover the losses it incurred following the default of one or more of its clearing members;

(11) ‘fully guaranteed deposit lending or borrowing transaction’ means a fully collateralised money market transaction in which two counterparties exchange deposits and a CCP interposes itself between them to ensure the performance of those counterparties’ payment obligations.”;

(79) Article 301 is replaced by the following:

“*Article 301*
Material scope

1. This Section applies to the following contracts and transactions, for as long as they are outstanding with a CCP:

(a) the derivative contracts listed in Annex II and credit derivatives;

(b) securities financing transactions and fully guaranteed deposit lending or borrowing transactions; and

(c) long settlement transactions.

This Section does not apply to exposures arising from the settlement of cash transactions. Institutions shall apply the treatment laid down in Title V to trade exposures arising from those transactions and a 0 % risk weight to default fund contributions covering only those transactions. Institutions shall apply the treatment set out in Article 307 to default fund contributions that cover any of the contracts listed in the first subparagraph of this paragraph in addition to cash transactions.

2. For the purposes of this Section, the following requirements shall apply:

(a) the initial margin shall not include contributions to a CCP for mutualised loss sharing arrangements;

(b) the initial margin shall include collateral deposited by an institution acting as a clearing member or by a client in excess of the minimum amount required respectively by the CCP or by the institution acting as a clearing member, provided the CCP or the institution acting as a clearing member may, in appropriate cases, prevent the institution acting as a clearing member or the client from withdrawing such excess collateral;

(c) where a CCP uses the initial margin to mutualise losses among its clearing members, institutions that act as clearing members shall treat that initial margin as a default fund contribution.";

(80) in Article 302, paragraph 2 is replaced by the following:

"2. Institutions shall assess, through appropriate scenario analysis and stress testing, whether the level of own funds held against exposures to a CCP, including potential future or contingent credit exposures, exposures from default fund contributions and, where the institution is acting as a clearing member, exposures resulting from contractual arrangements as laid down in Article 304, adequately relates to the inherent risks of those exposures.";

(81) Article 303 is replaced by the following:

"*Article 303*
Treatment of clearing members' exposures to CCPs

1. An institution that acts as a clearing member, either for its own purposes or as a financial intermediary between a client and a CCP, shall calculate the own funds requirements for its exposures to a CCP as follows:

(a) it shall apply the treatment set out in Article 306 to its trade exposures with the CCP;

(b) it shall apply the treatment set out in Article 307 to its default fund contributions to the CCP.

2. For the purposes of paragraph 1, the sum of an institution's own funds requirements for its exposures to a QCCP due to trade exposures and default fund contributions shall be subject to a cap equal to the sum of own funds requirements that would be applied to those same exposures if the CCP were a non-qualifying CCP.";

(82) Article 304 is amended as follows:

(a) paragraph 1 is replaced by the following:

"1. An institution that acts as a clearing member and, in that capacity, acts as a financial intermediary between a client and a CCP shall calculate the own funds requirements for its CCP-related transactions with that client in accordance with Sections 1 to 8 of this Chapter, with Section 4 of Chapter 4 of this Title and with Title VI, as applicable.";

(b) paragraphs 3, 4 and 5 are replaced by the following:

"3. Where an institution that acts as a clearing member uses the methods set out in Section 3 or 6 of this Chapter to calculate the own funds requirement for its exposures, the following provisions shall apply:

(a) by way of derogation from Article 285(2), the institution may use a margin period of risk of at least five business days for its exposures to a client;

(b) the institution shall apply a margin period of risk of at least 10 business days for its exposures to a CCP;

(c) by way of derogation from Article 285(3), where a netting set included in the calculation meets the condition set out in point (a) of that paragraph, the institution may disregard the limit set out in that point, provided that the netting set does not meet the condition set out in point (b) of that paragraph and does not contain disputed trades or exotic options;

(d) where a CCP retains variation margin against a transaction, and the institution's collateral is not protected against the insolvency of the CCP, the institution shall apply a margin period of risk that is the lower of one year and the remaining maturity of the transaction, with a floor of 10 business days.

4. By way of derogation from point (i) of Article 281(2), where an institution that acts as a clearing member uses the method set out in Section 4 to calculate the own funds requirement for its exposures to a client, the institution may use a maturity factor of 0,21 for its calculation.

5. By way of derogation from point (d) of Article 282(4), where an institution that acts as a clearing member uses the method set out in Section 5 to calculate the own funds requirement for its exposures to a client, that institution may use a maturity factor of 0,21 in that calculation.";

(c) the following paragraphs are added:

"6. An institution that acts as a clearing member may use the reduced exposure at default resulting from the calculations set out in paragraphs 3, 4 and 5 for the purposes of calculating its own funds requirements for CVA risk in accordance with Title VI.

7. An institution that acts as a clearing member that collects collateral from a client for a CCP-related transaction and passes the collateral on to the CCP may recognise that collateral to reduce its exposure to the client for that CCP-related transaction.

In the case of a multi-level client structure, the treatment set out in the first subparagraph may be applied at each level of that structure.";

(83) Article 305 is amended as follows:

(a) paragraph 1 is replaced by the following:

"1. An institution that is a client shall calculate the own funds requirements for its CCP-related transactions with its clearing member in accordance with Sections 1 to 8 of this Chapter, with Section 4 of Chapter 4 of this Title and with Title VI, as applicable.";

(b) paragraph 2 is amended as follows:

(i) point (c) is replaced by the following:

"(c) the client has conducted a sufficiently thorough legal review, which it has kept up to date, that substantiates that the arrangements that ensure that the condition set out in point (b) is met are legal, valid, binding and enforceable under the relevant laws of the relevant jurisdiction or jurisdictions;";

(ii) the following subparagraph is added:

"When assessing its compliance with the condition set out in point (b) of the first subparagraph, an institution may take into account any clear precedents of transfers of client positions and of corresponding collateral at a CCP, and any industry intent to continue with that practice.";

(c) paragraphs 3 and 4 are replaced by the following:

"3. By way of derogation from paragraph 2 of this Article, where an institution that is a client fails to meet the condition set out in point (a) of that paragraph because that institution is not protected from losses in case the clearing member and another client of the clearing member jointly default, provided that all the other conditions set out in points (a) to (d) of that paragraph are met, the institution may calculate the own funds requirements for its trade exposures for CCP-related transactions with its clearing member in accordance with Article 306, subject to replacing the 2 % risk weight set out in point (a) of Article 306(1) with a 4 % risk weight.

4. In the case of a multi-level client structure, an institution that is a lower-level client accessing the services of a CCP through a higher-level client may apply the treatment set out in paragraph 2 or 3 only where the conditions set out therein are met at every level of that structure.";

(84) Article 306 is amended as follows:

(a) paragraph 1 is amended as follows:

(i) point (c) is replaced by the following:

"(c) where an institution acts as a financial intermediary between a client and a CCP, and the terms of the CCP-related transaction stipulate that the institution is not required to reimburse the client for any losses suffered due to changes in the value of that transaction in the event that the CCP defaults, that institution may set the exposure value of the trade exposure with the CCP that corresponds to that CCP-related transaction to zero;";

(ii) the following point is added:

"(d) where an institution acts as a financial intermediary between a client and a CCP, and the terms of the CCP-related transaction stipulate that the institution is required to reimburse the client for any losses suffered due to changes in the value of that transaction in the event that the CCP defaults, that institution shall apply the treatment in point (a) or (b), as applicable, to the trade exposure with the CCP that corresponds to that CCP-related transaction.";

(b) paragraphs 2 and 3 are replaced by the following:

"2. By way of derogation from paragraph 1, where assets posted as collateral to a CCP or a clearing member are bankruptcy remote in the event that the CCP, the clearing member or one or more of the other clients of the clearing member become insolvent, an institution may attribute an exposure value of zero to the counterparty credit risk exposures for those assets.

3. An institution shall calculate exposure values of its trade exposures with a CCP in accordance with Sections 1 to 8 of this Chapter and with Section 4 of Chapter 4, as applicable.";

(85) Article 307 is replaced by the following:

"*Article 307*
Own funds requirements for contributions to the default fund of a CCP

An institution that acts as a clearing member shall apply the following treatment to its exposures arising from its contributions to the default fund of a CCP:

(a) it shall calculate the own funds requirement for its pre-funded contributions to the default fund of a QCCP in accordance with the approach set out in Article 308;

(b) it shall calculate the own funds requirement for its pre-funded and unfunded contributions to the default fund of a non-qualifying CCP in accordance with the approach set out in Article 309;

(c) it shall calculate the own funds requirement for its unfunded contributions to the default fund of a QCCP in accordance with the treatment set out in Article 310.";

(86) Article 308 is amended as follows:

(a) paragraphs 2 and 3 are replaced by the following:

"2. An institution shall calculate the own funds requirement to cover the exposure arising from its pre-funded contribution as follows:

$$K_i = \max\left\{K_{CCP} \cdot \frac{DF_i}{DF_{CCP} + DF_{CM}}, 8\,\% \cdot 2\,\% \cdot DF_i\right\}$$

where:

K_i = the own funds requirement;

i = the index denoting the clearing member;

K_{CCP} = the hypothetical capital of the QCCP communicated to the institution by the QCCP in accordance with Article 50c of Regulation (EU) No 648/2012;

DF_i = the pre-funded contribution;

DF_{CCP} = the pre-funded financial resources of the CCP communicated to the institution by the CCP in accordance with Article 50c of Regulation (EU) No 648/2012; and

DF_{CM} = the sum of pre-funded contributions of all clearing members of the QCCP communicated to the institution by the QCCP in accordance with Article 50c of Regulation (EU) No 648/2012.

3. An institution shall calculate the risk-weighted exposure amounts for exposures arising from that institution's pre-funded contribution to the default fund of a QCCP for the purposes of Article 92(3) as the own funds requirement, calculated in accordance with paragraph 2 of this Article, multiplied by 12,5.";

(b) paragraphs 4 and 5 are deleted;

(87) Articles 309, 310 and 311 are replaced by the following:

"*Article 309*

Own funds requirements for pre-funded contributions to the default fund of a non-qualifying CCP and for unfunded contributions to a non-qualifying CCP

1. An institution shall apply the following formula to calculate the own funds requirement for the exposures arising from its pre-funded contributions to the default fund of a non-qualifying CCP and from unfunded contributions to such CCP:

$$K = DF + UC$$

where:

K = the own funds requirement;

DF = the pre-funded contributions to the default fund of a non-qualifying CCP; and

UC = the unfunded contributions to the default fund of a non-qualifying CCP.

2. An institution shall calculate the risk-weighted exposure amounts for exposures arising from that institution's contribution to the default fund of a non-qualifying CCP for the purposes of Article 92(3) as the own funds requirement, calculated in accordance with paragraph 1 of this Article, multiplied by 12,5.";

Article 310

Own funds requirements for unfunded contributions to the default fund of a QCCP

An institution shall apply a 0 % risk weight to its unfunded contributions to the default fund of a QCCP.

Article 311

Own funds requirements for exposures to CCPs that cease to meet certain conditions

1. Institutions shall apply the treatment set out in this Article where it has become known to them, following a public announcement or notification from the competent authority of a CCP used by those institutions or from that CCP itself, that the CCP will no longer comply with the conditions for authorisation or recognition, as applicable.

2. Where the condition set out in paragraph 1 is met, institutions shall, within three months of becoming aware of the circumstance referred to therein, or at an earlier time if the competent authorities of those institutions so require, do the following with respect to their exposures to that CCP:

   (a) apply the treatment set out in point (b) of Article 306(1) to their trade exposures to that CCP;

   (b) apply the treatment set out in Article 309 to their pre-funded contributions to the default fund of that CCP and to its unfunded contributions to that CCP;

(c) treat their exposures to that CCP, other than the exposures listed in points (a) and (b) of this paragraph, as exposures to a corporate in accordance with the Standardised Approach for credit risk set out in Chapter 2.";

(88) in Article 316(1), the following subparagraph is added:

"By way of derogation from the first subparagraph of this paragraph, institutions may choose not to apply the accounting categories for the profit and loss account under Article 27 of Directive 86/635/EEC to financial and operating leases for the purpose of calculating the relevant indicator, and may instead:

(a) include interest income from financial and operating leases and profits from leased assets in the category referred to in point 1 of Table 1;

(b) include interest expense from financial and operating leases, losses, depreciation and impairment of operating leased assets in the category referred to in point 2 of Table 1.";

(89) in Title IV of Part Three, Chapter 1 is replaced by the following:

"Chapter 1
General Provisions

Article 325
Approaches for calculating the own funds requirements for market risk

1. An institution shall calculate the own funds requirements for market risk of all trading book positions and non-trading book positions that are subject to foreign exchange risk or commodity risk in accordance with the following approaches:

   (a) the standardised approach referred to in paragraph 2;

   (b) the internal model approach set out in Chapter 5 of this Title for those risk categories for which the institution has been granted permission in accordance with Article 363 to use that approach.

2. The own funds requirements for market risk calculated in accordance with the standardised approach referred to in point (a) of paragraph 1 shall mean the sum of the following own funds requirements, as applicable:

   (a) the own funds requirements for position risk referred to in Chapter 2;

   (b) the own funds requirements for foreign exchange risk referred to in Chapter 3;

   (c) the own funds requirements for commodity risk referred to in Chapter 4.

3. An institution that is not exempted from the reporting requirements set out in Article 430b in accordance with Article 325a shall report the calculation in accordance with Article 430b for all trading book positions and non-trading book positions that are subject to foreign exchange risk or commodity risk in accordance with the following approaches:

   (a) the alternative standardised approach set out in Chapter 1a;

   (b) the alternative internal model approach set out in Chapter 1b.

4. An institution may use in combination the approaches set out in points (a) and (b) of paragraph 1 of this Article on a permanent basis within a group in accordance with Article 363.

5. Institutions shall not use the approach set out in point (b) of paragraph 3 for instruments in their trading book that are securitisation positions or positions included in the alternative correlation trading portfolio (ACTP) as set out in paragraphs 6, 7 and 8.

6. Securitisation positions and nth-to-default credit derivatives that meet all the following criteria shall be included in the ACTP:

   (a) the positions are neither re-securitisation positions, nor options on a securitisation tranche, nor any other derivatives of securitisation exposures that do not provide a pro-rata share in the proceeds of a securitisation tranche;

(b) all their underlying instruments are:

(i) single-name instruments, including single-name credit derivatives, for which a liquid two-way market exists;

(ii) commonly-traded indices based on the instruments referred to in point (i).

A two-way market is considered to exist where there are independent bona fide offers to buy and sell, so that a price that is reasonably related to the last sales price or current bona fide competitive bid and offer quotations can be determined within one day and settled at that price within a relatively short time conforming to trade custom.

7. Positions with any of the following underlying instruments shall not be included in the ACTP:

(a) underlying instruments that are assigned to the exposure classes referred to in point (h) or (i) of Article 112;

(b) a claim on a special purpose entity, collateralised, directly or indirectly, by a position that, in accordance with paragraph 6, would itself not be eligible for inclusion in the ACTP.

8. Institutions may include in the ACTP positions that are neither securitisation positions nor nth-to-default credit derivatives but that hedge other positions in that portfolio, provided that a liquid two-way market as described in the second subparagraph of paragraph 6 exists for the instrument or its underlying instruments.

9. EBA shall develop draft regulatory technical standards to specify how institutions are to calculate the own funds requirements for market risk for non-trading book positions that are subject to foreign exchange risk or commodity risk in accordance with the approaches set out in points (a) and (b) of paragraph 3.

EBA shall submit those draft regulatory technical standards to the Commission by … [15 months after the date of entry into force of this amending Regulation].

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.

Article 325a

Exemptions from specific reporting requirements for market risk

1. An institution shall be exempted from the reporting requirement set out in Article 430b, provided that the size of the institution's on- and off-balance-sheet business that is subject to market risk is equal to or less than each of the following thresholds, on the basis of an assessment carried out on a monthly basis using data as of the last day of the month:

   (a) 10 % of the institution's total assets;

   (b) EUR 500 million.

2. Institutions shall calculate the size of their on- and off-balance-sheet business that is subject to market risk using data as of the last day of each month in accordance with the following requirements:

   (a) all the positions assigned to the trading book shall be included, except credit derivatives that are recognised as internal hedges against non-trading book credit risk exposures and the credit derivative transactions that perfectly offset the market risk of the internal hedges as referred to in Article 106(3);

   (b) all non-trading book positions that are subject to foreign exchange risk or commodity risk shall be included;

(c) all positions shall be valued at their market values on that date, except for positions referred to in point (b); where the market value of a position is not available on a given date, institutions shall take a fair value for the position on that date; where the fair value and market value of a position are not available on a given date, institutions shall take the most recent market value or fair value for that position;

(d) all non-trading book positions that are subject to foreign exchange risk shall be considered as an overall net foreign exchange position and valued in accordance with Article 352;

(e) all the non-trading book positions that are subject to commodity risk shall be valued in accordance with Articles 357 and 358;

(f) the absolute value of long positions shall be added to the absolute value of short positions.

3. Institutions shall notify the competent authorities when they calculate, or cease to calculate, their own funds requirements for market risk in accordance with this Article.

4. An institution that no longer meets one or more of the conditions set out in paragraph 1 shall immediately notify the competent authority thereof.

5. The exemption from the reporting requirements laid down in Article 430b shall cease to apply within three months of either of the following cases:

(a) the institution does not meet the condition set out in point (a) or (b) of paragraph 1 for three consecutive months; or

(b) the institution does not meet the condition set out in point (a) or (b) of paragraph 1 during more than 6 out of the last 12 months.

6. Where an institution has become subject to the reporting requirements laid down in Article 430b in accordance with paragraph 5 of this Article, the institution shall only be exempted from those reporting requirements where it demonstrates to the competent authority that all the conditions set out in paragraph 1 of this Article have been met for an uninterrupted full-year period.

7. Institutions shall not enter into, buy or sell a position only for the purpose of complying with any of the conditions set out in paragraph 1 during the monthly assessment.

8. An institution that is eligible for the treatment set out in Article 94 shall be exempted from the reporting requirement set out in Article 430b.

Article 325b

Permission for consolidated requirements

1. Subject to paragraph 2, and only for the purpose of calculating net positions and own funds requirements in accordance with this Title on a consolidated basis, institutions may use positions in one institution or undertaking to offset positions in another institution or undertaking.

2. Institutions may apply paragraph 1 only with the permission of the competent authorities which shall be granted if all the following conditions are met:

   (a) there is a satisfactory allocation of own funds within the group;

   (b) the regulatory, legal or contractual framework in which the institutions operate guarantees mutual financial support within the group.

3. Where there are undertakings located in third countries, all the following conditions shall be met in addition to those set out in paragraph 2:

   (a) such undertakings have been authorised in a third country and either satisfy the definition of a credit institution or are recognised third-country investment firms;

   (b) on an individual basis, such undertakings comply with own funds requirements equivalent to those laid down in this Regulation;

(c) no regulations exist in the third countries in question which might significantly affect the transfer of funds within the group.";

(90) in Title IV of Part Three, the following Chapters are inserted:

"Chapter 1a
Alternative standardised approach

Section 1
General provisions

Article 325c
Scope and structure of the alternative standardised approach

1. The alternative standardised approach as set out in this Chapter shall be used only for the purposes of the reporting requirement laid down in Article 430b(1).

2. Institutions shall calculate the own funds requirements for market risk in accordance with the alternative standardised approach for a portfolio of trading book positions or non-trading book positions that are subject to foreign exchange or commodity risk as the sum of the following three components:

(a) the own funds requirement under the sensitivities-based method set out in Section 2;

(b) the own funds requirement for the default risk set out in Section 5 which is only applicable to the trading book positions referred to in that Section;

(c) the own funds requirement for residual risks set out in Section 4 which is only applicable to the trading book positions referred to in that Section.

Section 2

Sensitivities-based method for calculating the own funds requirement

Article 325d

Definitions

For the purposes of this Chapter, the following definitions apply:

(1) 'risk class' means one of the following seven categories:

(i) general interest rate risk;

(ii) credit spread risk (CSR) for non-securitisation;

(iii) credit spread risk for securitisation not included in the alternative correlation trading portfolio (non-ACTP CSR);

(iv) credit spread risk for securitisation included in the alternative correlation trading portfolio (ACTP CSR);

(v) equity risk;

(vi) commodity risk;

(vii) foreign exchange risk;

(2) ‘sensitivity’ means the relative change in the value of a position, as a result of a change in the value of one of the relevant risk factors of the position, calculated with the institution’s pricing model in accordance with Subsection 2 of Section 3;

(3) ‘bucket’ means a sub-category of positions within one risk class with a similar risk profile to which a risk weight as defined in Subsection 1 of Section 3 is assigned.

Article 325e

Components of the sensitivities-based method

1. Institutions shall calculate the own funds requirement for market risk under the sensitivities-based method by aggregating the following three own funds requirements in accordance with Article 325h:

(a) own funds requirements for delta risk which capture the risk of changes in the value of an instrument due to movements in its non-volatility related risk factors;

(b) own funds requirements for vega risk which capture the risk of changes in the value of an instrument due to movements in its volatility-related risk factors;

(c) own funds requirements for curvature risk which capture the risk of changes in the value of an instrument due to movements in the main non-volatility related risk factors not captured by the own funds requirements for delta risk.

2. For the purpose of the calculation referred to in paragraph 1,

(a) all the positions of instruments with optionality shall be subject to the own funds requirements referred to in points (a), (b) and (c) of paragraph 1;

(b) all the positions of instruments without optionality shall only be subject to the own funds requirements referred to in point (a) of paragraph 1.

For the purposes of this Chapter, instruments with optionality include, among others: calls, puts, caps, floors, swap options, barrier options and exotic options. Embedded options, such as prepayment or behavioural options, shall be considered to be stand-alone positions in options for the purpose of calculating the own funds requirements for market risk.

For the purposes of this Chapter, instruments whose cash flows can be written as a linear function of the underlying's notional amount shall be considered to be instruments without optionality.

Article 325f

Own funds requirements for delta and vega risks

1. Institutions shall apply the delta and vega risk factors described in Subsection 1 of Section 3 to calculate the own funds requirements for delta and vega risks.

2. Institutions shall apply the process set out in paragraphs 3 to 8 to calculate own funds requirements for delta and vega risks.

3. For each risk class, the sensitivity of all instruments in scope of the own funds requirements for delta or vega risks to each of the applicable delta or vega risk factors included in that risk class shall be calculated by using the corresponding formulas in Subsection 2 of Section 3. If the value of an instrument depends on several risk factors, the sensitivity shall be determined separately for each risk factor.

4. Sensitivities shall be assigned to one of the buckets 'b' within each risk class.

5. Within each bucket 'b', the positive and negative sensitivities to the same risk factor shall be netted, giving rise to net sensitivities (s_k) to each risk factor k within a bucket.

6. The net sensitivities to each risk factor within each bucket shall be multiplied by the corresponding risk weights set out in Section 6, giving rise to weighted sensitivities to each risk factor within that bucket in accordance with the following formula:

$$WS_k = RW_k \cdot s_k$$

where:

WS_k= the weighted sensitivities;

RW_k = the risk weights; and

s_k = the risk factor.

7. The weighted sensitivities to the different risk factors within each bucket shall be aggregated in accordance with the formula below, where the quantity within the square root function is floored at zero, giving rise to the bucket-specific sensitivity. The corresponding correlations for weighted sensitivities within the same bucket (ρ_{kl}), set out in Section 6, shall be used.

$$K_b = \sqrt{\sum_k WS_k^2 + \sum_k \sum_{k \neq l} \rho_{kl} WS_k WS_l}$$

where:

K_b = the bucket-specific sensitivity; and

WS = the weighted sensitivities.

8. The bucket-specific sensitivity shall be calculated for each bucket within a risk class in accordance with paragraphs 5, 6 and 7. Once the bucket-specific sensitivity has been calculated for all buckets, weighted sensitivities to all risk factors across buckets shall be aggregated in accordance with the formula below, using the corresponding correlations γbc for weighted sensitivities in different buckets set out in Section 6, giving rise to the risk-class specific own funds requirement for delta or vega risk:

$$\text{Risk} - \text{class specific own funds requirement for delta or vega risk} = \sqrt{\sum_{b} K_b^2 + \sum_{b} \sum_{c \neq b} \gamma_{bc} S_b S_c}$$

where:

$S_b = \sum_k WS_k$ for all risk factors in bucket b and $S_c = \sum_k WS_k$ in bucket c; where those values for S_b and S_c produce a negative number for the overall sum of $\sum_b K_b^2 + \sum_b \sum_{c \neq b} \gamma_{bc} S_b S_c$, the institution shall calculate the risk-class specific own funds requirements for delta or vega risk using an alternative specification whereby

$S_b = \max [\min (\sum_k WS_k , K_b), -K_b]$ for all risk factors in bucket b and

$S_c = \max [\min (\sum_k WS_k , K_c), -K_c]$ for all risk factors in bucket c.

The risk-class specific own funds requirements for delta or vega risk shall be calculated for each risk class in accordance with paragraphs 1 to 8.

Article 325g

Own funds requirements for curvature risk

Institutions shall calculate the own funds requirements for curvature risk in accordance with the delegated act referred to in Article 461a.

Article 325h

Aggregation of risk-class specific own funds requirements for delta, vega and curvature risks

1. Institutions shall aggregate risk-class specific own funds requirements for delta, vega and curvature risks in accordance with the process set out in paragraphs 2, 3 and 4.

2. The process to calculate the risk-class specific own funds requirements for delta, vega and curvature risks described in Articles 325f and 325g shall be performed three times per risk class, each time using a different set of correlation parameters ρ_{kl} (correlation between risk factors within a bucket) and γ_{bc} (correlation between buckets within a risk class). Each of those three sets shall correspond to a different scenario, as follows:

   (a) the medium correlations scenario, whereby the correlation parameters ρ_{kl} and γ_{bc} remain unchanged from those specified in Section 6;

(b) the high correlations scenario, whereby the correlation parameters ρ_{kl} and γ_{bc} that are specified in Section 6 shall be uniformly multiplied by 1,25, with ρ_{kl} and γ_{bc} subject to a cap at 100 %;

(c) the low correlations scenario shall be specified in the delegated act referred to in Article 461a.

3. Institutions shall calculate the sum of the delta, vega and curvature risk-class specific own funds requirements for each scenario to determine three scenario-specific, own funds requirements.

4. The own funds requirement under the sensitivities-based method shall be the highest of the three scenario-specific own funds requirements referred to in paragraph 3.

Article 325i

Treatment of index instruments and multi-underlying options

Institutions shall treat the index instruments and multi-underlying options in accordance with the delegated act referred to in Article 461a.

Article 325j

Treatment of collective investment undertakings

Institutions shall treat the collective investment undertakings in accordance with the delegated act referred to in Article 461a.

Article 325k

Underwriting positions

1. Institutions may use the process set out in this Article for calculating the own funds requirements for market risk of underwriting positions of debt or equity instruments.

2. Institutions shall apply one of the appropriate multiplying factors listed in Table 1 to the net sensitivities of all the underwriting positions in each individual issuer, excluding the underwriting positions which are subscribed or sub-underwritten by third parties on the basis of formal agreements, and calculate the own funds requirements for market risk in accordance with the approach set out in this Chapter on the basis of the adjusted net sensitivities.

Table 1

Business day 0	0 %
Business day 1	10 %
Business days 2 and 3	25 %
Business day 4	50 %
Business day 5	75 %
After business day 5	100 %

For the purposes of this Article, ‘business day 0’ means the business day on which the institution becomes unconditionally committed to accepting a known quantity of securities at an agreed price.

3. Institutions shall notify the competent authorities of the application of the process set out in this Article.

Section 3

Risk factor and sensitivity definitions

Subsection 1

Risk factor definitions

Article 325l

General interest rate risk factors

1. For all general interest rate risk factors, including inflation risk and cross-currency basis risk, there shall be one bucket per currency, each containing different types of risk factor.

   The delta general interest rate risk factors applicable to interest rate-sensitive instruments shall be the relevant risk-free rates per currency and per each of the following maturities: 0,25 years, 0,5 years, 1 year, 2 years, 3 years, 5 years, 10 years, 15 years, 20 years, 30 years. Institutions shall assign risk factors to the specified vertices by linear interpolation or by using a method that is most consistent with the pricing functions used by the independent risk control function of the institution to report market risk or profits and losses to senior management.

2. Institutions shall obtain the risk-free rates per currency from money market instruments held in the trading book of the institution that have the lowest credit risk, such as overnight index swaps.

3. Where institutions cannot apply the approach referred to in paragraph 2, the risk-free rates shall be based on one or more market-implied swap curves used by the institution to mark positions to market, such as the interbank offered rate swap curves.

Where the data on market-implied swap curves described in paragraph 2 and the first subparagraph of this paragraph are insufficient, the risk-free rates may be derived from the most appropriate sovereign bond curve for a given currency.

Where institutions use the general interest rate risk factors derived in accordance with the procedure set out in the second subparagraph of this paragraph for sovereign debt instruments, the sovereign debt instrument shall not be exempted from the own funds requirements for credit spread risk. In those cases, where it is not possible to disentangle the risk-free rate from the credit spread component, the sensitivity to the risk factor shall be allocated both to the general interest rate risk and to credit spread risk classes.

4. In the case of general interest rate risk factors, each currency shall constitute a separate bucket. Institutions shall assign risk factors within the same bucket, but with different maturities, a different risk weight, in accordance with Section 6.

Institutions shall apply additional risk factors for inflation risk to debt instruments whose cash flows are functionally dependent on inflation rates. Those additional risk factors shall consist of one vector of market-implied inflation rates of different maturities per currency. For each instrument, the vector shall contain as many components as there are inflation rates used as variables by the institution's pricing model for that instrument.

5. Institutions shall calculate the sensitivity of the instrument to the additional risk factor for inflation risk referred to in paragraph 4 as the change in the value of the instrument, according to its pricing model, as a result of a 1 basis point shift in each of the components of the vector. Each currency shall constitute a separate bucket. Within each bucket, institutions shall treat inflation as a single risk factor, regardless of the number of components of each vector. Institutions shall offset all sensitivities to inflation within a bucket, calculated as described in this paragraph, in order to give rise to a single net sensitivity per bucket.

6. Debt instruments that involve payments in different currencies shall also be subject to cross-currency basis risk between those currencies. For the purposes of the sensitivities-based method, the risk factors to be applied by institutions shall be the cross-currency basis risk of each currency over either US dollar or euro. Institutions shall compute cross currency bases that do not relate to either basis over US dollar or basis over euro either on 'basis over US dollar' or 'basis over euro'.

Each cross-currency basis risk factor shall consist of one vector of cross-currency basis of different maturities per currency. For each debt instrument, the vector shall contain as many components as there are cross-currency bases used as variables by the institution's pricing model for that instrument. Each currency shall constitute a different bucket.

Institutions shall calculate the sensitivity of the instrument to the cross-currency basis risk factor as the change in the value of the instrument, according to its pricing model, as a result of a 1 basis point shift in each of the components of the vector. Each currency shall constitute a separate bucket. Within each bucket there shall be two possible distinct risk factors: basis over euro and basis over US dollar, regardless of the number of components there are in each cross-currency basis vector. The maximum number of net sensitivities per bucket shall be two.

7. The vega general interest rate risk factors applicable to options with underlyings that are sensitive to general interest rate shall be the implied volatilities of the relevant risk-free rates as described in paragraphs 2 and 3, which shall be assigned to buckets depending on the currency and mapped to the following maturities within each bucket: 0,5 years, 1 year, 3 years, 5 years, 10 years. There shall be one bucket per currency.

For netting purposes, institutions shall consider implied volatilities linked to the same risk-free rates and mapped to the same maturities to constitute the same risk factor.

Where institutions map implied volatilities to the maturities as referred to in this paragraph, the following requirements shall apply:

(a) where the maturity of the option is aligned with the maturity of the underlying, a single risk factor shall be considered, which shall be mapped to that maturity;

(b) where the maturity of the option is shorter than the maturity of the underlying, the following risk factors shall be considered as follows:

(i) the first risk factor shall be mapped to the maturity of the option;

(ii) the second risk factor shall be mapped to the residual maturity of the underlying of the option at the expiry date of the option.

8. The curvature general interest rate risk factors to be applied by institutions shall consist of one vector of risk-free rates, representing a specific risk-free yield curve, per currency. Each currency shall constitute a different bucket. For each instrument, the vector shall contain as many components as there are different maturities of risk-free rates used as variables by the institution's pricing model for that instrument.

9. Institutions shall calculate the sensitivity of the instrument to each risk factor used in the curvature risk formula in accordance with Article 325g. For the purposes of the curvature risk, institutions shall consider vectors corresponding to different yield curves and with a different number of components as the same risk factor, provided that those vectors correspond to the same currency. Institutions shall offset sensitivities to the same risk factor. There shall be only one net sensitivity per bucket.

   There shall be no curvature risk own funds requirements for inflation and cross currency basis risks.

Article 325m

Credit spread risk factors for non-securitisation

1. The delta credit spread risk factors to be applied by institutions to non-securitisation instruments that are sensitive to credit spread shall be the issuer credit spread rates of those instruments, inferred from the relevant debt instruments and credit default swaps, and mapped to each of the following maturities: 0,5 years, 1 year, 3 years, 5 years, 10 years. Institutions shall apply one risk factor per issuer and maturity, regardless of whether those issuer credit spread rates are inferred from debt instruments or credit default swaps. The buckets shall be sector buckets, as referred to in Section 6, and each bucket shall include all the risk factors allocated to the relevant sector.

2. The vega credit spread risk factors to be applied by institutions to options with non-securitisation underlyings that are sensitive to credit spread shall be the implied volatilities of the underlying's issuer credit spread rates inferred as laid down in paragraph 1, which shall be mapped to the following maturities in accordance with the maturity of the option subject to own funds requirements: 0,5 years, 1 year, 3 years, 5 years, 10 years. The same buckets shall be used as the buckets that were used for the delta credit spread risk for non-securitisation.

3. The curvature credit spread risk factors to be applied by institutions to non-securitisation instruments shall consist of one vector of credit spread rates, representing a credit spread curve specific to the issuer. For each instrument, the vector shall contain as many components as there are different maturities of credit spread rates used as variables in the institution's pricing model for that instrument. The same buckets shall be used as the buckets that were used for the delta credit spread risk for non-securitisation.

4. Institutions shall calculate the sensitivity of the instrument to each risk factor used in the curvature risk formula in accordance with Article 325g. For the purposes of the curvature risk, institutions shall consider vectors inferred from either relevant debt instruments or credit default swaps and with a different number of components as the same risk factor, provided that those vectors correspond to the same issuer.

Article 325n

Credit spread risk factors for securitisation

1. Institutions shall apply the credit spread risk factors referred to in paragraph 3 to securitisation positions that are included in the ACTP, as referred to in Article 325(6), (7) and (8),

   Institutions shall apply the credit spread risk factors referred to in paragraph 5 to securitisation positions that are not included in the ACTP, as referred to in Article 325(6), (7) and (8).

2. The buckets applicable to the credit spread risk for securitisations that are included in the ACTP shall be the same as the buckets applicable to the credit spread risk for non-securitisations, as referred to in Section 6.

   The buckets applicable to the credit spread risk for securitisations that are not included in the ACTP shall be specific to that risk-class category, as referred to in Section 6.

3. The credit spread risk factors to be applied by institutions to securitisation positions that are included in the ACTP are the following:

   (a) the delta risk factors shall be all the relevant credit spread rates of the issuers of the underlying exposures of the securitisation position, inferred from the relevant debt instruments and credit default swaps, and for each of the following maturities: 0,5 years, 1 year, 3 years, 5 years, 10 years.

(b) the vega risk factors applicable to options with securitisation positions that are included in the ACTP as underlyings shall be the implied volatilities of the credit spreads of the issuers of the underlying exposures of the securitisation position, inferred as described in point (a) of this paragraph, which shall be mapped to the following maturities in accordance with the maturity of the corresponding option subject to own funds requirements: 0,5 years, 1 year, 3 years, 5 years, 10 years.

(c) the curvature risk factors shall be the relevant credit spread yield curves of the issuers of the underlying exposures of the securitisation position expressed as a vector of credit spread rates for different maturities, inferred as indicated in point (a) of this paragraph; for each instrument, the vector shall contain as many components as there are different maturities of credit spread rates that are used as variables by the institution's pricing model for that instrument.

4. Institutions shall calculate the sensitivity of the securitisation position to each risk factor used in the curvature risk formula as specified in Article 325g. For the purposes of the curvature risk, institutions shall consider vectors inferred either from relevant debt instruments or credit default swaps and with a different number of components as the same risk factor, provided that those vectors correspond to the same issuer.

5. The credit spread risk factors to be applied by institutions to securitisation positions that are not included in the ACTP shall refer to the spread of the tranche rather than the spread of the underlying instruments and shall be the following:

(a) the delta risk factors shall be the relevant tranche credit spread rates, mapped to the following maturities, in accordance with the maturity of the tranche: 0,5 years, 1 year, 3 years, 5 years, 10 years;

(b) the vega risk factors applicable to options with securitisation positions that are not included in the ACTP as underlyings shall be the implied volatilities of the credit spreads of the tranches, each of them mapped to the following maturities in accordance with the maturity of the option subject to own funds requirements: 0,5 years, 1 year, 3 years, 5 years, 10 years;

(c) the curvature risk factors shall be the same as those described in point (a) of this paragraph; to all those risk factors, a common risk weight shall be applied, as referred to in Section 6.

Article 325o

Equity risk factors

1. The buckets for all equity risk factors shall be the sector buckets referred to in Section 6.

2. The equity delta risk factors to be applied by institutions shall be all the equity spot prices and all equity repo rates.

For the purposes of equity risk, a specific equity repo curve shall constitute a single risk factor, which is expressed as a vector of repo rates for different maturities. For each instrument, the vector shall contain as many components as there are different maturities of repo rates that are used as variables by the institution's pricing model for that instrument.

Institutions shall calculate the sensitivity of an instrument to an equity risk factor as the change in the value of the instrument, according to its pricing model, as a result of a 1 basis point shift in each of the components of the vector. Institutions shall offset sensitivities to the repo rate risk factor of the same equity security, regardless of the number of components of each vector.

3. The equity vega risk factors to be applied by institutions to options with underlyings that are sensitive to equity shall be the implied volatilities of equity spot prices which shall be mapped to the following maturities in accordance with the maturities of the corresponding options subject to own funds requirements: 0,5 years, 1 year, 3 years, 5 years, 10 years. There shall be no own funds requirements for vega risk for equity repo rates.

4. The equity curvature risk factors to be applied by institutions to options with underlyings that are sensitive to equity are all the equity spot prices, regardless of the maturity of the corresponding options. There shall be no curvature risk own funds requirements for equity repo rates.

Article 325p

Commodity risk factors

1. The buckets for all commodity risk factors shall be the sector buckets referred to in Section 6.

2. The commodity delta risk factors to be applied by institutions to commodity sensitive instruments shall be all the commodity spot prices per commodity type and per each of the following maturities: 0,25 years, 0,5 years, 1 year, 2 years, 3 years, 5 years, 10 years, 15 years, 20 years, 30 years. Institutions shall only consider two commodity prices of the same type of commodity, and with the same maturity to constitute the same risk factor where the set of legal terms regarding the delivery location are identical.

3. The commodity vega risk factors to be applied by institutions to options with underlyings that are sensitive to commodity shall be the implied volatilities of commodity prices per commodity type, which shall be mapped to the following maturities in accordance with the maturities of the corresponding options subject to own funds requirements: 0,5 years, 1 year, 3 years, 5 years, 10 years. Institutions shall consider sensitivities to the same commodity type and allocated to the same maturity to be a single risk factor which institutions shall then offset.

4. The commodity curvature risk factors to be applied by institutions to options with underlyings that are sensitive to commodity shall be one set of commodity prices with different maturities per commodity type, expressed as a vector. For each instrument, the vector shall contain as many components as there are prices of that commodity that are used as variables by the institution's pricing model for that instrument. Institutions shall not differentiate between commodity prices by delivery location.

   The sensitivity of the instrument to each risk factor used in the curvature risk formula shall be calculated as specified in Article 325g. For the purposes of curvature risk, institutions shall consider vectors having a different number of components to constitute the same risk factor, provided that those vectors correspond to the same commodity type.

Article 325q

Foreign exchange risk factors

1. The foreign exchange delta risk factors to be applied by institutions to foreign exchange sensitive instruments shall be all the spot exchange rates between the currency in which an instrument is denominated and the institution's reporting currency. There shall be one bucket per currency pair, containing a single risk factor and a single net sensitivity.

2. The foreign exchange vega risk factors to be applied by institutions to options with underlyings that are sensitive to foreign exchange shall be the implied volatilities of exchange rates between the currency pairs referred to in paragraph 1. Those implied volatilities of exchange rates shall be mapped to the following maturities in accordance with the maturities of the corresponding options subject to own funds requirements: 0,5 years, 1 year, 3 years, 5 years, 10 years.

3. The foreign exchange curvature risk factors to be applied by institutions to options with underlyings that are sensitive to foreign exchange shall be the same as those referred to in paragraph 1.

4. Institutions shall not be required to distinguish between onshore and offshore variants of a currency for all foreign exchange delta, vega and curvature risk factors.

Subsection 2

Sensitivity definitions

Article 325r

Delta risk sensitivities

1. Institutions shall calculate delta general interest rate risk (GIRR) sensitivities as follows:

(a) the sensitivities to risk factors consisting of risk-free rates shall be calculated as follows:

$$s_{r_{kt}} = \frac{V_i(r_{kt} + 0{,}0001, x, y \ldots) - V_i(r_{kt}, x, y \ldots)}{0{,}0001}$$

where:

$s_{r_{kt}}$ = the sensitivities to risk factors consisting of risk-free rates;

r_{kt} = the rate of a risk-free curve k with maturity t;

V_i (.) = the pricing function of instrument i; and

x,y = risk factors other than r_{kt} in the pricing function V_i;

(b) the sensitivities to risk factors consisting of inflation risk and cross-currency basis shall be calculated as follows:

$$s_{x_j} = \frac{V_i\left(\bar{x}_{ji} + 0{,}0001\ \overline{I_m}, y, z \ldots\right) - V_i\left(\bar{x}_{ji}, y, z \ldots\right)}{0{,}0001}$$

where:

s_{x_j} = the sensitivities to risk factors consisting of inflation risk and cross-currency basis;

$\bar{x}_{ji}$ = a vector of m components representing the implied inflation curve or the cross-currency basis curve for a given currency j with m being equal to the number of inflation or cross-currency related variables used in the pricing model of instrument i;

$\overline{I_m}$ = the unity matrix of dimension (1 x m);

V_i (.) = the pricing function of the instrument i; and

y, z = other variables in the pricing model.

2. Institutions shall calculate the delta credit spread risk sensitivities for all securitisation and non-securitisation positions as follows:

$$s_{cs_{kt}} = \frac{V_i\left(cs_{kt} + 0{,}0001, x, y, \ldots\right) - V_i\left(cs_{kt}, x, y \ldots\right)}{0{,}0001}$$

where:

$s_{cs_{kt}}$ = the delta credit spread risk sensitivities for all securitisation and non-securitisation positions;

cs_{kt} = the value of the credit spread rate of an issuer j at maturity t;

V_i (.) = the pricing function of instrument i; and

x,y = risk factors other than cs_{kt} in the pricing function V_i.

3. Institutions shall calculate delta equity risk sensitivities as follows:

(a) the sensitivities to risk factors consisting of equity spot prices shall be calculated as follows:

$$s_k = \frac{V_i(1{,}01\ EQ_k, x, y, \dots) - V_i(EQ_k, x, y, \dots)}{0{,}01}$$

where:

s_k = the sensitivities to risk factors consisting of equity spot prices;

k = a specific equity security;

EQ_k = the value of the spot price of that equity security;

V_i (.) = the pricing function of instrument i; and

x,y = risk factors other than EQ_k in the pricing function V_i;

(b) the sensitivities to risk factors consisting of equity repo rates shall be calculated as follows:

$$s_{x_k} = \frac{V_i(\bar{x}_{ki} + 0{,}0001\ \overline{I_m}, y, z \ldots) - V_i(\bar{x}_{ji}, y, z \ldots)}{0{,}0001}$$

where:

s_{x_k} = the sensitivities to risk factors consisting of equity repo rates;

k = the index that denotes the equity;

$\bar{x}_{ki}$ = a vector of m components representing the repo term structure for a specific equity k with m being equal to the number of repo rates corresponding to different maturities used in the pricing model of instrument i;

$\overline{I_m}$ = the unity matrix of dimension (1 · m);

V_i (.) = the pricing function of the instrument i; and

y,z = risk factors other than $\bar{x}_{ki}$ in the pricing function V_i.

4. Institutions shall calculate the delta commodity risk sensitivities to each risk factor k as follows:

$$s_k = \frac{V_i(1{,}01\ CTY_k, y, z \ldots) - V_i(CTY_k, y, z \ldots)}{0{,}01}$$

where:

s_k = the delta commodity risk sensitivities;

k = a given commodity risk factor;

CTY_k = the value of risk factor k;

V_i (.) = the market value of instrument i as a function of risk factor k; and

y, z = risk factors other than CTY_k in the pricing model of instrument i.

5. Institutions shall calculate the delta foreign exchange risk sensitivities to each foreign exchange risk factor k as follows:

$$s_k = \frac{V_i(1{,}01\ FX_k, y, z \ldots) - V_i(FX_k, y, z \ldots)}{0{,}01}$$

where:

s_k = the delta foreign exchange risk sensitivities;

k = a given foreign exchange risk factor;

FX_k = the value of the risk factor;

V_i (.) = the market value of instrument i as a function of the risk factor k; and

y, z = risk factors other than FX_k in the pricing model of instrument i.

Article 325s

Vega risk sensitivities

1. Institutions shall calculate the vega risk sensitivity of an option to a given risk factor k as follows:

$$s_k = \frac{V_i(0{,}01 + \ vol_k, x, y) - V_i(vol_k, x, y)}{0{,}01}$$

where:

s_k = the vega risk sensitivity of an option;

k = a specific vega risk factor, consisting of an implied volatility;

vol_k = the value of that risk factor, which should be expressed as a percentage; and

x,y = risk factors other than vol_k in the pricing function V_i.

2. In the case of risk classes where vega risk factors have a maturity dimension, but where the rules to map the risk factors are not applicable because the options do not have a maturity, institutions shall map those risk factors to the longest prescribed maturity. Those options shall be subject to the residual risks add-on.

3. In the case of options that do not have a strike or barrier and options that have multiple strikes or barriers, institutions shall apply the mapping to strikes and maturity used internally by the institution to price the option. Those options shall also be subject to the residual risks add-on.

4. Institutions shall not calculate the vega risk for securitisation tranches included in the ACTP, as referred to in Article 325(6), (7) and (8), that do not have an implied volatility. Own funds requirements for delta and curvature risk shall be computed for those securitisation tranches.

Article 325t

Requirements on sensitivity computations

1. Institutions shall derive sensitivities from the institution's pricing models that serve as a basis for reporting profit and loss to senior management, using the formulas set out in this Subsection.

   By way of derogation from the first subparagraph, competent authorities may require an institution that has been granted permission to use the alternative internal model approach set out in Chapter 1b to use the pricing functions of the risk-measurement system of their internal model approach in the calculation of sensitivities under this Chapter for the calculation and reporting of the own funds requirements for market risk in accordance with Article 430b(3).

2. When calculating delta risk sensitivities of instruments with optionality as referred to in point (a) of Article 325e(2), institutions may assume that the implied volatility risk factors remain constant.

3. When calculating vega risk sensitivities of instruments with optionality as referred to in point (b) of Article 325e(2), the following requirements shall apply:

   (a) for general interest rate risk and credit spread risk, institutions shall assume, for each currency, that the underlying of the volatility risk factors for which vega risk is calculated follows either a lognormal or normal distribution in the pricing models used for those instruments;

   (b) for equity risk, commodity risk and foreign exchange risk, institutions shall assume that the underlying of the volatility risk factors for which vega risk is calculated follows a lognormal distribution in the pricing models used for those instruments.

4. Institutions shall calculate all sensitivities except for the sensitivities to credit valuation adjustments.

5. By way of derogation from paragraph 1, subject to the permission of the competent authorities, an institution may use alternative definitions of delta risk sensitivities in the calculation of the own funds requirements of a trading book position under this Chapter, provided that the institution meets all the following conditions:

   (a) those alternative definitions are used for internal risk management purposes and for the reporting of profits and losses to senior management by an independent risk control unit within the institution;

   (b) the institution demonstrates that those alternative definitions are more appropriate for capturing the sensitivities for the position than are the formulas set out in this Subsection, and that the resulting sensitivities do not materially differ from those formulas.

6. By way of derogation from paragraph 1, subject to the permission of the competent authorities, an institution may calculate vega sensitivities on the basis of a linear transformation of alternative definitions of sensitivities in the calculation of the own funds requirements of a trading book position under this Chapter, provided that the institution meets both the following conditions:

   (a) those alternative definitions are used for internal risk management purposes and for the reporting of profits and losses to senior management by an independent risk control unit within the institution;

(b) the institution demonstrates that those alternative definitions are more appropriate for capturing the sensitivities for the position than are the formulas set out in this Subsection, and that the linear transformation referred to in the first subparagraph reflects a vega risk sensitivity.

Section 4

The residual risk add-on

Article 325u

Own funds requirements for residual risks

1. In addition to the own funds requirements for market risk set out in Section 2, institutions shall apply additional own funds requirements to instruments exposed to residual risks in accordance with this Article.

2. Instruments are considered to be exposed to residual risks where they meet any of the following conditions:

(a) the instrument references an exotic underlying, which, for the purposes of this Chapter, means a trading book instrument referencing an underlying exposure that is not in the scope of the delta, vega or curvature risk treatments under the sensitivities-based method laid down in Section 2 or the own funds requirements for the default risk set out in Section 5;

(b) the instrument is an instrument bearing other residual risks, which, for the purposes of this Chapter, means any of the following instruments:

(i) instruments that are subject to the own funds requirements for vega and curvature risk under the sensitivities-based method set out in Section 2 and that generate pay-offs that cannot be replicated as a finite linear combination of plain-vanilla options with a single underlying equity price, commodity price, exchange rate, bond price, credit default swap price or interest rate swap;

(ii) instruments that are positions that are included in the ACTP referred to in Article 325(6); hedges that are included in that ACTP, as referred to in Article 325(8), shall not be considered.

3. Institutions shall calculate the additional own funds requirements referred to in paragraph 1 as the sum of gross notional amounts of the instruments referred to in paragraph 2, multiplied by the following risk weights:

(a) 1,0 % in the case of instruments referred to in point (a) of paragraph 2;

(b) 0,1 % in the case of instruments referred to in point (b) of paragraph 2.

4. By way of derogation from paragraph 1, institution shall not apply the own funds requirement for residual risks to an instrument that meets any of the following conditions:

(a) the instrument is listed on a recognised exchange;

(b) the instrument is eligible for central clearing in accordance with Regulation (EU) No 648/2012;

(c) the instrument perfectly offsets the market risk of another position in the trading book, in which case the two perfectly matching trading book positions shall be exempted from the own funds requirement for residual risks.

5. EBA shall develop draft regulatory technical standards to specify what an exotic underlying is and which instruments are instruments bearing residual risks for the purposes of paragraph 2.

When developing those draft regulatory technical standards, EBA shall examine whether longevity risk, weather, natural disasters and future realised volatility should be considered as exotic underlyings.

EBA shall submit those draft regulatory technical standards to the Commission by … [two years after the date of entry into force of this amending Regulation].

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.

Section 5

Own funds requirements for the default risk

Article 325v

Definitions and general provisions

1. For the purposes of this Section, the following definitions apply:

   (a) ‘short exposure’ means that the default of an issuer or group of issuers leads to a gain for the institution, regardless of the type of instrument or transaction creating the exposure;

   (b) ‘long exposure’ means that the default of an issuer or group of issuers leads to a loss for the institution, regardless of the type of instrument or transaction creating the exposure;

   (c) ‘gross jump-to-default (gross JTD) amount’ means the estimated size of the loss or gain that the default of the obligor would produce for a specific exposure;

   (d) ‘net jump-to-default (net JTD) amount’ means the estimated size of the loss or gain that an institution would incur due to the default of an obligor, after offsetting between gross JTD amounts has taken place,

(e) ‘loss given default’ or ‘LGD’ means the loss given default of the obligor on an instrument issued by that obligor expressed as a share of the notional amount of the instrument;

(f) ‘default risk weight’ means the percentage representing the estimated probability of the default of each obligor, according to the creditworthiness of that obligor.

2. Own funds requirements for the default risk shall apply to debt and equity instruments, to derivative instruments having those instruments as underlyings and to derivatives, the pay-offs or fair values of which are affected by the default of an obligor other than the counterparty to the derivative instrument itself. Institutions shall calculate default risk requirements separately for each of the following types of instruments: non-securitisations, securitisations that are not included in the ACTP, and securitisations that are included in the ACTP. The final own funds requirements for the default risk to be applied by institutions shall be the sum of those three components.

Subsection 1

Own funds requirements for the default risk for non-securitisations

Article 325w

Gross jump-to-default amounts

1. Institutions shall calculate the gross JTD amounts for each long exposure to debt instruments as follows:

$$\mathrm{JTD}_{\mathrm{long}} = \max\left\{\mathrm{LGD}\ \mathrm{V}_{\mathrm{notional}} + \mathrm{P\&L}_{\mathrm{long}} + \mathrm{Adjustment}_{\mathrm{long}}; 0\right\}$$

where:

$\mathrm{JTD}_{\mathrm{long}}$ = the gross JTD amount for the long exposure;

$\mathrm{V}_{\mathrm{notional}}$ = the notional amount of the instrument;

$\mathrm{P\&L}_{\mathrm{long}}$ = a term which adjusts for gains or losses already accounted for by the institution due to changes in the fair value of the instrument creating the long exposure; gains shall enter the formula with a positive sign and losses with a negative; and

$\mathrm{Adjustment}_{\mathrm{long}}$ = the amount by which, due to the structure of the derivative instrument, the institution's loss in the event of default would be increased or reduced relative to the full loss on the underlying instrument; increases shall enter the $\mathrm{Adjustment}_{\mathrm{long}}$ term with a positive sign and decreases with a negative sign.

2. Institutions shall calculate the gross JTD amounts for each short exposure to debt instruments as follows:

$$JTD_{short} = \min \{LGD\ V_{notional} + P\&L_{short} + Adjustment_{short}; 0\}$$

where:

JTD_{short} = the gross JTD amount for the short exposure;

$V_{notional}$ = the notional amount of the instrument that shall enter into the formula with a negative sign;

$P\&L_{short}$ = a term which adjusts for gains or losses already accounted for by the institution due to changes in the fair value of the instrument creating the short exposure; gains shall enter into the formula with a positive sign and losses shall enter into the formula with a negative sign; and

$Adjustment_{short}$ = the amount by which, due to the structure of the derivative instrument, the institution's gain in the event of default would be increased or reduced relative to the full loss on the underlying instrument; decreases shall enter the $Adjustment_{short}$ term with a positive sign and increases shall enter the $Adjustment_{short}$ term with a negative sign.

3. For the purposes of the calculation set out in paragraphs 1 and 2, the LGD for debt instruments to be applied by institutions shall be the following:

(a) exposures to non-senior debt instruments shall be assigned an LGD of 100 %;

(b) exposures to senior debt instruments shall be assigned an LGD of 75 %;

(c) exposures to covered bonds, as referred to in Article 129, shall be assigned an LGD of 25 %.

4. For the purposes of the calculations set out in paragraphs 1 and 2, notional amounts shall be determined as follows:

(a) in the case of debt instruments, the notional amount is the face value of the debt instrument;

(b) in the case of derivative instruments with debt security underlyings, the notional amount is the notional amount of the derivative instrument.

5. For exposures to equity instruments, institutions shall calculate the gross JTD amounts as follows, instead of using the formulas referred to in paragraphs 1 and 2:

$$\mathrm{JTD}_{\mathrm{long}} = \max\left\{\mathrm{LGD} \cdot \mathrm{V} + \mathrm{P\&L}_{\mathrm{long}} + \mathrm{Adjustment}_{\mathrm{long}}; 0\right\}$$

$$\mathrm{JTD}_{\mathrm{short}} = \min\left\{\mathrm{LGD} \cdot \mathrm{V} + \mathrm{P\&L}_{\mathrm{short}} + \mathrm{Adjustment}_{\mathrm{short}}; 0\right\}$$

where:

JTD_{long} = the gross JTD amount for the long exposure;

JTD_{short} = the gross JTD amount for the short exposure; and

V = the fair value of the equity or, in the case of derivative instruments with equity underlyings, the fair value of the equity underlying.

6. Institutions shall assign an LGD of 100 % to equity instruments for the purposes of the calculation set out in paragraph 5.

7. In the case of exposures to default risk arising from derivative instruments whose pay-offs in the event of default of the obligor are not related to the notional amount of a specific instrument issued by that obligor or to the LGD of the obligor or an instrument issued by that obligor, institutions shall use alternative methodologies to estimate the gross JTD amounts.

8. EBA shall develop draft regulatory technical standards to specify:

(a) how institutions are to calculate JTD amounts for different types of instruments in accordance with this Article;

(b) which alternative methodologies institutions are to use for the purposes of the estimation of gross JTD amounts referred to in paragraph 7.

(c) the notional amounts of instruments other than the ones referred to in points (a) and (b) of paragraph 4.

EBA shall submit those draft regulatory technical standards to the Commission by … [two years after the date of entry into force of this amending Regulation].

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.

Article 325x

Net jump-to-default amounts

1. Institutions shall calculate net JTD amounts by offsetting the gross JTD amounts of short exposures and long exposures. Offsetting shall only be possible between exposures to the same obligor where the short exposures have the same seniority as, or lower seniority than, the long exposures.

2. Offsetting shall be either full or partial, depending on the maturities of the offsetting exposures:

   (a) offsetting shall be full where all offsetting exposures have maturities of one year or more;

   (b) offsetting shall be partial where at least one of the offsetting exposures has a maturity of less than one year, in which case the size of the JTD amount of each exposure with a maturity of less than one year shall be multiplied by the ratio of the exposure's maturity relative to one year.

3. Where no offsetting is possible gross JTD amounts shall equal net JTD amounts in the case of exposures with maturities of one year or more. Gross JTD amounts with maturities of less than one year shall be multiplied by the ratio of the exposure's maturity relative to one year, with a floor of three months, to calculate net JTD amounts.

4. For the purposes of paragraphs 2 and 3, the maturities of the derivative contracts shall be considered, rather than those of their underlyings. Cash equity exposures shall be assigned a maturity of either one year or three months, at the institution's discretion.

Article 325y

Calculation of the own funds requirements for the default risk

1. Net JTD amounts, irrespective of the type of counterparty, shall be multiplied by the default risk weights that correspond to their credit quality, as specified in Table 2:

Table 2

Credit quality category	Default risk weight
Credit quality step 1	0,5 %
Credit quality step 2	3 %
Credit quality step 3	6 %
Credit quality step 4	15 %
Credit quality step 5	30 %
Credit quality step 6	50 %
Unrated	15 %
Defaulted	100 %

2. Exposures which would receive a 0 % risk-weight under the Standardised Approach for credit risk in accordance with Chapter 2 of Title II shall receive a 0 % default risk weight for the own funds requirements for the default risk.

3. The weighted net JTD shall be allocated to the following buckets: corporates, sovereigns, and local governments/municipalities.

4. Weighted net JTD amounts shall be aggregated within each bucket, in accordance with the following formula:

$$DRC_b = \max\left\{\left(\sum_{i \in long} RW_i \cdot \text{net JTD}_i\right) - WtS \cdot \left(\sum_{i \in short} RW_i \cdot |\text{net JTD}_i|\right); 0\right\}$$

where:

DRC_b = the own funds requirement for the default risk for bucket b;

i = the index that denotes an instrument belonging to bucket b;

RW_i = the risk weight; and

WtS = a ratio recognising a benefit for hedging relationships within a bucket, which shall be calculated as follows:

$$WtS = \frac{\sum \text{net JTD}_{long}}{\sum \text{net JTD}_{long} + \sum |\text{net JTD}_{short}|}$$

For the purposes of calculating the DRC_b and the WtS, the long positions and short positions shall be aggregated for all positions within a bucket, regardless of the credit quality step to which those positions are allocated, to produce the bucket-specific own funds requirements for the default risk.

5. The final own funds requirement for the default risk for non-securitisations shall be calculated as the simple sum of the bucket-level own funds requirements.

Subsection 2

Own funds requirements for the default risk for securitisations not included in the ACTP

Article 325z

Jump-to-default amounts

1. Gross jump-to-default amounts for securitisation exposures shall be their market value or, if their market value is not available, their fair value determined in accordance with the applicable accounting framework.

2. Net jump-to-default amounts shall be determined by offsetting long gross jump-to-default amounts and short gross jump-to-default amounts. Offsetting shall only be possible between securitisation exposures with the same underlying asset pool and belonging to the same tranche. No offsetting shall be permitted between securitisation exposures with different underlying asset pools, even where the attachment and detachment points are the same.

3. Where, by decomposing or combining existing securitisation exposures, other existing securitisation exposures can be perfectly replicated, except for the maturity dimension, the exposures resulting from that decomposition or combination may be used instead of the existing securitisation exposures for the purposes of offsetting.

4. Where, by decomposing or combining existing exposures in underlying names, the entire tranche structure of an existing securitisation exposure can be perfectly replicated, the exposures resulting from that decomposition or combination may be used instead of the existing securitisation exposures for the purposes of offsetting. Where underlying names are used in that manner, they shall be removed from the non-securitisation default risk treatment.

5. Article 325x shall apply to both existing securitisation exposures and to securitisation exposures used in accordance with paragraph 3 or 4 of this Article. The relevant maturities shall be those of the securitisation tranches.

Article 325aa

Calculation of the own funds requirement for the default risk for securitisations

1. Net JTD amounts of securitisation exposures shall be multiplied by 8 % of the risk weight that applies to the relevant securitisation exposure, including STS securitisations, in the non-trading book in accordance with the hierarchy of approaches set out in Section 3 of Chapter 5 of Title II and irrespective of the type of counterparty.

2. A maturity of one year shall be applied to all tranches, where risk weights are calculated in accordance with the SEC-IRBA and SEC-ERBA.

3. The risk-weighted JTD amounts for individual cash securitisation exposures shall be capped at the fair value of the position.

4. Risk-weighted net JTD amounts shall be assigned to the following buckets:

   (a) one common bucket for all corporates, regardless of the region;

   (b) 44 different buckets corresponding to one bucket per region for each of the 11 asset classes defined in the second subparagraph.

   For the purposes of the first subparagraph, the 11 asset classes are ABCP, auto loans/leases, residential mortgage-backed securities (RMBS), credit cards, commercial mortgage-backed securities (CMBS), collateralised loan obligations, collateralised debt obligations squared (CDO-squared), small and medium-sized enterprises (SMEs), student loans, other retail, other wholesale. The four regions are Asia, Europe, North America, and rest of the world.

5. In order to assign a securitisation exposure to a bucket, institutions shall rely on a classification commonly used in the market. Institutions shall assign each securitisation exposure to only one of the buckets referred to in paragraph 4. Any securitisation exposure that an institution cannot assign to a bucket for an asset class or region shall be assigned to the asset class ‘other retail’ or ‘other wholesale’ or to the region ‘rest of the world’, respectively.

6. Weighted net JTD amounts shall be aggregated within each bucket in the same manner as for default risk of non-securitisation exposures, using the formula in Article 325y(4), resulting in the own funds requirement for the default risk for each bucket.

7. The final own funds requirement for the default risk for securitisations not included in the ACTP shall be calculated as the simple sum of the bucket-level own funds requirements.

Subsection 3

Own funds requirements for the default risk for securitisations included in the ACTP

Article 325ab

Scope

1. For the ACTP, the own funds requirements shall include the default risk for securitisation exposures and for non-securitisation hedges. Those hedges shall be removed from the default risk calculations for non-securitisation. There shall be no diversification benefit between the own funds requirements for the default risk for non-securitisations, the own funds requirements for the default risk for securitisations not included in the ACTP and own funds requirements for the default risk for securitisations included in the ACTP.

2. For traded non-securitisation credit and equity derivatives, JTD amounts by individual constituents shall be determined by applying a look-through approach.

Article 325ac

Jump-to-default amounts for the ACTP

1. For the purposes of this Article, the following definitions apply:

   (a) ‘decomposition with a valuation model’ means that a single name constituent of a securitisation is valued as the difference between the unconditional value of the securitisation and the conditional value of the securitisation assuming that single name defaults with an LGD of 100 %;

   (b) ‘replication’ means that the combination of individual securitisation index tranches are combined to replicate another tranche of the same index series, or to replicate an untranched position in the index series;

   (c) ‘decomposition’ means replicating an index by a securitisation of which the underlying exposures in the pool are identical to the single name exposures that compose the index.

2. The gross JTD amounts for securitisation exposures and non-securitisation exposures in the ACTP shall be their market value or, if their market value is not available, their fair value determined in accordance with the applicable accounting framework.

3. Nth-to-default products shall be treated as tranched products with the following attachment and detachment points:

(a) attachment point = (N – 1) / Total Names;

(b) detachment point = N / Total Names;

where 'Total Names' shall be the total number of names in the underlying basket or pool.

4. Net JTD amounts shall be determined by offsetting long gross JTD amounts and short gross JTD amounts. Offsetting shall only be possible between exposures that are otherwise identical except for maturity. Offsetting shall only be possible as follows:

(a) for indices, index tranches and bespoke tranches, offsetting shall be possible across maturities within the same index family, series and tranche, subject to the provisions on exposures of less than one year laid down in Article 325x; long gross JTD amounts and short gross JTD amounts that perfectly replicate each other may be offset through decomposition into single name equivalent exposures using a valuation model; in such cases, the sum of the gross JTD amounts of the single name equivalent exposures obtained through decomposition shall be equal to the gross JTD amount of the undecomposed exposure;

(b) offsetting through decomposition as set out is point (a) shall not be allowed for resecuritisations or derivatives on securitisation;

(c) for indices and index tranches, offsetting shall be possible across maturities within the same index family, series and tranche by replication or by decomposition; where the long exposures and short exposures are otherwise equivalent, apart from one residual component, offsetting shall be allowed and the net JTD amount shall reflect the residual exposure;

(d) different tranches of the same index series, different series of the same index and different index families may not be used to offset each other.

Article 325ad

Calculation of the own funds requirements for the default risk for the ACTP

1. Net JTD amounts shall be multiplied by:

(a) for tranched products, the default risk weights corresponding to their credit quality as specified in Article 325y(1) and (2);

(b) for non-tranched products, the default risk weights referred to in Article 325aa(1).

2. Risk-weighted net JTD amounts shall be assigned to buckets that correspond to an index.

3. Weighted net JTD amounts shall be aggregated within each bucket in accordance with the following formula:

$$DRC_b = \max\left\{\left(\sum_{i \in long} RW_i \cdot \text{net JTD}_i\right) - WtS_{ACTP} \cdot \left(\sum_{i \in short} RW_i \cdot |\text{net JTD}_i|\right); 0\right\}$$

where:

DRC_b = the own funds requirement for the default risk for bucket b;

i = an instrument belonging to bucket b; and

WtS_{ACTP} = the ratio recognising a benefit for hedging relationships within a bucket, which shall be calculated in accordance with the WtS formula set out in Article 325y(4), but using long positions and short positions across the entire ACTP and not just the positions in the particular bucket.

4. Institutions shall calculate the own funds requirements for the default risk for the ACTP by using the following formula:

$$DRC_{ACTP} = \max\left\{\sum_b (\max[DRC_b, 0] + 0{,}5 \cdot (\min[DRC_b, 0]); 0\right\}$$

where:

DRC_{ACTP} = the own funds requirement for the default risk for the ACTP; and

DRC_b = the own funds requirement for the default risk for bucket b.

Section 6

Risk weights and correlations

Subsection 1

Delta risk weights and correlations

Article 325ae

Risk weights for general interest rate risk

1. For currencies not included in the most liquid currency sub-category as referred to in point (b) of Article 325bd(7), the risk weights of the sensitivities to the risk-free rate risk factors for each bucket in Table 3 shall be specified pursuant to the delegated act referred to in Article 461a.

Table 3

Bucket	Maturity
1	0,25 years
2	0,5 years
3	1 year
4	2 years
5	3 years
6	5 years
7	10 years
8	15 years
9	20 years
10	30 years

2. A common risk weight both for all the sensitivities to inflation and for cross currency basis risk factors shall be specified in the delegated act referred to in Article 461a.

3. For the currencies included in the most liquid currency sub-category as referred to in point (b) of 325bd(7) and the domestic currency of the institution, the risk weights of the risk-free rate risk factors shall be the risk weights referred to in Table 3 divided by $\sqrt{2}$.

Article 325af

Intra bucket correlations for general interest rate risk

1. Between two weighted sensitivities of general interest rate risk factors WS_k and WS_l within the same bucket, and with the same assigned maturity but corresponding to different curves, correlation ρ_{kl} shall be set at 99,90 %.

2. Between two weighted sensitivities of general interest rate risk factors WS_k and WS_l within the same bucket, corresponding to the same curve, but having different maturities, correlation shall be set in accordance with the following formula:

$$\max\left[e^{\left(-\theta\cdot\frac{|T_k-T_l|}{\min\{T_k;\,T_l\}}\right)};\,40\,\%\right]$$

where:

T_k (respectively T_l) = the maturity that relates to the risk free rate;

$\theta = 3\ \%$

3. Between two weighted sensitivities of general interest rate risk factors WS_k and WS_l within the same bucket, corresponding to different curves and having different maturities, the correlation ρ_{kl} shall be equal to the correlation parameter specified in paragraph 2, multiplied by 99,90 %.

4. Between any given weighted sensitivity of general interest rate risk factors WS_k and any given weighted sensitivity of inflation risk factors WS_l, the correlation shall be set at 40 %.

5. Between any given weighted sensitivity of cross-currency basis risk factors WS_k and any given weighted sensitivity of general interest rate risk factors WS_l, including another cross-currency basis risk factor, the correlation shall be set at 0 %.

Article 325ag

Correlations across buckets for general interest rate risk

1. The parameter $\gamma_{bc} = 50\ \%$ shall be used to aggregate risk factors belonging to different buckets.

2. The parameter γ_{bc} = 80 % shall be used to aggregate an interest rate risk factor based on a currency as referred to in Article 325av(3) and an interest rate risk factor based on the euro.

Article 325ah

Risk weights for credit spread risk for non-securitisations

1. Risk weights for the sensitivities to credit spread risk factors for non-securitisations shall be the same for all maturities (0,5 years, 1 year, 3 years, 5 years, 10 years) within each bucket in Table 4:

Table 4

Bucket number	Credit quality	Sector	Risk weight (percentage points)
1	All	Central government, including central banks, of a Member State	0,50 %

Bucket number	Credit quality	Sector	Risk weight (percentage points)
2	Credit quality step 1 to 3	Central government, including central banks, of a third country, multilateral development banks and international organisations referred to in Article 117(2) or Article 118	0,5 %
3		Regional or local authority and public sector entities	1,0 %
4		Financial sector entities including credit institutions incorporated or established by a central government, a regional government or a local authority and promotional lenders	5,0 %
5		Basic materials, energy, industrials, agriculture, manufacturing, mining and quarrying	3,0 %
6		Consumer goods and services, transportation and storage, administrative and support service activities	3,0 %
7		Technology, telecommunications	2,0 %
8		Health care, utilities, professional and technical activities	1,5 %
9		Covered bonds issued by credit institutions in Member States	1,0 %

Bucket number	Credit quality	Sector	Risk weight (percentage points)
11	Credit quality step 4 to 6	Central government, including central banks, of a third country, multilateral development banks and international organisations referred to in Article 117(2) or Article 118	
12		Regional or local authority and public sector entities	4,0 %
13		Financial sector entities including credit institutions incorporated or established by a central government, a regional government or a local authority and promotional lenders	12,0 %
14		Basic materials, energy, industrials, agriculture, manufacturing, mining and quarrying	7,0 %
15		Consumer goods and services, transportation and storage, administrative and support service activities	8,5 %
16		Technology, telecommunications	5,5 %
17		Health care, utilities, professional and technical activities	5,0 %
18	Other sector		12,0 %

2. To assign a risk exposure to a sector, institutions shall rely on a classification that is commonly used in the market for grouping issuers by sector. Institutions shall assign each issuer to only one of the sector buckets in Table 4. Risk exposures from any issuer that an institution cannot assign to a sector in such a manner shall be assigned to bucket 18 in Table 4.

Article 325ai

Intra-bucket correlations for credit spread risk for non-securitisations

1. The correlation parameter ρ_{kl} between two sensitivities WS_k and WS_l within the same bucket shall be set as follows:

$$\rho_{kl} = \rho_{kl}^{(name)} \cdot \rho_{kl}^{(tenor)} \cdot \rho_{kl}^{(basis)}$$

where:

$\rho_{kl}^{(name)}$ shall be equal to 1 where the two names of sensitivities k and l are identical, otherwise it shall be equal to 35 %;

$\rho_{kl}^{(tenor)}$ shall be equal to 1 where the two vertices of the sensitivities k and l are identical, otherwise it shall be equal to 65 %; and

$\rho_{kl}^{(basis)}$ shall be equal to 1 where the two sensitivities are related to the same curves, otherwise it shall be equal to 99,90 %.

2. The correlation parameters referred to in paragraph 1 of this Article shall not apply to bucket 18 in Table 4 of Article 325ah(1). The capital requirement for the delta risk aggregation formula within bucket 18 shall be equal to the sum of the absolute values of the net weighted sensitivities allocated to that bucket:

$$K_{b(\text{bucket 18})} = \sum_k |WS_k|$$

Article 325aj

Correlations across buckets for credit spread risk for non-securitisations

The correlation parameter γ_{bc} that applies to the aggregation of sensitivities between different buckets shall be set as follows:

$$\gamma_{bc} = \gamma_{bc(\text{rating})} \cdot \gamma_{bc(\text{sector})}$$

where:

$\gamma_{bc(\text{rating})}$ shall be equal to 1 where the two buckets have the same credit quality category (either credit quality step 1 to 3 or credit quality step 4 to 6), otherwise it shall be equal to 50 %; for the purposes of that calculation, bucket 1 shall be considered as belonging to the same credit quality category as buckets that have credit quality step 1 to 3; and

$\gamma_{bc(sector)}$ shall be equal to 1 where the two buckets belong to the same sector, and otherwise shall be equal to the corresponding percentage set out in Table 5:

Table 5

Bucket	1, 2 and 11	3 and 12	4 and 13	5 and 14	6 and 15	7 and 16	8 and 17	9
1, 2 and 11		75 %	10 %	20 %	25 %	20 %	15 %	10 %
3 and 12			5 %	15 %	20 %	15 %	10 %	10 %
4 and 13				5 %	15 %	20 %	5 %	20 %
5 and 14					20 %	25 %	5 %	5 %
6 and 15						25 %	5 %	15 %
7 and 16							5 %	20 %
8 and 17								5 %
9								-

Article 325ak

Risk weights for credit spread risk for securitisations included in the ACTP

Risk weights for the sensitivities to credit spread risk factors for securitisations included in the ACTP risk factors shall be the same for all maturities (0,5 years, 1 year, 3 years, 5 years, 10 years) within each bucket and shall be specified for each bucket in Table 6 pursuant to the delegated act referred to in Article 461a:

Table 6

Bucket number	Credit quality	Sector
1	All	Central government, including central banks, of Member States
2	Credit quality step 1 to 3	Central government, including central banks, of a third country, multilateral development banks and international organisations referred to in Article 117(2) or Article 118
3		Regional or local authority and public sector entities
4		Financial sector entities including credit institutions incorporated or established by a central government, a regional government or a local authority and promotional lenders
5		Basic materials, energy, industrials, agriculture, manufacturing, mining and quarrying
6		Consumer goods and services, transportation and storage, administrative and support service activities
7		Technology, telecommunications
8		Health care, utilities, professional and technical activities
9		Covered bonds issued by credit institutions in Member States
10		Covered bonds issued by credit institutions in third countries

Bucket number	Credit quality	Sector
11	Credit quality step 4 to 6	Central government, including central banks, of a third country, multilateral development banks and international organisations referred to in Article 117(2) or Article 118
12		Regional or local authority and public sector entities
13		Financial sector entities including credit institutions incorporated or established by a central government, a regional government or a local authority and promotional lenders
14		Basic materials, energy, industrials, agriculture, manufacturing, mining and quarrying
15		Consumer goods and services, transportation and storage, administrative and support service activities
16		Technology, telecommunications
17		Health care, utilities, professional and technical activities
18	Other sector	

Article 325al

Correlations for credit spread risk for securitisations included in the ACTP

1. The delta risk correlation ρ_{kl} shall be derived in accordance with Article 325ai, except that, for the purposes of this paragraph, $\rho_{kl}^{(basis)}$ shall be equal to 1 where the two sensitivities are related to the same curves, otherwise it shall be equal to 99,00 %.

2. The correlation γ_{bc} shall be derived in accordance with Article 325aj.

Article 325am

Risk weights for credit spread risk for securitisations not included in the ACTP

1. Risk weights for the sensitivities to credit spread risk factors for securitisation not included in the ACTP shall be the same for all maturities (0,5 years, 1 year, 3 years, 5 years, 10 years) within each bucket in Table 7 and shall be specified for each bucket in Table 7 pursuant to the delegated act referred to in Article 461a:

Table 7

Bucket number	Credit quality	Sector
1	Senior and Credit quality step 1 to 3	RMBS - Prime
2		RMBS - Mid-Prime
3		RMBS - Sub-Prime
4		CMBS
5		Asset backed securities (ABS) - Student loans
6		ABS - Credit cards
7		ABS - Auto
8		Collateralised loan obligations (CLO) non-ACTP

Bucket number	Credit quality	Sector
9	Non-senior and credit quality step 1 to 3	RMBS - Prime
10		RMBS - Mid-Prime
11		RMBS - Sub-Prime
12		CMBS
13		ABS - Student loans
14		ABS - Credit cards
15		ABS - Auto
16		CLO non-ACTP
17	Credit quality step 4 to 6	RMBS - Prime
18		RMBS - Mid-Prime
19		RMBS - Sub-Prime
20		CMBS
21		ABS - Student loans
22		ABS - Credit cards
23		ABS - Auto
24		CLO non-ACTP
25	Other sector	

2. To assign a risk exposure to a sector, institutions shall rely on a classification that is commonly used in the market for grouping issuers by sector. Institutions shall assign each tranche to one of the sector buckets in Table 7. Risk exposures from any tranche that an institution cannot assign to a sector in such a manner shall be assigned to bucket 25.

Article 325an

Intra-bucket correlations for credit spread risk for securitisations not included in the ACTP

1. Between two sensitivities WS_k and WS_l within the same bucket, the correlation parameter ρ_{kl} shall be set as follows:

$$\rho_{kl} = \rho_{kl(\text{tranche})} \cdot \rho_{kl(\text{tenor})} \cdot \rho_{kl(\text{basis})}$$

where:

$\rho_{kl(\text{thranche})}$ shall be equal to 1 where the two names of sensitivities k and l are within the same bucket and are related to the same securitisation tranche (more than 80 % overlap in notional terms), otherwise it shall be equal to 40 %;

$\rho_{kl(\text{tenor})}$ shall be equal to 1 where the two vertices of the sensitivities k and l are identical, otherwise it shall be equal to 80 %; and

$\rho_{kl(\text{basis})}$ shall be equal to 1 where the two sensitivities are related to the same curves, otherwise it shall be equal to 99,90 %.

2. The correlation parameters referred to in paragraph 1 shall not apply to bucket 25 in Table 7 of Article 325am(1). The own funds requirement for the delta risk aggregation formula within bucket 25 shall be equal to the sum of the absolute values of the net weighted sensitivities allocated to that bucket:

$$K_{b(\text{bucket } 25)} = \sum_k |WS_k|$$

Article 325ao

Correlations across buckets for credit spread risk for securitisations not included in the ACTP

1. The correlation parameter γ_{bc} shall apply to the aggregation of sensitivities between different buckets and shall be set at 0 %.

2. The own funds requirement for bucket 25 shall be added to the overall risk class level capital, with no diversification or hedging effects recognised with any other bucket.

Article 325ap

Risk weights for equity risk

1. Risk weights for the sensitivities to equity and equity repo rate risk factors shall be specified for each bucket in Table 8 pursuant to the delegated act referred to in Article 461a:

Table 8

Bucket number	Market capitalisation	Economy	Sector
1	Large	Emerging market economy	Consumer goods and services, transportation and storage, administrative and support service activities, healthcare, utilities
2			Telecommunications, industrials
3			Basic materials, energy, agriculture, manufacturing, mining and quarrying
4			Financials including government-backed financials, real estate activities, technology

Bucket number	Market capitalisation	Economy	Sector
5		Advanced economy	Consumer goods and services, transportation and storage, administrative and support service activities, healthcare, utilities
6			Telecommunications, industrials
7			Basic materials, energy, agriculture, manufacturing, mining and quarrying
8			Financials including government-backed financials, real estate activities, technology
9	Small	Emerging market economy	All sectors described under bucket numbers 1, 2, 3 and 4
10		Advanced economy	All sectors described under bucket numbers 5, 6, 7 and 8
11	Other sector		

2. For the purposes of this Article, what constitutes a small and a large market capitalisation shall be specified in the regulatory technical standards referred to in Article 325bd(7).

3. For the purposes of this Article, EBA shall develop draft regulatory technical standards to specify what constitutes an emerging market and to specify what constitutes an advanced economy.

EBA shall submit those draft regulatory technical standards to the Commission by … [two years after the date of entry into force of this amending Regulation]

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.

4. When assigning a risk exposure to a sector, institutions shall rely on a classification that is commonly used in the market for grouping issuers by sector. Institutions shall assign each issuer to one of the sector buckets in Table 8 and shall assign all issuers from the same industry to the same sector. Risk exposures from any issuer that an institution cannot assign to a sector in such a manner shall be assigned to bucket 11 in Table 8. Multinational or multi-sector equity issuers shall be assigned to a particular bucket on the basis of the most material region and sector in which the equity issuer operates.

Article 325aq

Intra-bucket correlations for equity risk

1. The delta risk correlation parameter ρ_{kl} between two sensitivities WS_k and WS_l within the same bucket shall be set at 99,90 % where one is a sensitivity to an equity spot price and the other a sensitivity to an equity repo rate, where both are related to the same equity issuer name.

2. In other cases than the cases referred to in paragraph 1, the correlation parameter ρkl between two sensitivities WS_k and WS_l to equity spot price within the same bucket shall be set as follows:

(a) 15 % between two sensitivities within the same bucket that fall under the category large market capitalisation, emerging market economy (bucket number 1, 2, 3 or 4);

(b) 25 % between two sensitivities within the same bucket that fall under the category large market capitalisation, advanced economy (bucket number 5, 6, 7 or 8);

(c) 7,5 % between two sensitivities within the same bucket that fall under the category small market capitalisation, emerging market economy (bucket number 9);

(d) 12,5 % between two sensitivities within the same bucket that fall under the category small market capitalisation, advanced economy (bucket number 10).

3. The correlation parameter ρ_{kl} between two sensitivities WS_k and WS_l to equity repo rate within the same bucket shall be set in accordance with paragraph 2.

4. Between two sensitivities WS_k and WS_l within the same bucket where one is a sensitivity to an equity spot price and the other a sensitivity to an equity repo rate and both sensitivities relate to a different equity issuer name, the correlation parameter ρkl shall be set to the correlation parameters specified in paragraph 2, multiplied by 99,90 %.

5. The correlation parameters specified in paragraphs 1 to 4 shall not apply to bucket 11. The capital requirement for the delta risk aggregation formula within bucket 11 shall be equal to the sum of the absolute values of the net weighted sensitivities allocated to that bucket:

$$K_{b(\text{bucket } 11)} = \sum_k |WS_k|$$

Article 325ar

Correlations across buckets for equity risk

1. The correlation parameter γ_{bc} shall apply to the aggregation of sensitivities between different buckets. It shall be set at 15 % where the two buckets fall within buckets 1 to 10.

Article 325as

Risk weights for commodity risk

Risk weights for sensitivities to commodity risk factors shall be specified for each bucket in Table 9 pursuant to the delegated act referred to in Article 461a:

Table 9

Bucket number	Bucket name
1	Energy - solid combustibles
2	Energy - liquid combustibles
3	Energy - electricity and carbon trading
4	Freight
5	Metals – non-precious
6	Gaseous combustibles
7	Precious metals (including gold)
8	Grains and oilseed
9	Livestock and dairy
10	Softs and other agricultural commodities
11	Other commodity

Article 325at

Intra-bucket correlations for commodity risk

1. For the purposes of this Article, any two commodities shall be considered distinct commodities where there exist in the market two contracts that are differentiated only by the underlying commodity to be delivered against each contract.

2. The correlation parameter ρ_{kl} between two sensitivities WS_k and WS_l within the same bucket shall be set as follows:

$$\rho_{kl} = \rho_{kl}^{(commodity)} \cdot \rho_{kl}^{(tenor)} \cdot \rho_{kl}^{(basis)}$$

where:

$\rho_{kl}^{(commodity)}$ shall be equal to 1 where the two commodities of sensitivities k and l are identical, otherwise it shall be equal to the intra-bucket correlations in Table 10;

$\rho_{kl}^{(tenor)}$ shall be equal to 1 where the two vertices of the sensitivities k and l are identical, otherwise it shall be equal to 99 %; and

$\rho_{kl}^{(basis)}$ shall be equal to 1 where the two sensitivities are identical in the delivery location of a commodity, otherwise it shall be equal to 99,90 %.

3. The intra-bucket correlations $\rho_{kl(commodity)}$ are:

Table 10

Bucket number	Bucket name	Correlation ρ_{kl} (commodity)
1	Energy - solid combustibles	55 %
2	Energy - liquid combustibles	95 %
3	Energy - electricity and carbon trading	40 %
4	Freight	80 %
5	Metals – non-precious	60 %
6	Gaseous combustibles	65 %
7	Precious metals (including gold)	55 %
8	Grains and oilseed	45 %
9	Livestock and dairy	15 %
10	Softs and other agricultural commodities	40 %
11	Other commodity	15 %

4. Notwithstanding paragraph 1, the following provisions apply:

(a) two risk factors that are allocated to bucket 3 in Table 10 and that concern electricity which is generated in different regions or is delivered at different periods under the contractual agreement shall be considered distinct commodity risk factors;

(b) two risk factors that are allocated to bucket 4 in Table 10 and that concern freight where the freight route or week of delivery differ shall be considered distinct commodity risk factors.

Article 325au

Correlations across buckets for commodity risk

The correlation parameter γ_{bc} applying to the aggregation of sensitivities between different buckets shall be set at:

(a) 20 % where the two buckets fall within bucket numbers 1 to 10;

(b) 0 % where either of the two buckets is bucket number 11.

Article 325av

Risk weights for foreign exchange risk

1. Risk weight for all sensitivities to foreign exchange risk factors shall be specified in the delegated act referred to in Article 461a.

2. The risk weight of the foreign exchange risk factors concerning currency pairs which are composed of the euro and the currency of a Member State participating in the second stage of the economic and monetary union (ERM II) shall be one of the following:

   (a) the risk weight referred to in paragraph 1, divided by 3;

(b) the maximum fluctuation within the fluctuation band formally agreed by the Member State and the European Central Bank, if that fluctuation band is narrower than the fluctuation band defined under ERM II.

3. Notwithstanding paragraph 2, the risk weight of the foreign exchange risk factors concerning currencies referred to in paragraph 2 which participate in the ERM II with a formally agreed fluctuation band narrower than the standard band of plus or minus 15 % shall equal the maximum percentage fluctuation within that narrower band.

4. The risk weight of the foreign exchange risk factors included in the most liquid currency pairs sub-category as referred to in point (c) of 325bd(7) shall be the risk weight referred to in paragraph 1 of this Article divided by $\sqrt{2}$.

5. Where the daily exchange-rate data for the preceding three years show that a currency pair composed of euro and a non-euro currency of a Member State is constant and that the institution is always able to face a zero bid/ask spread on the respective trades related to that currency pair, the institution may apply the risk weight referred to in paragraph 1 divided by 2, provided that it has the express permission of its competent authority to do so.

Article 325aw

Correlations for foreign exchange risk

A uniform correlation parameter γ_{bc} equal to 60 % shall apply to the aggregation of sensitivities to foreign exchange risk factors.

Subsection 2

Vega and curvature risk weights and correlations

Article 325ax

Vega and curvature risk weights

1. Vega risk factors shall use the delta buckets referred to in Subsection 1.

2. The risk weight for a given vega risk factor k shall be determined as a share of the current value of that risk factor k which represents the implied volatility of an underlying, as described in Section 3.

3. The share referred to in paragraph 2 shall be made dependent on the presumed liquidity of each type of risk factor in accordance with the following formula:

$$\mathrm{RW_k} = (\text{Value of risk factor k}) \cdot \min\left\{\mathrm{RW}_\sigma \cdot \frac{\sqrt{\mathrm{LH}_{\text{risk class}}}}{\sqrt{10}}; 100\ \%\right\}$$

where:

RW_k = the risk weight for a given vega risk factor k;

RW_σ shall be set at 55 %; and

$LH_{\text{risk class}}$ is the regulatory liquidity horizon to be prescribed in the determination of each vega risk factor k. $LH_{\text{risk class}}$ is determined in accordance with the following table:

Table 11

Risk class	$LH_{\text{risk class}}$
GIRR	60
CSR non-securitisations	120
CSR securitisations (ACTP)	120
CSR securitisations (non-ACTP)	120
Equity (large cap)	20
Equity (small cap)	60
Commodity	120
Foreign exchange	40

4. Buckets used in the context of delta risk in Subsection 1 shall be used in the curvature risk context unless specified otherwise in this Chapter.

5. For foreign exchange and equity curvature risk factors, the curvature risk weights shall be relative shifts equal to the delta risk weights referred to in Subsection 1.

6. For general interest rate, credit spread and commodity curvature risk factors, the curvature risk weight shall be the parallel shift of all the vertices for each curve on the basis of the highest prescribed delta risk weight referred to in Subsection 1 for the relevant risk class.

Article 325ay

Vega and curvature risk correlations

1. Between vega risk sensitivities within the same bucket of the general interest rate risk (GIRR) class, the correlation parameter ρ_{kl} shall be set as follows:

$$\rho_{kl} = \min\left\{\rho_{kl}^{(\text{option maturity})} \cdot \rho_{kl}^{(\text{underlying maturity})}; 1\right\}$$

where:

$\rho_{kl}^{(\text{option maturity})}$ shall be equal to $e^{-\alpha \cdot \frac{|T_k - T_l|}{\min\{T_k; T_l\}}}$ where α shall be set at 1 %, T_k and T_l shall be equal to the maturities of the options for which the vega sensitivities are derived, expressed as a number of years; and

$\rho_{kl}^{(\text{underlying maturity})}$ is equal to $e^{-\alpha \cdot \frac{|T_k^U - T_l^U|}{\min\{T_k^U; T_l^U\}}}$, where α is set at 1 %, T_k^U and T_l^U shall be equal to the maturities of the underlyings of the options for which the vega sensitivities are derived, minus the maturities of the corresponding options, expressed in both cases as a number of years.

2. Between vega risk sensitivities within a bucket of the other risk classes, the correlation parameter ρ_{kl} shall be set as follows:

$$\rho_{kl} = \min\left\{\rho_{kl}^{(\text{DELTA})} \cdot \rho_{kl}^{(\text{option maturity})}; 1\right\}$$

where:

$\rho_{kl}^{(\text{DELTA})}$ shall be equal to the delta intra-bucket correlation corresponding to the bucket to which vega risk factors k and l would be allocated; and

$\rho_{kl}^{(\text{option maturity})}$ shall be set in accordance with paragraph 1.

3. With regard to vega risk sensitivities between buckets within a risk class (GIRR and non-GIRR), the same correlation parameters for γ_{bc}, as specified for delta correlations for each risk class in Section 4, shall be used in the vega risk context.

4. There shall be no diversification or hedging benefit recognised in the standardised approach between vega risk factors and delta risk factors. Vega risk charges and delta risk charges shall be aggregated by simple summation.

5. The curvature risk correlations shall be the square of corresponding delta risk correlations ρ_{kl} and γ_{bc} referred to in Subsection 1.

CHAPTER 1B

Alternative internal model approach

Section 1

Permission and own funds requirements

Article 325az

Alternative internal model approach and permission to use alternative internal models

1. The alternative internal model approach as set out in this Chapter shall be used only for the purposes of the reporting requirement laid down in Article 430b(3).

2. After having verified institutions' compliance with the requirements set out in Articles 325bh, 325bi and 325bj, competent authorities shall grant permission to those institutions to calculate their own funds requirements for the portfolio of all positions assigned to trading desks by using their alternative internal models in accordance with Article 325ba, provided that all the following requirements are met:

(a) the trading desks were established in accordance with Article 104b;

(b) the institution has provided to the competent authority a rationale for the inclusion of the trading desks in the scope of the alternative internal model approach;

(c) the trading desks have met the back-testing requirements referred to in Article 325bf(3) for the preceding year;

(d) the institution has reported to its competent authorities the results of the profit and loss attribution ('P&L attribution') requirement for the trading desks set out in Article 325bg;

(e) for trading desks that have been assigned at least one of those trading book positions referred to in Article 325bl, the trading desks fulfil the requirements set out in Article 325bm for the internal default risk model;

(f) no securitisation or re-securitisation positions have been assigned to the trading desks.

For the purposes of point (b) of the first subparagraph of this paragraph, not including a trading desk in the scope of the alternative internal model approach shall not be motivated by the fact that the own funds requirement calculated under the alternative standardised approach set out in point (a) of Article 325(3) would be lower than the own funds requirement calculated under the alternative internal model approach.

3. Institutions that have received the permission to use the alternative internal model approach shall report to the competent authorities in accordance with Article 430b(3).

4. An institution that has been granted the permission referred to in paragraph 2 shall immediately notify its competent authorities that one of its trading desks no longer meets at least one of the requirements set out in that paragraph. That institution shall no longer be permitted to apply this Chapter to any of the positions assigned to that trading desk and shall calculate the own funds requirements for market risk in accordance with the approach set out in Chapter 1a for all the positions assigned to that trading desk from the earliest reporting date and until the institution demonstrates to the competent authorities that the trading desk again fulfils all the requirements set out in paragraph 2.

5. By way of derogation from paragraph 4, in extraordinary circumstances, competent authorities may permit an institution to continue using its alternative internal models for the purpose of calculating the own funds requirements for the market risk of a trading desk that no longer meets the conditions referred to in point (c) of paragraph 2 of this Article and in Article 325bg(1). When competent authorities exercise that discretion, they shall notify EBA and substantiate their decision.

6. For positions assigned to the trading desks for which an institution has not been granted permission as referred to in paragraph 2, the own funds requirements for market risk shall be calculated by that institution in accordance with Chapter 1a of this Title. For the purposes of that calculation, all those positions shall be considered on a stand-alone basis as a separate portfolio.

7. Material changes to the use of alternative internal models that an institution has received permission to use, the extension of the use of alternative internal models that the institution has received permission to use, and material changes to the institution's choice of the subset of the modellable risk factors referred to in Article 325bc(2), shall require separate permission from its competent authorities.

   Institutions shall notify the competent authorities of all other extensions and changes to the use of the alternative internal models for which the institution has received permission.

8. EBA shall develop draft regulatory technical standards to specify:

(a) the conditions for assessing the materiality of extensions and changes to the use of alternative internal models and changes to the subset of the modellable risk factors referred to in Article 325bc;

(b) the assessment methodology under which competent authorities verify an institution's compliance with the requirements set out in Articles 325bh, 325bi, 325bn, 325bo and 325bp.

EBA shall submit those draft regulatory technical standards to the Commission by … [five years after the date of entry into force of this amending Regulation]

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.

9. EBA shall develop draft regulatory technical standards to specify the extraordinary circumstances under which competent authorities may permit an institution:

(a) to continue using its alternative internal models for the purpose of calculating the own funds requirements for the market risk of a trading desk that no longer meets the conditions referred to in point (c) of paragraph 2 of this Article and in Article 325bg(1);

(b) to limit the add-on to the one resulting from overshootings under back-testing hypothetical changes.

EBA shall submit those draft regulatory technical standards to the Commission by … [five years after the date of entry into force of this amending Regulation].

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.

Article 325ba

Own funds requirements when using alternative internal models

1. An institution using an alternative internal model shall calculate the own funds requirements for the portfolio of all positions assigned to the trading desks for which the institution has been granted permission as referred to in Article 325az(2) as the higher of the following:

(a) the sum of the following values:

(i) the institution's previous day's expected shortfall risk measure, calculated in accordance with Article 325bb (ES_{t-1}), and

(ii) the institution's previous day's stress scenario risk measure, calculated in accordance with Section 5 (SS_{t-1}); or

(b) the sum of the following values:

(i) the average of the institution's daily expected shortfall risk measure, calculated in accordance with Article 325bb for each of the preceding sixty business days (ES^{avg}), multiplied by the multiplication factor (m_c); and

(ii) the average of the institution's daily stress scenario risk measure, calculated in accordance with Section 5 for each of the preceding sixty business days (SS^{avg}).

2. Institutions holding positions in traded debt and equity instruments that are included in the scope of the internal default risk model and assigned to the trading desks referred to in paragraph 1 shall fulfil an additional own funds requirement, expressed as the higher of the following values:

(a) the most recent own funds requirement for default risk, calculated in accordance with Section 3;

(b) the average of the amount referred to in point (a) over the preceding 12 weeks.

Section 2

General requirements

Article 325bb

Expected shortfall risk measure

1. Institutions shall calculate the expected shortfall risk measure referred to in point (a) of Article 325ba(1) for any given date 't' and for any given portfolio of trading book positions as follows:

$$ES_t = \rho \cdot (UES_t) + (1 - \rho) \cdot \sum_i UES_t^i$$

where:

ES_t = the expected shortfall risk measure;

i = the index that denotes the five broad categories of risk factors listed in the first column of Table 2 of Article 325bd;

UES_t = the unconstrained expected shortfall measure calculated as follows:

$$UES_t = PES_t^{RS} \cdot \max\left(\frac{PES_t^{FC}}{PES_t^{RC}}, 1\right)$$

UES_t^i = the unconstrained expected shortfall measure for broad risk factor category i and calculated as follows:

$$UES_t^i = PES_t^{RS,i} \cdot \max\left(\frac{PES_t^{FC,i}}{PES_t^{RC,i}}, 1\right)$$

ρ = the supervisory correlation factor across broad categories of risk; ρ = 50 %;

PES_t^{RS} = the partial expected shortfall measure that shall be calculated for all the positions in the portfolio in accordance with Article 325bc(2);

PES_t^{RC} = the partial expected shortfall measure that shall be calculated for all the positions in the portfolio in accordance with Article 325bc(3);

PES_t^{FC} = the partial expected shortfall measure that shall be calculated for all the positions in the portfolio in accordance with Article 325bc(4);

$PES_t^{RS,i}$ = the partial expected shortfall measure for broad risk factor category i that shall be calculated for all the positions in the portfolio in accordance with Article 325bc(2);

$PES_t^{RC,i}$ = the partial expected shortfall measure for broad risk factor category i that shall be calculated for all the positions in the portfolio in accordance with Article 325bc(3); and

$PES_t^{FC,i}$ = the partial expected shortfall measure for broad risk factor category i that shall be calculated for all the positions in the portfolio in accordance with of Article 325bc(4).

2. Institutions shall only apply scenarios of future shocks to the specific set of modellable risk factors applicable to each partial expected shortfall measure, as set out in Article 325bc, when determining each partial expected shortfall measure for the calculation of the expected shortfall risk measure in accordance with paragraph 1.

3. Where at least one transaction of the portfolio has at least one modellable risk factor which has been mapped to the broad risk factor category i in accordance with Article 325bd, institutions shall calculate the unconstrained expected shortfall measure for the broad risk factor category i and include it in the formula for the expected shortfall risk measure referred to in paragraph 1 of this Article.

4. By way of derogation from paragraph 1, an institution may reduce the frequency of the calculation of the unconstrained expected shortfall measures UES_t^i and of the partial expected shortfall measures $PES_t^{RS,i}$, $PES_t^{RC,i}$ and $PES_t^{FC,i}$ for all broad risk factor categories i from daily to weekly, provided that both of the following conditions are met:

   (a) the institution is able to demonstrate to its competent authority that calculating the unconstrained expected shortfall measure UES_t^i does not underestimate the market risk of the relevant trading book positions;

   (b) the institution is able to increase the frequency of calculation of UES_t^i, $PES_t^{RS,i}$, $PES_t^{RC,i}$ and $PES_t^{FC,i}$ from weekly to daily where required by its competent authority.

Article 325bc

Partial expected shortfall calculations

1. Institutions shall calculate all the partial expected shortfall measures referred to in Article 325bb(1) as follows:

   (a) daily calculations of the partial expected shortfall measures;

   (b) at 97,5th percentile, one tailed confidence interval;

(c) for a given portfolio of trading book positions, institution shall calculate the partial expected shortfall measure at time ‘t’ accordance with the following formula:

$$\mathrm{PES}_t = \sqrt{(\mathrm{PES}_t(\mathrm{T}))^2 + \sum_{j \geq 2} \left(\mathrm{PES}_t(\mathrm{T}, j) \cdot \sqrt{\frac{(\mathrm{LH}_j - \mathrm{LH}_{j-1})}{10}} \right)^2}$$

where:

PES_t = the partial expected shortfall measure at time t;

j = the index that denotes the five liquidity horizons listed in the first column of Table 1;

LH_j = the length of liquidity horizons j as expressed in days in Table 1;

T = the base time horizon, where T = 10 days;

$\mathrm{PES}_t(\mathrm{T})$ = the partial expected shortfall measure that is determined by applying scenarios of future shocks with a 10-day time horizon only to the specific set of modellable risk factors of the positions in the portfolio set out in paragraphs 2, 3 and 4 for each partial expected shortfall measure referred to in Article 325bb(1); and

$PES_t(T, j)$ = the partial expected shortfall measure that is determined by applying scenarios of future shocks with a 10-day time horizon only to the specific set of modellable risk factors of the positions in the portfolio set out in paragraphs 2, 3 and 4 for each partial expected shortfall measure referred to in Article 325bb(1) and of which the effective liquidity horizon, as determined in accordance with Article 325bd(2), is equal or longer than LH_j.

Table 1

Liquidity horizon j	Length of liquidity horizon j (in days)
1	10
2	20
3	40
4	60
5	120

2. For the purpose of calculating the partial expected shortfall measures PES_t^{RS} and $PES_t^{RS,i}$ referred to in Article 325bb(1), in addition to the requirements set out in paragraph 1 of this Article, institutions shall meet the following requirements:

(a) in calculating PES_t^{RS}, institutions shall only apply scenarios of future shocks to a subset of the modellable risk factors of the positions in the portfolio which has been chosen by the institution, to the satisfaction of the competent authorities, so that the following condition is met with the sum taken over from the preceding 60 business days:

$$\frac{1}{60} \cdot \sum_{k=0}^{59} \frac{PES_{t-k}^{RC}}{PES_{t-k}^{FC}} \geq 75\ \%$$

An institution that no longer meets the requirement referred to in the first paragraph of this point shall immediately notify the competent authorities thereof and shall update the subset of the modellable risk factors within two weeks in order to meet that requirement; where, after two weeks, that institution has failed to meet that requirement, the institution shall revert to the approach set out in Chapter 1a to calculate the own funds requirements for market risk for some trading desks, until that institution is able to demonstrate to the competent authority that it is meeting the requirement set out in the first subparagraph of this point;

(b) in calculating $PES_t^{RS,i}$, institutions shall only apply scenarios of future shocks to the subset of the modellable risk factors of the positions in the portfolio chosen by the institution for the purposes of point (a) of this paragraph and which have been mapped to the broad risk factor category 'i' in accordance with Article 325bd;

(c) the data inputs used to determine the scenarios of future shocks applied to the modellable risk factors referred to in points (a) and (b) shall be calibrated to historical data from a continuous 12-month period of financial stress that shall be identified by the institution in order to maximise the value of PES_t^{RS}; for the purpose of identifying that stress period, institutions shall use an observation period starting at least from 1 January 2007, to the satisfaction of the competent authorities; and

(d) the data inputs of $PES_t^{RS,i}$ shall be calibrated to the 12-month stress period that has been identified by the institution for the purposes of point (c).

3. For the purpose of calculating the partial expected shortfall measures PES_t^{RC} and $PES_t^{RC,i}$ referred to in Article 325bb(1), institutions shall, in addition to the requirements set out in paragraph 1 of this Article, meet the following requirements:

(a) in calculating PES_t^{RC}, institutions shall only apply scenarios of future shocks to the subset of the modellable risk factors of the positions in the portfolio referred to in point (a) of paragraph 2;

(b) in calculating $PES_t^{RC,i}$, institutions shall only apply scenarios of future shocks to the subset of the modellable risk factors of the positions in the portfolio referred to in point (b) of paragraph 2;

(c) the data inputs used to determine the scenarios of future shocks applied to the modellable risk factors referred to in points (a) and (b) of this paragraph shall be calibrated to historical data referred to in point (c) of paragraph 4; those data shall be updated on at least a monthly basis.

4. For the purpose of calculating the partial expected shortfall measures PES_t^{FC} and $PES_t^{FC,i}$ referred to in Article 325bb(1), institutions shall, in addition to the requirements set out in paragraph 1 of this Article, meet the following requirements:

(a) in calculating PES_t^{FC}, institutions shall apply scenarios of future shocks to all the modellable risk factors of the positions in the portfolio;

(b) in calculating $PES_t^{FC,i}$, institutions shall apply scenarios of future shocks to all the modellable risk factors of the positions in the portfolio which have been mapped to the broad risk factor category i in accordance with Article 325bd;

(c) the data inputs used to determine the scenarios of future shocks applied to the modellable risk factors referred to in points (a) and (b) shall be calibrated to historical data from the preceding 12-month period; where there is a significant upsurge in the price volatility of a material number of modellable risks factors of an institution's portfolio which are not in the subset of the risk factors referred to in point (a) of paragraph 2, competent authorities may require an institution to use historical data for a period shorter than the preceding 12-months, but such a shorter period shall not be shorter than the preceding six-months; competent authorities shall notify EBA of any decision to require an institution to use historical data from a shorter period than 12 months and shall substantiate that decision.

5. In calculating a given partial expected shortfall measure as referred to in Article 325bb(1), institutions shall maintain the values of the modellable risks factors for which they have not been required to apply scenarios of future shocks for that partial expected shortfall measure under paragraphs 2, 3 and 4 of this Article.

Article 325bd

Liquidity horizons

1. Institutions shall map each risk factor of positions assigned to the trading desks for which they have been granted permission as referred to in Article 325az(2), or for which they are in the process of being granted such permission, to one of the broad categories of risk factors listed in Table 2 and to one of the broad sub-categories of risk factors listed in that Table.

2. The liquidity horizon of a risk factor of the positions referred to in paragraph 1 shall be the liquidity horizon of the corresponding broad sub-category of risk factors to which it has been mapped.

3. By way of derogation from paragraph 1 of this Article, for a given trading desk, an institution may decide to replace the liquidity horizon of a broad sub-category of risk factors listed in Table 2 of this Article with one of the longer liquidity horizons listed in Table 1 of Article 325bc. Where an institution takes such a decision, the longer liquidity horizon shall apply to all the modellable risk factors of the positions assigned to that trading desk that have been mapped to that broad sub-category of risk factors for the purpose of calculating the partial expected shortfall measures in accordance with point (c) of Article 325bc(1).

   An institution shall notify the competent authorities of the trading desks and the broad sub-categories of risk factors to which it decides to apply the treatment referred to in the first subparagraph.

4. For the purpose of calculating the partial expected shortfall measures in accordance with point (c) of Article 325bc(1), the effective liquidity horizon of a given modellable risk factor of a given trading book position shall be calculated as follows:

$$\text{EffectiveLH} = \begin{cases} \text{SubCatLH if Mat} > \text{LH}_5 \\ \min\left(\text{SubCatLH}, \min_j\{\text{LH}_j/\text{LH}_j \geq \text{Mat}\}\right) \text{ if } \text{LH}_1 \leq \text{Mat} \leq \text{LH}_5 \\ \text{LH}_1 \text{ if Mat} < \text{LH}_1 \end{cases}$$

where:

EffectiveLH = the effective liquidity horizon;

Mat = the maturity of the trading book position;

SubCatLH = the length of liquidity horizon of the modellable risk factor determined in accordance with paragraph 1; and

$\min_j\{\text{LH}_j/\text{LH}_j \geq \text{Mat}\}$ = the length of one of the liquidity horizons listed in Table 1 of Article 325bc which is the nearest liquidity horizon above the maturity of the trading book position.

5. Currency pairs that are composed of the euro and the currency of a Member State participating in ERM II shall be included in the most liquid currency pairs sub-category within the broad category of foreign exchange risk factor of Table 2.

6. An institution shall verify the appropriateness of the mapping referred to in paragraph 1 on at least a monthly basis.

7. EBA shall develop draft regulatory technical standards to specify:

(a) how institutions are to map the risk factors of the positions referred to in paragraph 1 to broad categories of risk factors and broad sub-categories of risk factors for the purposes of paragraph 1;

(b) which currencies constitute the most liquid currencies sub-category of the broad category of interest rate risk factor of Table 2;

(c) which currency pairs constitute the most liquid currency pairs sub-category of the broad category of foreign exchange risk factor of Table 2;

(d) the definitions of small market capitalisation and large market capitalisation for the purposes of the equity price and volatility sub-category of the broad category of equity risk factor of Table 2.

EBA shall submit those draft regulatory technical standards to the Commission by … [nine months after the date of entry into force of this amending Regulation].

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.

Table 2

Broad categories of risk factors	Broad sub-categories of risk factors	Liquidity horizons	Length of the liquidity horizon (in days)
Interest rate	Most liquid currencies and domestic currency	1	10
	Other currencies (excluding most liquid currencies)	2	20
	Volatility	4	60
	Other types	4	60
Credit spread	Central government, including central banks, of Member States	2	20
	Covered bonds issued by credit institutions in Member States (Investment Grade)	2	20
	Sovereign (Investment grade)	2	20
	Sovereign (High yield)	3	40
	Corporate (Investment grade)	3	40
	Corporate (High yield)	4	60
	Volatility	5	120
	Other types	5	120
Equity	Equity price (Large market capitalisation)	1	10
	Equity price (Small market capitalisation)	2	20
	Volatility (Large market capitalisation)	2	20
	Volatility (Small market capitalisation)	4	60
	Other types	4	60

Broad categories of risk factors	Broad sub-categories of risk factors	Liquidity horizons	Length of the liquidity horizon (in days)
Foreign exchange	Most liquid currency pairs	1	10
	Other currency pairs (excluding most liquid currency pairs)	2	20
	Volatility	3	40
	Other types	3	40
Commodity	Energy price and carbon emissions price	2	20
	Precious metal price and non-ferrous metal price	2	20
	Other commodity prices (excluding energy price, carbon emissions price, precious metal price and non-ferrous metal price)	4	60
	Energy volatility and carbon emissions volatility	4	60
	Precious metal volatility and non-ferrous metal volatility	4	60
	Other commodity volatilities (excluding energy volatility, carbon emissions volatility, precious metal volatility and non-ferrous metal volatility)	5	120
	Other types	5	120

Article 325be

Assessment of the modellability of risk factors

1. Institutions shall assess the modellability of all the risk factors of the positions assigned to the trading desks for which they have been granted permission as referred to in Article 325az(2) or are in the process of being granted such permission.

2. As part of the assessment referred to in paragraph 1 of this Article, institutions shall calculate the own funds requirements for market risk in accordance with Article 325bk for those risk factors that are not modellable.

3. EBA shall develop draft regulatory technical standards to specify the criteria to assess the modellability of risk factors in accordance with paragraph 1 and to specify the frequency of that assessment.

   EBA shall submit those draft regulatory technical standards to the Commission by … [nine months after the date of entry into force of this amending Regulation].

   Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.

Article 325bf

Regulatory back-testing requirements and multiplication factors

1. For the purposes of this Article, an ‘overshooting’ means a one-day change in the value of a portfolio composed of all the positions assigned to the trading desk that exceeds the related value-at-risk number calculated on the basis of the institution’s alternative internal model in accordance with the following requirements:

   (a) the calculation of the value at risk shall be subject to a one-day holding period;

   (b) scenarios of future shocks shall apply to the risk factors of the trading desk’s positions referred to in Article 325bg(3) and which are considered modellable in accordance with Article 325be;

   (c) data inputs used to determine the scenarios of future shocks applied to the modellable risk factors shall be calibrated to historical data referred to in point (c) of Article 325bc(4);

   (d) unless stated otherwise in this Article, the institution’s alternative internal model shall be based on the same modelling assumptions as those used for the calculation of the expected shortfall risk measure referred to in point (a) of Article 325ba(1).

2. Institutions shall count daily overshootings on the basis of back-testing of the hypothetical and actual changes in the value of the portfolio composed of all the positions assigned to the trading desk.

3. An institution's trading desk shall be deemed to meet the back-testing requirements where the number of overshootings for that trading desk that occurred over the most recent 250 business days does not exceed any of the following:

   (a) 12 overshootings for the value-at-risk number, calculated at a 99th percentile one tailed-confidence interval on the basis of back-testing of the hypothetical changes in the value of the portfolio;

   (b) 12 overshootings for the value-at-risk number, calculated at a 99th percentile one tailed-confidence interval on the basis of back-testing of the actual changes in the value of the portfolio;

   (c) 30 overshootings for the value-at-risk number, calculated at a 97,5th percentile one tailed-confidence interval on the basis of back-testing of the hypothetical changes in the value of the portfolio;

   (d) 30 overshootings for the value-at-risk number, calculated at a 97,5th percentile one tailed-confidence interval on the basis of back-testing of the actual changes in the value of the portfolio.

4. Institutions shall count daily overshootings in accordance with the following:

   (a) the back-testing of hypothetical changes in the value of the portfolio shall be based on a comparison between the end-of-day value of the portfolio and, assuming unchanged positions, the value of the portfolio at the end of the subsequent day;

(b) the back-testing of actual changes in the value of the portfolio shall be based on a comparison between the end-of-day value of the portfolio and its actual value at the end of the subsequent day, excluding fees and commissions;

(c) an overshooting shall be counted for each business day for which the institution is not able to assess the value of the portfolio or is not able to calculate the value-at-risk number referred to in paragraph 3.

5. An institution shall calculate, in accordance with paragraphs 6 and 7 of this Article, the multiplication factor (m_c) referred to in Article 325ba for the portfolio of all the positions assigned to the trading desks for which it has been granted permission to use alternative internal models as referred to in Article 325az(2).

6. The multiplication factor (m_c) shall be the sum of the value of 1,5 and an add-on between 0 and 0,5 in accordance with Table 3. For the portfolio referred to in paragraph 5, that add-on shall be calculated on the basis of the number of overshootings that occurred over the most recent 250 business days as evidenced by the institution's back-testing of the value-at-risk number calculated in accordance with point (a) of this subparagraph. The calculation of the add-on shall be subject to the following requirements:

(a) an overshooting shall be a one-day change in the portfolio's value that exceeds the related value-at-risk number calculated by the institution's internal model in accordance with the following:

(i) a one-day holding period;

(ii) a 99th percentile, one tailed confidence interval;

(iii) scenarios of future shocks shall apply to the risk factors of the trading desks' positions referred to in Article 325bg(3) and which are considered modellable in accordance with Article 325be;

(iv) the data inputs used to determine the scenarios of future shocks applied to the modellable risk factors shall be calibrated to historical data referred to in point (c) of Article 325bc(4);

(v) unless stated otherwise in this Article, the institution's internal model shall be based on the same modelling assumptions as those used for the calculation of the expected shortfall risk measure referred to in point (a) of Article 325ba(1);

(b) the number of overshootings shall be equal to the greater of the number of overshootings under hypothetical and the actual changes in the value of the portfolio.

Table 3

Number of overshootings	Add-on
Fewer than 5	0,00
5	0,20
6	0,26
7	0,33
8	0,38
9	0,42
More than 9	0,50

In extraordinary circumstances, competent authorities may limit the add-on to that resulting from overshootings under back-testing hypothetical changes where the number of overshootings under back-testing actual changes does not result from deficiencies in the internal model.

7. Competent authorities shall monitor the appropriateness of the multiplication factor referred to in paragraph 5 and the compliance of trading desks with the back-testing requirements referred to in paragraph 3. Institutions shall promptly notify, the competent authorities of overshootings that result from their back-testing programme and provide an explanation for those overshootings, and in any case shall notify the competent authorities thereof no later than within five business days after the occurrence of an overshooting.

8. By way of derogation from paragraphs 2 and 6 of this Article, competent authorities may permit an institution not to count an overshooting where a one-day change in the value of its portfolio that exceeds the related value-at-risk number calculated by that institution's internal model is attributable to a non-modellable risk factor. To do so, the institution shall demonstrate to its competent authority that the stress scenario risk measure calculated in accordance with Article 325bk for that non-modellable risk factor is higher than the positive difference between the change in the value of the institution's portfolio and the related value-at-risk number.

9. EBA shall develop draft regulatory technical standards to specify the technical elements to be included in the actual and hypothetical changes to the value of the portfolio of an institution for the purposes of this Article.

   EBA shall submit those draft regulatory technical standards to the Commission by … [nine months after the date of entry into force of this amending Regulation].

   Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.

Article 325bg

Profit and loss attribution requirement

1. An institution's trading desk meets the P&L attribution requirements where that trading desk complies with the requirements set out in this Article.

2. The P&L attribution requirement shall ensure that the theoretical changes in the value of a trading desk's portfolio, based on the institution's risk-measurement model, are sufficiently close to the hypothetical changes in the value of the trading desk's portfolio, based on the institution's pricing model.

3. For each position of a given trading desk, an institution's compliance with the P&L attribution requirement shall lead to the identification of a precise list of risk factors that are deemed appropriate for verifying the institution's compliance with the back-testing requirement set out in Article 325bf.

4. EBA shall develop draft regulatory technical standards to specify:

   (a) the criteria necessary to ensure that the theoretical changes in the value of a trading desk's portfolio is sufficiently close to the hypothetical changes in the value of a trading desk's portfolio for the purposes of paragraph 2, taking into account international regulatory developments;

   (b) the consequences for an institution where the theoretical changes in the value of a trading desk's portfolio are not sufficiently close to the hypothetical changes in the value of a trading desk's portfolio for the purposes of paragraph 2;

   (c) the frequency at which the P&L attribution is to be performed by an institution;

(d) the technical elements to be included in the theoretical and hypothetical changes in the value of a trading desk's portfolio for the purposes of this Article;

(e) the manner in which institutions that use the internal model are to aggregate the total own funds requirement for market risk for all their trading book positions and non-trading book positions that are subject to foreign exchange risk or commodity risk, taking into account the consequences referred to in point (b).

EBA shall submit those draft regulatory technical standards to the Commission by … [nine months after the date of entry into force of this amending Regulation].

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.

Article 325bh

Requirements on risk measurement

1. Institutions using an internal risk-measurement model that is used to calculate the own funds requirements for market risk as referred to in Article 325ba shall ensure that that model meets all the following requirements:

   (a) the internal risk-measurement model shall capture a sufficient number of risk factors, which shall include at least the risk factors referred to in Subsection 1 of Section 3 of Chapter 1a unless the institution demonstrates to the competent authorities that the omission of those risk factors does not have a material impact on the results of the P&L attribution requirement referred to in Article 325bg; an institution shall be able to explain to the competent authorities why it has incorporated a risk factor in its pricing model but not in its internal risk-measurement model;

   (b) the internal risk-measurement model shall capture nonlinearities for options and other products as well as correlation risk and basis risk;

(c) the internal risk-measurement model shall incorporate a set of risk factors that correspond to the interest rates in each currency in which the institution has interest rate sensitive on- or off-balance-sheet positions; the institution shall model the yield curves using one of the generally accepted approaches; the yield curve shall be divided into various maturity segments to capture the variations of volatility of rates along the yield curve; for material exposures to interest-rate risk in the major currencies and markets, the yield curve shall be modelled using a minimum of six maturity segments, and the number of risk factors used to model the yield curve shall be proportionate to the nature and complexity of the institution's trading strategies, the model shall also capture the risk spread of less than perfectly correlated movements between different yield curves or different financial instruments on the same underlying issuer;

(d) the internal risk-measurement model shall incorporate risk factors corresponding to gold and to the individual foreign currencies in which the institution's positions are denominated; for CIUs, the actual foreign exchange positions of the CIU shall be taken into account; institutions may rely on third-party reporting of the foreign exchange position of the CIU, provided that the correctness of that report is adequately ensured; foreign exchange positions of a CIU of which an institution is not aware of shall be carved out from the internal models approach and treated in accordance with Chapter 1a;

(e) the sophistication of the modelling technique shall be proportionate to the materiality of the institutions' activities in the equity markets; the internal risk-measurement model shall use a separate risk factor at least for each of the equity markets in which the institution holds significant positions and at least one risk factor that captures systemic movements in equity prices and the dependency of that risk factor on the individual risk factors for each equity market;

(f) the internal risk-measurement model shall use a separate risk factor at least for each commodity in which the institution holds significant positions, unless the institution has a small aggregate commodity position compared to all its trading activities, in which case it may use a separate risk factor for each broad commodity type; for material exposures to commodity markets, the model shall capture the risk of less than perfectly correlated movements between commodities that are similar, but not identical, the exposure to changes in forward prices arising from maturity mismatches, and the convenience yield between derivative and cash positions;

(g) the proxies used shall show a good track record for the actual position held, shall be appropriately conservative, and shall be used only where the available data are insufficient, such as during the period of stress referred to in point (c) of Article 325bc(2);

(h) for material exposures to volatility risks in instruments with optionality, the internal risk-measurement model shall capture the dependency of implied volatilities across strike prices and options' maturities.

2. Institutions may use empirical correlations within broad categories of risk factors and, for the purpose of calculating the unconstrained expected shortfall measure UES_t as referred to in Article 325bb(1), across broad categories of risk factors only where the institution's approach for measuring those correlations is sound, consistent with the applicable liquidity horizons, and implemented with integrity.

3. By … [fifteen months after the date of entry into force of this amending Regulation], EBA shall issue guidelines, in accordance with Article 16 of Regulation (EU) No 1093/2010, specifying criteria for the use of data inputs in the risk-measurement model referred to in Article 325bc.

Article 325bi

Qualitative requirements

1. Any internal risk-measurement model used for the purposes of this Chapter shall be conceptually sound, shall be calculated and implemented with integrity, and shall comply with all the following qualitative requirements:

   (a) any internal risk-measurement model used to calculate capital requirements for market risk shall be closely integrated into the daily risk management process of the institution and shall serve as the basis for reporting risk exposures to senior management;

   (b) an institution shall have a risk control unit that is independent from business trading units and that reports directly to senior management; that unit shall be responsible for designing and implementing any internal risk-measurement model; that unit shall conduct the initial and on-going validation of any internal model used for the purposes of this Chapter and shall be responsible for the overall risk management system; that unit shall produce and analyse daily reports on the output of any internal model used to calculate capital requirements for market risk, as well as reports on the appropriateness of measures to be taken in terms of trading limits;

(c) the management body and senior management shall be actively involved in the risk-control process, and the daily reports produced by the risk control unit shall be reviewed at a level of management with sufficient authority to require the reduction of positions taken by individual traders and to require the reduction of the institution's overall risk exposure;

(d) the institution shall have a sufficient number of staff with a level of skills that is appropriate to the sophistication of the internal risk-measurement models, and a sufficient number of staff with skills in the trading, risk control, audit and back-office areas;

(e) the institution shall have in place a documented set of internal policies, procedures and controls for monitoring and ensuring compliance with the overall operation of its internal risk-measurement models;

(f) any internal risk-measurement model, including any pricing model, shall have a proven track record of being reasonably accurate in measuring risks, and shall not differ significantly from the models that the institution uses for its internal risk management;

(g) the institution shall frequently conduct rigorous programmes of stress testing, including reverse stress tests, which shall encompass any internal risk-measurement model; the results of those stress tests shall be reviewed by senior management at least on a monthly basis and shall comply with the policies and limits approved by the management body; the institution shall take appropriate actions where the results of those stress tests show excessive losses arising from the trading's business of the institution under certain circumstances;

(h) the institution shall conduct an independent review of its internal risk-measurement models, either as part of its regular internal auditing process, or by mandating a third-party undertaking to conduct that review, which shall be conducted to the satisfaction of the competent authorities.

For the purposes of point (h) of the first subparagraph, a third-party undertaking means an undertaking that provides auditing or consulting services to institutions and that has staff who have sufficient skills in the area of market risk in trading activities.

2. The review referred to in point (h) of paragraph 1 shall include both the activities of the business trading units and the independent risk control unit. The institution shall conduct a review of its overall risk management process at least once a year. That review shall assess the following:

(a) the adequacy of the documentation of the risk management system and process and the organisation of the risk control unit;

(b) the integration of risk measures into daily risk management and the integrity of the management information system;

(c) the processes the institution employs for approving the risk-pricing models and valuation systems that are used by front and back-office personnel;

(d) the scope of risks captured by the model, the accuracy and appropriateness of the risk-measurement system, and the validation of any significant changes to the internal risk-measurement model;

(e) the accuracy and completeness of position data, the accuracy and appropriateness of volatility and correlation assumptions, the accuracy of valuation and risk sensitivity calculations, and the accuracy and appropriateness for generating data proxies where the available data are insufficient to meet the requirement set out in this Chapter;

(f) the verification process that the institution employs to evaluate the consistency, timeliness and reliability of the data sources used to run any of its internal risk-measurement models, including the independence of those data sources;

(g) the verification process that the institution employs to evaluate back-testing requirements and P&L attribution requirements that are conducted in order to assess the accuracy of its internal risk-measurement models;

(h) where the review is performed by a third-party undertaking in accordance with point (h) of paragraph 1 of this Article, the verification that the internal validation process set out in Article 325bj fulfils its objectives.

3. Institutions shall update the techniques and practices they use for any of the internal risk-measurement models used for the purposes of this Chapter to take into account the evolution of new techniques and best practices that develop in respect of those internal risk-measurement models.

Article 325bj
Internal validation

1. Institutions shall have processes in place to ensure that any internal risk-measurement models used for the purposes of this Chapter have been adequately validated by suitably qualified parties that are independent of the development process, in order to ensure that any such models are conceptually sound and adequately capture all material risks.

2. Institutions shall conduct the validation referred to in paragraph 1 in the following circumstances:

(a) when any internal risk-measurement model is initially developed and when any significant changes are made to that model;

(b) on a periodic basis, and where there have been significant structural changes in the market or changes to the composition of the portfolio which might lead to the internal risk-measurement model no longer being adequate.

3. The validation of the internal risk-measurement models of an institution shall not be limited to back-testing and P&L attribution requirements, but shall, at a minimum, include the following:

(a) tests to verify whether the assumptions made in the internal model are appropriate and do not underestimate or overestimate the risk;

(b) own internal model validation tests, including back-testing in addition to the regulatory back-testing programmes, in relation to the risks and structures of their portfolios;

(c) the use of hypothetical portfolios to ensure that the internal risk-measurement model is able to account for particular structural features that may arise, for example, material basis risks and concentration risk, or the risks associated with the use of proxies.

Article 325bk

Calculation of stress scenario risk measure

1. The ‘stress scenario risk measure’ of a given non-modellable risk factor means the loss that is incurred in all trading book positions or non-trading book positions that are subject to foreign exchange or commodity risk of the portfolio which includes that non-modellable risk factor when an extreme scenario of future shock is applied to that risk factor.

2. Institutions shall develop appropriate extreme scenarios of future shock for all non-modellable risk factors, to the satisfaction of their competent authorities.

3. EBA shall develop draft regulatory technical standards to specify:

   (a) how institutions are to develop extreme scenarios of future shock applicable to non-modellable risk factors and how they are to apply those extreme scenarios of future shock to those risk factors;

   (b) a regulatory extreme scenario of future shock for each broad sub-category of risk factors listed in Table 2 of Article 325bd, which institutions may use when they are unable to develop an extreme scenario of future shock in accordance with point (a) of this subparagraph, or which competent authorities may require that institution apply if those authorities are not satisfied with the extreme scenario of future shock developed by the institution;

(c) the circumstances under which institutions may calculate a stress scenario risk measure for more than one non-modellable risk factor;

(d) how institutions are to aggregate the stress scenario risk measures of all non-modellable risk factors included in their trading book positions and non-trading book positions that are subject to foreign exchange risk or commodity risk.

In developing those draft regulatory technical standards, EBA shall take into consideration the requirement that the level of own funds requirements for market risk of a non-modellable risk factor as set out in this Article shall be as high as the level of own funds requirements for market risk that would have been calculated under this Chapter if that risk factor were modellable.

EBA shall submit those draft regulatory technical standards to the Commission by … [fifteen months after the date of entry into force of this amending Regulation].

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.

Section 3

Internal default risk model

Article 325bl

Scope of the internal default risk model

1. All the positions of an institution that have been assigned to the trading desks for which the institution has been granted permission as referred to in Article 325az(2) shall be subject to an own funds requirement for default risk where those positions contain at least one risk factor that has been mapped to the broad categories of 'equity' or 'credit spread' risk factors in accordance with Article 325bd(1). That own funds requirement, which is incremental to the risks captured by the own funds requirements referred to in Article 325ba(1), shall be calculated using the institution's internal default risk model. That model which shall comply with the requirements laid down in this Section.

2. For each of the positions referred to in paragraph 1, an institution shall identify one issuer of traded debt or equity instruments related to at least one risk factor.

Article 325bm

Permission to use an internal default risk model

1. Competent authorities shall grant an institution permission to use an internal default risk model to calculate the own funds requirements referred to in Article 325ba(2) for all the trading book positions referred to in Article 325bl that are assigned to a trading desk for which the internal default risk model complies with the requirements set out in Articles 325bi, 325bj, 325bn, 325bo and 325bp.

2. Where the trading desk of an institution, to which at least one of the trading book positions referred to in Article 325bl has been assigned, does not meet the requirements set out in paragraph 1 of this Article, the own funds requirements for market risk of all positions in that trading desk shall be calculated in accordance with the approach set out in Chapter 1a.

Article 325bn

Own funds requirements for default risk using an internal default risk model

1. Institutions shall calculate the own funds requirements for default risk using an internal default risk model for the portfolio of all trading book positions as referred to in Article 325bl as follows:

   (a) the own funds requirements shall be equal to a value-at-risk number measuring potential losses in the market value of the portfolio caused by the default of issuers related to those positions at the 99,9 % confidence interval over a one-year time horizon;

(b) the potential loss referred to in point (a) means a direct or indirect loss in the market value of a position which was caused by the default of the issuers and which is incremental to any losses already taken into account in the current valuation of the position; the default of the issuers of equity positions shall be represented by the value for the issuers' equity prices being set to zero;

(c) institutions shall determine default correlations between different issuers on the basis of a conceptually sound methodology, using objective historical data on market credit spreads or equity prices that cover at least a 10 year period that includes the stress period identified by the institution in accordance with Article 325bc(2); the calculation of default correlations between different issuers shall be calibrated to a one-year time horizon;

(d) the internal default risk model shall be based on a one-year constant position assumption.

2. Institutions shall calculate the own funds requirement for default risk using an internal default risk model as referred to in paragraph 1 on at least a weekly basis.

3. By way of derogation from points (a) and (c) of paragraph 1, an institution may replace the one-year time horizon with a time horizon of sixty days for the purpose of calculating the default risk of some or all of the equity positions, where appropriate. In such case, the calculation of default correlations between equity prices and default probabilities shall be consistent with a time horizon of sixty days and the calculation of default correlations between equity prices and bond prices shall be consistent with a one-year time horizon.

Article 325bo

Recognition of hedges in an internal default risk model

1. Institutions may incorporate hedges in their internal default risk model and may net positions where the long positions and short positions relate to the same financial instrument.

2. In their internal default risk models, institutions may only recognise hedging or diversification effects associated with long and short positions involving different instruments or different securities of the same obligor, as well as long and short positions in different issuers by explicitly modelling the gross long and short positions in the different instruments, including modelling of basis risks between different issuers.

3. In their internal default risk models, institutions shall capture material risks between a hedging instrument and the hedged instrument that could occur during the interval between the maturity of a hedging instrument and the one-year time horizon, as well as the potential for significant basis risks in hedging strategies that arise from differences in the type of product, seniority in the capital structure, internal or external ratings, maturity, vintage and other differences. Institutions shall recognise a hedging instrument only to the extent that it can be maintained even as the obligor approaches a credit event or other event.

Article 325bp

Particular requirements for an internal default risk model

1. The internal default risk model referred to in Article 325bm(1) shall be capable of modelling the default of individual issuers as well as the simultaneous default of multiple issuers, and shall take into account the impact of those defaults in the market values of the positions that are included in the scope of that model. For that purpose, the default of each individual issuer shall be modelled using two types of systematic risk factors.

2. The internal default risk model shall reflect the economic cycle, including the dependency between recovery rates and the systematic risk factors referred to in paragraph 1.

3. The internal default risk model shall reflect the nonlinear impact of options and other positions with material nonlinear behaviour with respect to price changes. Institutions shall also have due regard to the amount of model risk inherent in the valuation and estimation of price risks associated with those products.

4. The internal default risk model shall be based on data that are objective and up-to-date.

5. To simulate the default of issuers in the internal default risk model, the institution's estimates of default probabilities shall meet the following requirements:

   (a) the default probabilities shall be floored at 0,03 %;

   (b) the default probabilities shall be based on a one-year time horizon, unless stated otherwise in this Section;

   (c) the default probabilities shall be measured using, solely or in combination with current market prices, data observed during a historical period of at least five years of actual past defaults and extreme declines in market prices equivalent to default events; default probabilities shall not be inferred solely from current market prices;

(d) an institution that has been granted permission to estimate default probabilities in accordance with Section 1 of Chapter 3 of Title II shall use the methodology set out therein to calculate default probabilities;

(e) an institution that has not been granted permission to estimate default probabilities in accordance with Section 1 of Chapter 3 of Title II shall develop an internal methodology or use external sources to estimate default probabilities; in both situations, the estimates of default probabilities shall be consistent with the requirements set out in this Article.

6. To simulate the default of issuers in the internal default risk model, the institution's estimates of loss given default shall meet the following requirements:

(a) the loss given default estimates are floored at 0 %;

(b) the loss given default estimates shall reflect the seniority of each position;

(c) an institution that has been granted permission to estimate loss given default in accordance with Section 1 of Chapter 3 of Title II shall use the methodology set out therein to calculate loss given default estimates;

(d) an institution that has not been granted permission to estimate loss given default in accordance with Section 1 of Chapter 3 of Title II shall develop an internal methodology or use external sources to estimate loss given default; in both situations, the estimates of loss given default shall be consistent with the requirements set out in this Article.

7. As part of the independent review and validation of the internal models that they use for the purposes of this Chapter, including for the risk-measurement system, institutions shall:

(a) verify that their approach for the modelling of correlations and price changes is appropriate for their portfolio, including the choice and weights of the systematic risk factors in the model;

(b) perform a variety of stress tests, including sensitivity analyses and scenario analyses, to assess the qualitative and quantitative reasonableness of the internal default risk model, in particular with regard to the treatment of concentrations; and

(c) apply appropriate quantitative validation including relevant internal modelling benchmarks.

The tests referred to in point (b) shall not be limited to the range of past events experienced.

8. The internal default risk model shall appropriately reflect issuer concentrations and concentrations that can arise within and across product classes under stressed conditions.

9. The internal default risk model shall be consistent with the institution's internal risk management methodologies for identifying, measuring, and managing trading risks.

10. Institutions shall have clearly defined policies and procedures for determining the default assumptions for correlations between different issuers in accordance with point (c) of Article 325bn(1) and the preferred choice of method for estimating the default probabilities in point (e) of paragraph 5 of this Article and the loss given default in point (d) of paragraph 6 of this Article.

11. Institutions shall document their internal models so that their correlation assumptions and other modelling assumptions are transparent to the competent authorities.

12. EBA shall develop draft regulatory technical standards to specify the requirements that an institution's internal methodology or external sources are to fulfil for estimating default probabilities and losses given default in accordance with point (e) of paragraph 5 and point (d) of paragraph 6.

    EBA shall submit those draft regulatory technical standards to the Commission by … [15 months after the date of entry into force of this amending Regulation].

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.";

(91) in Article 384(1), the definition of EAD_i^{total} is replaced by the following:

"EAD_i^{total} = the total counterparty credit risk exposure value of counterparty 'i' (summed across its netting sets) including the effect of collateral in accordance with the methods set out in Sections 3 to 6 of Chapter 6 of Title II as applicable to the calculation of the own funds requirements for counterparty credit risk for that counterparty.";

(92) Article 385 is replaced by the following:

"*Article 385*
Alternative to using CVA methods for calculating own funds requirements

As an alternative to Article 384, for instruments referred to in Article 382 and subject to the prior consent of the competent authority, institutions using the Original Exposure Method as laid down in Article 282 may apply a multiplication factor of 10 to the resulting risk-weighted exposure amounts for counterparty credit risk for those exposures instead of calculating the own funds requirements for CVA risk.";

(93) Article 390 is replaced by the following:

"*Article 390*

Calculation of the exposure value

1. The total exposures to a group of connected clients shall be calculated by adding together the exposures to individual clients in that group.

2. The overall exposures to individual clients shall be calculated by adding the exposures in the trading book and the exposures in the non-trading book.

3. For exposures in the trading book, institutions may:

   (a) offset their long positions and short positions in the same financial instruments issued by a given client, with the net position in each of the different instruments being calculated in accordance with the methods laid down in Chapter 2 of Title IV of Part Three;

   (b) offset their long positions and short positions in different financial instruments issued by a given client, but only where the financial instrument underlying the short position is junior to the financial instrument underlying the long position or where the underlying instruments are of the same seniority.

   For the purposes of points (a) and (b), financial instruments may be allocated into buckets on the basis of different degrees of seniority in order to determine the relative seniority of positions.

4. Institutions shall calculate the exposure values of the derivative contracts listed in Annex II and of credit derivative contracts directly entered into with a client in accordance with one of the methods set out in Sections 3, 4 and 5 of Chapter 6 of Title II of Part Three, as applicable. Exposures resulting from the transactions referred to in Articles 378, 379 and 380 shall be calculated in the manner laid down in those Articles.

When calculating the exposure value for the contracts referred to in the first subparagraph, where those contracts are allocated to the trading book, institutions shall also comply with the principles set out in Article 299.

By way of derogation from the first subparagraph, institutions with permission to use the methods referred to in Section 4 of Chapter 4 of Title II of Part Three and Section 6 of Chapter 6 of Title II of Part Three may use those methods for calculating the exposure value for securities financing transactions.

5. Institutions shall add to the total exposure to a client the exposures arising from derivative contracts listed in Annex II and credit derivative contracts, where the contract was not directly entered into with that client but the underlying debt or equity instrument was issued by that client.

6. Exposures shall not include any of the following:

   (a) in the case of foreign exchange transactions, exposures incurred in the ordinary course of settlement during the two business days following payment;

(b) in the case of transactions for the purchase or sale of securities, exposures incurred in the ordinary course of settlement during the five business days following payment or delivery of the securities, whichever is the earlier;

(c) in the case of the provision of money transmission including the execution of payment services, clearing and settlement in any currency and correspondent banking or financial instruments clearing, settlement and custody services to clients, delayed receipts in funding and other exposures arising from client activity which do not last longer than the following business day;

(d) in the case of the provision of money transmission including the execution of payment services, clearing and settlement in any currency and correspondent banking, intra-day exposures to institutions providing those services;

(e) exposures deducted from Common Equity Tier 1 items or Additional Tier 1 items in accordance with Articles 36 and 56 or any other deduction from those items that reduces the solvency ratio.

7. To determine the overall exposure to a client or a group of connected clients, in respect of clients to which the institution has exposures through transactions referred to in points (m) and (o) of Article 112 or through other transactions where there is an exposure to underlying assets, an institution shall assess its underlying exposures taking into account the economic substance of the structure of the transaction and the risks inherent in the structure of the transaction itself, in order to determine whether it constitutes an additional exposure.

8. EBA shall develop draft regulatory technical standards to specify:

(a) the conditions and methodologies to be used to determine the overall exposure to a client or a group of connected clients for the types of exposures referred to in paragraph 7;

(b) the conditions under which the structure of the transactions referred to in paragraph 7 do not constitute an additional exposure.

EBA shall submit those draft regulatory technical standards to the Commission by 1 January 2014.

Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.

9. For the purposes of paragraph 5, EBA shall develop draft regulatory technical standards to specify how to determine the exposures arising from derivative contracts listed in Annex II and credit derivative contracts, where the contract was not directly entered into with a client but the underlying debt or equity instrument was issued by that client for their inclusion into the exposures to the client.

EBA shall submit those draft regulatory technical standards to the Commission by … [nine months after the date of entry into force of this amending Regulation].

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.";

(94) in Article 391, the following paragraph is added:

"For the purposes of the first paragraph, the Commission may adopt, by means of implementing acts, and subject to the examination procedure referred to in Article 464(2), decisions as to whether a third country applies prudential supervisory and regulatory requirements at least equivalent to those applied in the Union.";

(95) Article 392 is replaced by the following:

"*Article 392*
Definition of a large exposure

An institution's exposure to a client or a group of connected clients shall be considered a large exposure where the value of the exposure is equal to or exceeds 10 % of its Tier 1 capital.";

(96) Article 394 is replaced by the following:

"*Article 394*

Reporting requirements

1. Institutions shall report the following information to their competent authorities for each large exposure that they hold, including large exposures exempted from the application of Article 395(1):

   (a) the identity of the client or the group of connected clients to which the institution has a large exposure;

   (b) the exposure value before taking into account the effect of the credit risk mitigation, where applicable;

   (c) where used, the type of funded or unfunded credit protection;

   (d) the exposure value, after taking into account the effect of the credit risk mitigation calculated for the purposes of Article 395(1), where applicable.

   Institutions that are subject to Chapter 3 of Title II of Part Three shall report their 20 largest exposures to their competent authorities on a consolidated basis, excluding the exposures exempted from the application of Article 395(1).

Institutions shall also report exposures of a value greater than or equal to EUR 300 million but less than 10 % of the institution's Tier 1 capital to their competent authorities on a consolidated basis.

2. In addition to the information referred to in paragraph 1 of this Article, institutions shall report the following information to their competent authorities in relation to their 10 largest exposures to institutions on a consolidated basis, as well as their 10 largest exposures to shadow banking entities which carry out banking activities outside the regulated framework on a consolidated basis, including large exposures exempted from the application of Article 395(1):

   (a) the identity of the client or the group of connected clients to which an institution has a large exposure;

   (b) the exposure value before taking into account the effect of the credit risk mitigation, where applicable;

   (c) where used, the type of funded or unfunded credit protection;

   (d) the exposure value after taking into account the effect of the credit risk mitigation calculated for the purposes of Article 395(1), where applicable.

3. Institutions shall report the information referred to in paragraphs 1 and 2 to their competent authorities on at least a semi-annual basis.

4. EBA shall develop draft regulatory technical standards to specify the criteria for the identification of shadow banking entities referred to in paragraph 2.

In developing those draft regulatory technical standards, EBA shall take into account international developments and internationally agreed standards on shadow banking and shall consider whether:

(a) the relation with an individual entity or a group of entities may carry risks to the institution's solvency or liquidity position;

(b) entities that are subject to solvency or liquidity requirements similar to those imposed by this Regulation and Directive 2013/36/EU should be entirely or partially excluded from the obligation to be reported referred to in paragraph 2 on shadow banking entities.

EBA shall submit those draft regulatory technical standards to the Commission by … [one year after the date of entry into force of this amending Regulation].

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.";

(97) Article 395 is amended as follows:

(a) paragraph 1 is replaced by the following:

"1. An institution shall not incur an exposure, after taking into account the effect of the credit risk mitigation in accordance with Articles 399 to 403, to a client or a group of connected clients the value of which exceeds 25 % of its Tier 1 capital. Where that client is an institution or where a group of connected clients includes one or more institutions, that value shall not exceed 25 % of the institution's Tier 1 capital or EUR 150 million, whichever is higher, provided that the sum of exposure values, after taking into account the effect of the credit risk mitigation in accordance with Articles 399 to 403, to all connected clients that are not institutions does not exceed 25 % of the institution's Tier 1 capital.

Where the amount of EUR 150 million is higher than 25 % of the institution's Tier 1 capital, the value of the exposure, after having taken into account the effect of credit risk mitigation in accordance with Articles 399 to 403 of this Regulation, shall not exceed a reasonable limit in terms of that institution's Tier 1 capital. That limit shall be determined by the institution in accordance with the policies and procedures referred to in Article 81 of Directive 2013/36/EU in order to address and control concentration risk. That limit shall not exceed 100 % of the institution's Tier 1 capital.

Competent authorities may set a lower limit than EUR 150 million, in which case they shall inform EBA and the Commission thereof.

By way of derogation from the first subparagraph of this paragraph, a G-SII shall not incur an exposure to another G-SII or a non-EU G-SII, the value of which, after taking into account the effect of the credit risk mitigation in accordance with Articles 399 to 403, exceeds 15 % of its Tier 1 capital. A G-SII shall comply with such limit no later than 12 months from the date on which it came to be identified as a G-SII. Where the G-SII has an exposure to another institution or group which comes to be identified as a G-SII or as a non-EU G-SII, it shall comply with such limit no later than 12 months from the date on which that other institution or group came to be identified as a G-SII or as a non-EU G-SII.";

(b) paragraph 5 is replaced by the following:

"5. The limits laid down in this Article may be exceeded for the exposures in the institution's trading book, provided that all the following conditions are met:

(a) the exposure in the non-trading book to the client or group of connected clients in question does not exceed the limit laid down in paragraph 1, this limit being calculated with reference to Tier 1 capital, so that the excess arises entirely in the trading book;

(b) the institution meets an additional own funds requirement on the part of the exposure in excess of the limit laid down in paragraph 1 of this Article which is calculated in accordance with Articles 397 and 398;

(c) where 10 days or less have elapsed since the excess referred to in point (b) occurred, the trading-book exposure to the client or group of connected clients in question does not exceed 500 % of the institution's Tier 1 capital;

(d) any excesses that have persisted for more than 10 days do not, in aggregate, exceed 600 % of the institution's Tier 1 capital.

Each time the limit has been exceeded, the institution shall report to the competent authorities without delay the amount of the excess and the name of the client concerned and, where applicable, the name of the group of connected clients concerned.";

(98) Article 396 is amended as follows:

(a) paragraph 1 is amended as follows:

(i) the second subparagraph is replaced by the following:

"Where the amount of EUR 150 million referred to in Article 395(1) is applicable, the competent authorities may allow the 100 % limit in terms of the institution's Tier 1 capital to be exceeded on a case-by-case basis.";

(ii) the following subparagraph is added:

"Where, in the exceptional cases referred to in the first and second subparagraph of this paragraph, a competent authority allows an institution to exceed the limit set out in Article 395(1) for a period longer than three months, the institution shall present a plan for a timely return to compliance with that limit to the satisfaction of the competent authority and shall carry out that plan within the period agreed with the competent authority. The competent authority shall monitor the implementation of the plan and shall require a more rapid return to compliance if appropriate.";

(b) the following paragraph is added:

"3. For the purposes of paragraph 1, EBA shall issue guidelines in accordance with Article 16 of Regulation (EU) No 1093/2010 to specify how the competent authorities may determine:

(a) the exceptional cases referred to in paragraph 1 of this Article;

(b) the time considered appropriate for returning to compliance;

(c) the measures to be taken to ensure the timely return to compliance of the institution.";

(99) in Article 397, in Column 1 of Table 1, the term ‘eligible capital’ is replaced by the term ‘Tier 1 capital’;

(100) Article 399 is amended as follows:

(a) paragraph 1 is replaced by the following:

“1. An institution shall use a credit risk mitigation technique in the calculation of an exposure where it has used that technique to calculate capital requirements for credit risk in accordance with Title II of Part Three, provided that the credit risk mitigation technique meets the conditions set out in this Article.

For the purposes of Articles 400 to 403, the term ‘guarantee’ shall include credit derivatives recognised under Chapter 4 of Title II of Part Three other than credit linked notes.”;

(b) paragraph 3 is replaced by the following:

“3. Credit risk mitigation techniques which are available only to institutions using one of the IRB approaches shall not be used to reduce exposure values for large exposure purposes, except for exposures secured by immovable properties in accordance with Article 402.”;

(101) Article 400 is amended as follows:

(a) in paragraph 1, the first subparagraph is amended as follows:

(i) point (j) is replaced by the following:

"(j) clearing members' trade exposures and default fund contributions to qualified central counterparties;";

(ii) the following points are added:

"(l) clients' trade exposures referred to in Article 305(2) or (3);

(m) holdings by resolution entities, or by their subsidiaries which are not themselves resolution entities, of own funds instruments and eligible liabilities referred to in Article 45f(2) of Directive 2014/59/EU that have been issued by any of the following entities:

(i) in respect of resolution entities, other entities belonging to the same resolution group;

(ii) in respect of subsidiaries of a resolution entity that are not themselves resolution entities, the relevant subsidiary's subsidiaries belonging to the same resolution group;

(n) exposures arising from a minimum value commitment that meets all the conditions set out in Article 132c(3).";

(b) paragraph 2 is amended as follows:

(i) point (c) is replaced by the following:

"(c) exposures incurred by an institution, including through participations or other kinds of holdings, to its parent undertaking, to other subsidiaries of that parent undertaking, or to its own subsidiaries and qualifying holdings, in so far as those undertakings are covered by the supervision on a consolidated basis to which the institution itself is subject, in accordance with this Regulation, Directive 2002/87/EC or with equivalent standards in force in a third country; exposures that do not meet those criteria, whether or not exempted from Article 395(1) of this Regulation, shall be treated as exposures to a third party;";

(ii) point (k) is replaced by the following:

"(k) exposures in the form of a collateral or a guarantee for residential loans, provided by an eligible protection provider referred to in Article 201 qualifying for the credit rating which is at least the lower of the following:

(i) credit quality step 2;

(ii) the credit quality step corresponding to the central government foreign currency rating of the Member State where the protection provider's headquarters are located;";

(iii) the following point is added:

"(l) exposures in the form of a guarantee for officially supported export credits, provided by an export credit agency qualifying for the credit rating which is at least the lower of the following:

(i) credit quality step 2;

(ii) the credit quality step corresponding to the central government foreign currency rating of the Member State where the export credit agency's headquarters are located.";

(c) in paragraph 3, the second subparagraph is replaced by the following:

"Competent authorities shall inform EBA of whether they intend to use any of the exemptions provided for in paragraph 2 in accordance with points (a) and (b) of this paragraph and provide EBA with the reasons substantiating the use of those exemptions.";

(d) the following paragraph is added:

"4. The simultaneous application of more than one exemption set out in paragraphs 1 and 2 to the same exposure shall not be permitted.";

(102) Article 401 is replaced by the following:

"*Article 401*

Calculating the effect of the use of credit risk mitigation techniques

1. For calculating the value of exposures for the purposes of Article 395(1), an institution may use the fully adjusted exposure value (E*) as calculated under Chapter 4 of Title II of Part Three, taking into account the credit risk mitigation, volatility adjustments and any maturity mismatch referred to in that Chapter.

2. With the exception of institutions using the Financial Collateral Simple Method, for the purposes of the first paragraph, institutions shall use the Financial Collateral Comprehensive Method, regardless of the method used for calculating the own funds requirements for credit risk.

   By way of derogation from paragraph 1, institutions with permission to use the methods referred to in Section 4 of Chapter 4 of Title II of Part Three and Section 6 of Chapter 6 of Title II of Part Three, may use those methods for calculating the exposure value of securities financing transactions.

3. In calculating the value of exposures for the purposes of Article 395(1), institutions shall conduct periodic stress tests of their credit-risk concentrations, including in relation to the realisable value of any collateral taken.

The periodic stress tests referred to in the first subparagraph shall address risks arising from potential changes in market conditions that could adversely impact the institutions' adequacy of own funds and risks arising from the realisation of collateral in stressed situations.

The stress tests carried out shall be adequate and appropriate for the assessment of those risks.

Institutions shall include the following in their strategies to address concentration risk:

(a) policies and procedures to address risks arising from maturity mismatches between exposures and any credit protection on those exposures;

(b) policies and procedures relating to concentration risk arising from the application of credit risk mitigation techniques, in particular from large indirect credit exposures, for example, exposures to a single issuer of securities taken as collateral.

4. Where an institution reduces an exposure to a client using an eligible credit risk mitigation technique in accordance with Article 399(1), the institution, in the manner set out in Article 403, shall treat the part of the exposure by which the exposure to the client has been reduced as having been incurred for the protection provider rather than for the client.";

(103) in Article 402, paragraphs 1 and 2 are replaced by the following:

"1. For the calculation of exposure values for the purposes of Article 395, institutions may, except where prohibited by applicable national law, reduce the value of an exposure or any part of an exposure that is fully secured by residential property in accordance with Article 125(1) by the pledged amount of the market value or mortgage lending value of the property concerned, but by not more than 50 % of the market value or 60 % of the mortgage lending value in those Member States that have laid down rigorous criteria for the assessment of the mortgage lending value in statutory or regulatory provisions, provided that all the following conditions are met:

(a) the competent authorities of the Member States have not set a risk weight higher than 35 % for exposures or parts of exposures secured by residential property in accordance with Article 124(2);

(b) the exposure or part of the exposure is fully secured by any of the following:

(i) one or more mortgages on residential property; or

(ii) a residential property in a leasing transaction under which the lessor retains full ownership of the residential property and the lessee has not yet exercised his or her option to purchase;

(c) the requirements laid down in Article 208 and Article 229(1) are met.

2. For the calculation of exposure values for the purposes of Article 395, an institution may, except where prohibited by applicable national law, reduce the value of an exposure or any part of an exposure that is fully secured by commercial immovable property in accordance with Article 126(1) by the pledged amount of the market value or mortgage lending value of the property concerned, but not by more than 50 % of the market value or 60 % of the mortgage lending value in those Member States that have laid down rigorous criteria for the assessment of the mortgage lending value in statutory or regulatory provisions, provided that all the following conditions are met:

(a) the competent authorities of the Member States have not set a risk weight higher than 50 % for exposures or parts of exposures secured by commercial immovable property in accordance with Article 124(2);

(b) the exposure is fully secured by any of the following:

(i) one or more mortgages on offices or other commercial premises; or

(ii) one or more offices or other commercial premises and the exposures related to property leasing transactions;

(c) the requirements in point (a) of Article 126(2) and in Article 208 and Article 229(1) are met;

(d) the commercial immovable property is fully constructed.";

(104) Article 403 is replaced by the following:

"*Article 403*

Substitution approach

1. Where an exposure to a client is guaranteed by a third party or is secured by collateral issued by a third party, an institution shall:

(a) treat the portion of the exposure which is guaranteed as exposure to the guarantor rather than to the client, provided that the unsecured exposure to the guarantor would be assigned a risk weight that is equal to or lower than the risk weight of the unsecured exposure to the client under Chapter 2 of Title II of Part Three;

(b) treat the portion of the exposure collateralised by the market value of recognised collateral as exposure to the third party rather than to the client, provided that the exposure is secured by collateral and provided that the collateralised portion of the exposure would be assigned a risk weight that is equal to or lower than the risk weight of the unsecured exposure to the client under Chapter 2 of Title II of Part Three.

The approach referred to in point (b) of the first subparagraph shall not be used by an institution where there is a mismatch between the maturity of the exposure and the maturity of the protection.

For the purposes of this Part, an institution may use both the Financial Collateral Comprehensive Method and the treatment set out in point (b) of the first subparagraph of this paragraph only where it is permitted to use both the Financial Collateral Comprehensive Method and the Financial Collateral Simple Method for the purposes of Article 92.

2. Where an institution applies point (a) of paragraph 1, the institution:

(a) where the guarantee is denominated in a currency different from that in which the exposure is denominated, shall calculate the amount of the exposure that is deemed to be covered in accordance with the provisions on the treatment of currency mismatch for unfunded credit protection set out in Part Three;

(b) shall treat any mismatch between the maturity of the exposure and the maturity of the protection in accordance with the provisions on the treatment of maturity mismatch set out in Chapter 4 of Title II of Part Three;

(c) may recognise partial coverage in accordance with the treatment set out in Chapter 4 of Title II of Part Three.

3. For the purposes of point (b) of paragraph 1, an institution may replace the amount in point (a) of this paragraph with the amount in point (b) of this paragraph, provided that the conditions set out in points (c), (d) and (e) of this paragraph are met:

(a) the total amount of the institution’s exposure to a collateral issuer due to tri-party repurchase agreements facilitated by a tri-party agent;

(b) the full amount of the limits that the institution has instructed the tri-party agent referred to in point (a) to apply to the securities issued by the collateral issuer referred to in that point;

(c) the institution has verified that the tri-party agent has in place appropriate safeguards to prevent breaches of the limits referred to in point (b);

(d) the competent authority has not expressed to the institution any material concerns;

(e) the sum of the amount of the limit referred to in point (b) of this paragraph and any other exposures of the institution to the collateral issuer does not exceed the limit set out in Article 395(1).

4. EBA shall issue guidelines, in accordance with Article 16 of Regulation (EU) No 1093/2010, specifying the conditions for the application of the treatment referred to in paragraph 3 of this Article, including the conditions and frequency for determining, monitoring and revising the limits referred to in point (b) of that paragraph.

EBA shall publish those guidelines by 31 December 2019.";

(105) in Part Six, the heading of Title I is replaced by the following:

"DEFINITIONS AND LIQUIDITY REQUIREMENTS";

(106) Article 411 is replaced by the following:

"*Article 411*

Definitions

For the purposes of this Part, the following definitions apply:

(1) 'financial customer' means a customer, including a financial customer belonging to a non-financial corporate group, which performs one or more of the activities listed in Annex I to Directive 2013/36/EU as its main business, or which is one of the following:

(a) a credit institution;

(b) an investment firm;

(c) a securitisation special purpose entity (SSPE);

(d) a collective investment undertaking (CIU);

(e) a non-open ended investment scheme;

(f) an insurance undertaking;

(g) a reinsurance undertaking;

(h) a financial holding company or mixed-financial holding company;

(i) a financial institution;

(j) a pension scheme arrangement as defined in point (10) of Article 2 of Regulation (EU) No 648/2012;

(2) ‘retail deposit’ means a liability to a natural person or to a SME, where the SME would qualify for the retail exposure class under the standardised or IRB approaches for credit risk, or a liability to a company which is eligible for the treatment set out in Article 153(4), and where the aggregate deposits by that SME or company on a group basis do not exceed EUR 1 million;

(3) ‘personal investment company’ or ‘PIC’ means an undertaking or a trust, the owner or beneficial owner of which is either a natural person or a group of closely related natural persons which does not carry out any other commercial, industrial or professional activity and which was set up with the sole purpose of managing the wealth of the owner or owners, including ancillary activities such as segregating the owners’ assets from corporate assets, facilitating the transmission of assets within a family or preventing a split of the assets after the death of a member of the family, provided that those ancillary activities are connected to the main purpose of managing the owners’ wealth;

(4) ‘deposit broker’ means 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;

(5) ‘unencumbered assets’ means assets which are not subject to any legal, contractual, regulatory or other restriction preventing the institution from liquidating, selling, transferring, assigning or, generally, disposing of those assets via an outright sale or a repurchase agreement;

(6) ‘non-mandatory overcollateralisation’ means any amount of assets which the institution is not obliged to attach to a covered bond issuance by virtue of legal or regulatory requirements, contractual commitments or for reasons of market discipline, including in particular where the assets are provided in excess of the minimum legal, statutory or regulatory overcollateralisation requirement applicable to the covered bonds under the national law of a Member State or a third country;

(7) ‘asset coverage requirement’ means the ratio of assets to liabilities as determined in accordance with the national law of a Member State or a third country for credit enhancement purposes in relation to covered bonds;

(8) ‘margin loans’ means collateralised loans extended to customers for the purpose of taking leveraged trading positions;

(9) ‘derivative contracts’ means the derivative contracts listed in Annex II and credit derivatives;

(10) ‘stress’ means a sudden or severe deterioration in the solvency or liquidity position of an institution due to changes in market conditions or idiosyncratic factors as a result of which there is a significant risk that the institution becomes unable to meet its commitments as they become due within the next 30 days;

(11) ‘level 1 assets’ means assets of extremely high liquidity and credit quality as referred to in the second subparagraph of Article 416(1);

(12) ‘level 2 assets’ means assets of high liquidity and credit quality as referred to in the second subparagraph of Article 416(1) of this Regulation; level 2 assets are further subdivided into level 2A and 2B assets as set out in the delegated act referred to in Article 460(1);

(13) ‘liquidity buffer’ means the amount of level 1 and level 2 assets that an institution holds in accordance with the delegated act referred to in Article 460(1);

(14) ‘net liquidity outflows’ means the amount which results from deducting an institution’s liquidity inflows from its liquidity outflows;

(15) ‘reporting currency’ means the currency of the Member State where the head office of the institution is located;

(16) ‘factoring’ means a contractual agreement between a business (the ‘assignor’) and a financial entity (the ‘factor’) in which the assignor assigns or sells its receivables to the factor in exchange for the factor providing the assignor with one or more of the following services with regard to the receivables assigned:

(a) an advance of a percentage of the amount of the assigned receivables, generally short term, uncommitted and without automatic roll-over;

(b) receivables management, collection and credit protection, whereby, in general, the factor administers the assignor’s sales ledger and collects the receivables in the factor’s own name;

for the purposes of Title IV, factoring shall be treated as trade finance;

(17) ‘committed credit or liquidity facility’ means a credit or liquidity facility that is irrevocable or conditionally revocable.”;

(107) Article 412 is amended as follows:

(a) paragraph 2 is replaced by the following:

“2. Institutions shall not double count liquidity outflows, liquidity inflows and liquid assets.

Unless specified otherwise in the delegated act referred to in Article 460(1), where an item can be counted in more than one outflow category, it shall be counted in the outflow category that produces the greatest contractual outflow for that item.";

(b) the following paragraph is inserted:

"4a. The delegated act referred to in Article 460(1) shall apply to credit institutions and investment firms referred to in Article 6(4).";

(108) Articles 413 and 414 are replaced by the following:

"*Article 413*
Stable funding requirement

1. Institutions shall ensure that long term assets and off-balance-sheet items are adequately met with a diverse set of funding instruments that are stable under both normal and stressed conditions.

2. The provisions set out in Title III shall apply exclusively for the purpose of specifying reporting obligations set out in Article 415 until reporting obligations set out in that Article for the net stable funding ratio set out in Title IV have been specified and introduced in Union law.

3. The provisions set out in Title IV shall apply for the purpose of specifying the stable funding requirement set out in paragraph 1 of this Article and reporting obligations for institutions set out in Article 415.

4. Member States may maintain or introduce national provisions in the area of stable funding requirements before binding minimum standards for the net stable funding requirements set out in paragraph 1 become applicable.

Article 414

Compliance with liquidity requirements

An institution that does not meet, or does not expect to meet, the requirements set out in Article 412 or in Article 413(1), including during times of stress, shall immediately notify the competent authorities thereof and shall submit to the competent authorities without undue delay a plan for the timely restoration of compliance with the requirements set out in Article 412 or Article 413(1), as appropriate. Until compliance has been restored, the institution shall report the items referred to in Title III, in Title IV, in the implementing act referred to in Article 415(3) or (3a) or in the delegated act referred to in Article 460(1), as appropriate, daily by the end of each business day, unless the competent authority authorises a lower reporting frequency and a longer reporting delay. Competent authorities shall only grant such authorisations on the basis of the individual situation of the institution, taking into account the scale and complexity of the institution's activities. Competent authorities shall monitor the implementation of such restoration plan and shall require a more rapid restoration of compliance where appropriate.";

(109) Article 415 is amended as follows:

(a) paragraphs 1, 2 and 3 are replaced by the following:

"1. Institutions shall report the items referred to in the implementing technical standards referred to in paragraph 3 or 3a of this Article, in Title IV and in the delegated act referred to in Article 460(1) to the competent authorities in the reporting currency, regardless of the actual denomination of those items. Until such time as the reporting obligation and the reporting format for the net stable funding ratio set out in Title IV have been specified and introduced in Union law, institutions shall report to the competent authorities the items referred to in Title III in the reporting currency, regardless of the actual denomination of those items.

The reporting frequency shall be at least monthly for items referred to in the delegated act referred to in Article 460(1) and at least quarterly for items referred to in Titles III and IV.

2. An institution shall report separately to the competent authorities the items referred to in the implementing technical standards referred to in paragraph 3 or 3a of this Article, in Title III until such time as the reporting obligation and the reporting format for the net stable funding ratio set out in Title IV have been specified and introduced in Union law, in Title IV and in the delegated act referred to in Article 460(1), as appropriate, in accordance with the following:

(a) where items are denominated in a currency other than the reporting currency and the institution has aggregate liabilities denominated in such a currency which amount to or exceed 5 % of the institution's or the single liquidity sub-group's total liabilities, excluding own funds and off-balance-sheet items, reporting shall be done in the currency of denomination;

(b) where items are denominated in the currency of a host Member State where the institution has a significant branch as referred to in Article 51 of Directive 2013/36/EU and that host Member State uses another currency than the reporting currency, the reporting shall be done in the currency of the Member State in which the significant branch is located;

(c) where items are denominated in the reporting currency, and the aggregate amount of liabilities in other currencies than the reporting currency amounts to or exceeds 5 % of the institution's or the single liquidity subgroup's total liabilities, excluding own funds and off-balance-sheet items, the reporting shall be done in the reporting currency.

3. EBA shall develop draft implementing technical standards to specify the following:

(a) uniform formats and IT solutions with associated instructions for frequencies and reference and remittance dates; the reporting formats and frequencies shall be proportionate to the nature, scale and complexity of the different activities of the institutions and shall comprise the reporting required in accordance with paragraphs 1 and 2;

(b) additional liquidity monitoring metrics required, to allow competent authorities to obtain a comprehensive view of an institution's liquidity risk profile, proportionate to the nature, scale and complexity of an institution's activities.

EBA shall submit to the Commission those draft implementing technical standards for the items specified in point (a) by 28 July 2013 and for the items specified in point (b) by 1 January 2014.

Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph in accordance with Article 15 of Regulation (EU) No 1093/2010.";

(b) the following paragraph is inserted:

"3a. EBA shall develop draft implementing technical standards to specify which additional liquidity monitoring metrics as referred to in paragraph 3 shall apply to small and non-complex institutions.

EBA shall submit those draft implementing technical standards to the Commission by … [one year after the date of entry into force of this amending Regulation].

Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph in accordance with Article 15 of Regulation (EU) No 1093/2010.";

(110) Article 416 is amended as follows:

(a) paragraph 3 is replaced by the following:

"3. In accordance with paragraph 1, institutions shall report assets that fulfil the following conditions as liquid assets:

(a) the assets are unencumbered or stand available within collateral pools to be used for obtaining additional funding under committed or, where the pool is operated by a central bank, uncommitted but not yet funded credit lines available to the institution;

(b) the assets are not issued by the institution itself, by its parent or subsidiary institutions, or by another subsidiary of its parent institution or parent financial holding company;

(c) the price of the assets is generally agreed upon by market participants and can easily be observed in the market or the price can be determined by a formula that is easy to calculate on the basis of publicly available inputs and that does not depend on strong assumptions, as is typically the case for structured or exotic products;

(d) the assets are listed on a recognised exchange or they are tradable by an outright sale or via a simple repurchase agreement on repurchase markets; those criteria shall be assessed separately for each market.

The conditions referred to in points (c) and (d) of the first subparagraph shall not apply to the assets referred to in points (a), (e) and (f) of paragraph 1.";

(b) paragraphs 5 and 6 are replaced by the following:

"5. Shares or units in CIUs may be treated as liquid assets, up to an absolute amount of EUR 500 million or the equivalent amount in domestic currency, in the portfolio of liquid assets of each institution, provided that the requirements laid down in Article 132(3) are met and that the CIU only invests in liquid assets as referred to in paragraph 1 of this Article, apart from derivatives to mitigate interest rate or credit or currency risk.

The use or potential use by a CIU of derivative instruments to hedge risks of permitted investments shall not prevent that CIU from being eligible for the treatment referred to in the first subparagraph of this paragraph. Where the value of the shares or units of the CIU is not regularly marked to market by the third parties referred to in points (a) and (b) of Article 418(4) and the competent authority is not satisfied that an institution has developed robust methodologies and processes for such valuation as referred to in Article 418(4), shares or units in that CIU shall not be treated as liquid assets.

6. Where a liquid asset ceases to comply with the requirement for liquid assets as set out in this Article, an institution may nevertheless continue to consider it a liquid asset for an additional period of 30 days. Where a liquid asset in a CIU ceases to be eligible for the treatment set out in paragraph 5, the shares or units in the CIU may nevertheless be considered a liquid asset for an additional period of 30 days, provided that those assets do not exceed 10 % of the CIU's overall assets.";

(c) paragraph 7 is deleted;

(111) Article 419 is amended as follows:

(a) paragraph 2 is replaced by the following:

"2. Where the justified needs for liquid assets in light of the requirement in Article 412 exceed the availability of those liquid assets in a currency, one or more of the following derogations shall apply:

(a) by way of derogation from point (f) of Article 417, the denomination of the liquid assets may be inconsistent with the distribution by currency of liquidity outflows after the deduction of inflows;

(b) for currencies of a Member State or third countries, required liquid assets may be substituted by credit lines from the central bank of that Member State or third country which are contractually irrevocably committed for the next 30 days and are fairly priced, independent of the amount currently drawn, provided that the competent authorities of that Member State or third country do the same and provided that that Member State or third country has comparable reporting requirements in place;

(c) where there is a deficit of level 1 assets, additional level 2A assets may be held by the institution, subject to higher haircuts, and any cap applicable to those assets in accordance with the delegated act referred to in Article 460(1) may be amended.";

(b) paragraph 5 is replaced by the following:

"5. EBA shall develop draft regulatory technical standards to specify the derogations referred to in paragraph 2, including the conditions of their application.

EBA shall submit those draft regulatory technical standards to the Commission by … [six months after the date of entry into force of this amending Regulation].

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.";

(112) Article 422 is amended as follows:

(a) paragraph 4 is replaced by the following:

"4. Clearing, custody, cash management or other comparable services referred to in points (a) and (d) of paragraph 3 shall only cover those services to the extent that those services are rendered in the context of an established relationship on which the depositor has substantial dependence. Those services shall not merely consist of correspondent banking or prime brokerage services, and institutions shall have evidence that the client is unable to withdraw amounts legally due over a 30-day time horizon without compromising its operational functioning.

Pending a uniform definition of an established operational relationship as referred to in point (c) of paragraph 3, institutions shall themselves establish the criteria for identifying an established operational relationship for which they have evidence that the client is unable to withdraw amounts legally due over a 30-day time horizon without compromising its operational functioning and shall report those criteria to the competent authorities. In the absence of a uniform definition, competent authorities may provide general guidance that institutions are to follow in identifying deposits maintained by the depositor in a context of an established operational relationship.";

(b) paragraph 8 is replaced by the following:

"8. Competent authorities may grant the permission to apply a lower outflow percentage to the liabilities referred to in paragraph 7 on a case-by-case basis, provided that all the following conditions are met:

(a) the counterparty is any of the following:

(i) a parent or subsidiary institution of the institution or another subsidiary of the same parent institution;

(ii) the counterparty is linked to the institution by a relationship within the meaning of Article 22(7) of Directive 2013/34/EU;

(iii) an institution falling within the same institutional protection scheme meeting the requirements of Article 113(7); or

(iv) the central institution or a member of a network compliant with point (d) of Article 400(2);

(b) there are reasons to expect a lower outflow over the next 30 days even under a combined idiosyncratic and market-wide stress scenario;

(c) a corresponding symmetric or more conservative inflow is applied by the counterparty by way of derogation from Article 425;

(d) the institution and the counterparty are established in the same Member State.";

(113) in Article 423, paragraphs 2 and 3 are replaced by the following:

"2. An institution shall notify the competent authorities of all contracts entered into of which the contractual conditions lead to liquidity outflows or additional collateral needs, within 30 days after a material deterioration of the institution's credit quality. Where the competent authorities consider those contracts to be material in relation to the potential liquidity outflows of the institution, they shall require the institution to add an additional outflow for those contracts, which shall correspond to the additional collateral needs resulting from a material deterioration in its credit quality, such as a downgrade in its external credit assessment by three notches. The institution shall regularly review the extent of that material deterioration in light of what is relevant under the contracts it has entered into, and shall notify the result of its review to the competent authorities.

3. The institution shall add an additional outflow which shall correspond to the collateral needs that would result from the impact of an adverse market scenario on its derivatives transactions if material.

EBA shall develop draft regulatory technical standards to specify the conditions under which the notion of materiality may be applied and specifying methods for the measurement of the additional outflow.

EBA shall submit those draft regulatory technical standards to the Commission by 31 March 2014.

Power is delegated to the Commission to adopt the regulatory technical standards referred to in the second subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.";

(114) in Article 424, paragraph 4 is replaced by the following:

"4. The committed amount of a liquidity facility that has been provided to an SSPE for the purpose of enabling that SSPE to purchase assets, other than securities, from clients that are not financial customers shall be multiplied by 10 %, provided that the committed amount exceeds the amount of assets currently purchased from clients and that the maximum amount that can be drawn is contractually limited to the amount of assets currently purchased.";

(115) in Article 425(2), point (c) is replaced by the following:

"(c) loans with an undefined contractual end date shall be taken into account with a 20 % inflow, provided that the contract allows the institution to withdraw and request payment within 30 days;";

(116) in Part Six, the following title is inserted after Article 428:

"TITLE IV
THE NET STABLE FUNDING RATIO

CHAPTER 1
The net stable funding ratio

Article 428a
Application on a consolidated basis

Where the net stable funding ratio set out in this Title applies on a consolidated basis in accordance with Article 11(4), the following provisions shall apply:

(a) the assets and off-balance-sheet items of a subsidiary having its head office in a third country which are subject to required stable funding factors under the net stable funding requirement set out in the national law of that third country that are higher than those specified in Chapter 4 shall be subject to consolidation in accordance with the higher factors specified in the national law of that third country;

(b) the liabilities and own funds of a subsidiary having its head office in a third country which are subject to available stable funding factors under the net stable funding requirement set out in the national law of that third country that are lower than those specified in Chapter 3 shall be subject to consolidation in accordance with the lower factors specified in the national law of that third country;

(c) third-country assets which meet the requirements laid down in the delegated act referred to in Article 460(1) and which are held by a subsidiary having its head office in a third country shall not be recognised as liquid assets for consolidation purposes where they do not qualify as liquid assets under the national law of that third country which sets out the liquidity coverage requirement;

(d) investment firms that are not subject to this Title pursuant to Article 6(4) within the group shall be subject to Articles 413 and 428b on a consolidated basis; except as specified in this point, such investment firms shall remain subject to the detailed net stable funding requirement for investment firms as laid down in national law.

Article 428b

The net stable funding ratio

1. The net stable funding requirement laid down in Article 413(1) shall be equal to the ratio of the institution's available stable funding as referred to in Chapter 3 to the institution's required stable funding as referred to in Chapter 4, and shall be expressed as a percentage. Institutions shall calculate their net stable funding ratio in accordance with the following formula:

$$\frac{\text{Available stable funding}}{\text{Required stable funding}} = \text{Net stable funding ratio (\%)}$$

2. Institutions shall maintain a net stable funding ratio of at least 100 %, calculated in the reporting currency for all their transactions, irrespective of their actual currency denomination.

3. Where, at any time, the net stable funding ratio of an institution has fallen below 100 %, or can be reasonably expected to fall below 100 %, the requirement laid down in Article 414 shall apply. The institution shall aim to restore its net stable funding ratio to the level referred to in paragraph 2 of this Article. Competent authorities shall assess the reasons for the institution's failure to comply with paragraph 2 of this Article before taking any supervisory measures.

4. Institutions shall calculate and monitor their net stable funding ratio in the reporting currency for all their transactions, irrespective of their actual currency denomination, and separately for their transactions denominated in each of the currencies that is subject to separate reporting in accordance with Article 415(2).

5. Institutions shall ensure that the distribution of their funding profile by currency denomination is generally consistent with the distribution of their assets by currency. Where appropriate, competent authorities may require institutions to restrict currency mismatches by setting limits on the proportion of required stable funding in a particular currency that can be met by available stable funding that is not denominated in that currency. That restriction may only be applied for a currency that is subject to separate reporting in accordance with Article 415(2).

In determining the level of any restriction on currency mismatches that may be applied in accordance with this Article, competent authorities shall at least consider:

(a) whether the institution has the ability to transfer available stable funding from one currency to another and across jurisdictions and legal entities within its group and the ability to swap currencies and raise funds in foreign currency markets over the one-year horizon of the net stable funding ratio;

(b) the impact of adverse exchange rate movements on existing mismatched positions and on the effectiveness of any foreign currency exchange hedges that are in place.

Any restriction on currency mismatches imposed in accordance with this Article shall constitute a specific liquidity requirement as referred to in Article 105 of Directive 2013/36/EU.

CHAPTER 2

General rules for the calculation of the net stable funding ratio

Article 428c

Calculation of the net stable funding ratio

1. Unless otherwise specified in this Title, institutions shall take into account assets, liabilities and off-balance-sheet items on a gross basis.

2. For the purpose of calculating their net stable funding ratio, institutions shall apply the appropriate stable funding factors set out in Chapters 3 and 4 to the accounting value of their assets, liabilities and off-balance-sheet items, unless otherwise specified in this Title.

3. Institutions shall not double count required stable funding and available stable funding.

Unless otherwise specified in this Title, where an item can be allocated to more than one required stable funding category, it shall be allocated to the required stable funding category that produces the greatest contractual required stable funding for that item.

Article 428d

Derivative contracts

1. Institutions shall apply this Article to calculate the amount of required stable funding for derivative contracts as referred to in Chapters 3 and 4.

2. Without prejudice to Article 428ah(2), institutions shall take into account the fair value of derivative positions on a net basis where those positions are included in the same netting set that fulfils the requirements set out in Article 429c(1). Where that is not the case, institutions shall take into account the fair value of derivative positions on a gross basis and shall treat those derivative positions as belonging to their own netting set for the purposes of Chapter 4.

3. For the purposes of this Title, the ‘fair value of a netting set’ means the sum of the fair values of all the transactions included in a netting set.

4. Without prejudice to Article 428ah(2), all derivative contracts listed in points 2(a) to (e) of Annex II that involve a full exchange of principal amounts on the same date shall be calculated on a net basis across currencies, including for the purpose of reporting in a currency that is subject to separate reporting in accordance with Article 415(2), even where those transactions are not included in the same netting set that fulfils the requirements set out in Article 429c(1).

5. Cash received as collateral to mitigate the exposure of a derivative position shall be treated as such and shall not be treated as deposits to which Chapter 3 applies.

6. Competent authorities may decide, with the approval of the relevant central bank, to waive the impact of derivative contracts on the calculation of the net stable funding ratio, including through the determination of the required stable funding factors and of provisions and losses, provided that all the following conditions are met:

   (a) those contracts have a residual maturity of less than six months;

   (b) the counterparty is the ECB or the central bank of a Member State;

   (c) the derivative contracts serve the monetary policy of the ECB or the central bank of a Member State.

Where a subsidiary having its head office in a third country benefits from the waiver referred to in the first subparagraph under the national law of that third country which sets out the net stable funding requirement, that waiver as specified in the national law of the third country shall be taken into account for consolidation purposes.

Article 428e

Netting of secured lending transactions and capital market-driven transactions

Assets and liabilities resulting from securities financing transactions with a single counterparty shall be calculated on a net basis, provided that those assets and liabilities comply with the netting conditions set out in Article 429b(4).

Article 428f

Interdependent assets and liabilities

1. Subject to prior approval of the competent authorities, an institution may treat an asset and a liability as interdependent, provided that all the following conditions are met:

   (a) the institution acts solely as a pass-through unit to channel the funding from the liability into the corresponding interdependent asset;

   (b) the individual interdependent assets and liabilities are clearly identifiable and have the same principal amount;

(c) the asset and interdependent liability have substantially matched maturities, with a maximum delay of 20 days between the maturity of the asset and the maturity of the liability;

(d) the interdependent liability has been requested pursuant to a legal, regulatory or contractual commitment and is not used to fund other assets;

(e) the principal payment flows from the asset are not used for other purposes than repaying the interdependent liability;

(f) the counterparties for each pair of interdependent assets and liabilities are not the same.

2. Assets and liabilities shall be considered to meet the conditions set out in paragraph 1 and be considered as interdependent where they are directly linked to the following products or services:

(a) centralised regulated savings, provided that institutions are legally required to transfer regulated deposits to a centralised fund which is set up and controlled by the central government of a Member State and which provides loans to promote public interest objectives, and provided that the transfer of deposits to the centralised fund occurs on at least a monthly basis;

(b) promotional loans and credit and liquidity facilities that fulfil the criteria set out in the delegated act referred to in Article 460(1) for institutions acting as simple intermediaries that do not incur any funding risk;

(c) covered bonds that meet all the following conditions:

(i) they are bonds referred to in Article 52(4) of Directive 2009/65/EC or they meet the eligibility requirements for the treatment set out in Article 129(4) or (5) of this Regulation;

(ii) the underlying loans are fully match funded with the covered bonds that were issued or the covered bonds have non-discretionary extendable maturity triggers of one year or more until the term of the underlying loans in the event of refinancing failure at the maturity date of the covered bond;

(d) derivative client clearing activities, provided that the institution does not provide to its clients guarantees of the performance of the CCP and, as a result, does not incur any funding risk.

3. EBA shall monitor assets and liabilities, as well as products and services that are treated as interdependent assets and liabilities under paragraphs 1 and 2, to determine whether and to what extent the suitability criteria laid down in paragraph 1 are met. EBA shall report to the Commission on the results of that monitoring and shall advise the Commission on whether an amendment to the conditions set out in paragraph 1 or an amendment to the list of products and services in paragraph 2 would be necessary.

Article 428g

Deposits in institutional protection schemes and cooperative networks

Where an institution belongs to an institutional protection scheme of the type referred to in Article 113(7), to a network that is eligible for the waiver provided for in Article 10, or to a cooperative network in a Member State, the sight deposits that the institution maintains with the central institution and that the depositing institution considers to be liquid assets pursuant to the delegated act referred to in Article 460(1) shall be subject to the following:

(a) the depositing institution shall apply the required stable funding factor under Section 2 of Chapter 4, depending on the treatment of those sight deposits as level 1, level 2A or level 2B assets pursuant to the delegated act referred to in Article 460(1) and depending on the relevant haircut applied to those sight deposits for the calculation of the liquidity coverage ratio;

(b) the central institution receiving the deposit shall apply the corresponding symmetric available stable funding factor.

Article 428h

Preferential treatment within a group or within an institutional protection scheme

1. By way of derogation from Chapters 3 and 4, where Article 428g does not apply, competent authorities may authorise institutions on a case-by-case basis to apply a higher available stable funding factor or a lower required stable funding factor to assets, liabilities and committed credit or liquidity facilities, provided that all the following conditions are met:

   (a) the counterparty is one of the following:

      (i) the parent or a subsidiary of the institution;

      (ii) another subsidiary of the same parent;

      (iii) an undertaking that is related to the institution within the meaning of Article 22(7) of Directive 2013/34/EU;

      (iv) a member of the same institutional protection scheme referred to in Article 113(7) of this Regulation as the institution;

      (v) the central body or an affiliated credit institution of a network or a cooperative group as referred to in Article 10 of this Regulation;

(b) there are reasons to expect that the liability or committed credit or liquidity facility received by the institution constitutes a more stable source of funding, or that the asset or committed credit or liquidity facility granted by the institution requires less stable funding over the one-year horizon of the net stable funding ratio than the same liability, asset or committed credit or liquidity facility received or granted by other counterparties;

(c) the counterparty applies a required stable funding factor that is equal to or higher than the higher available stable funding factor or applies an available stable funding factor that is equal to or lower than the lower required stable funding factor;

(d) the institution and the counterparty are established in the same Member State.

2. Where the institution and the counterparty are established in different Member States, competent authorities may waive the condition set out in point (d) of paragraph 1, provided that, in addition to the criteria set out in paragraph 1, the following criteria are met:

(a) there are legally binding agreements and commitments between group entities regarding the liability, asset or committed credit or liquidity facility;

(b) the funding provider presents a low funding risk profile;

(c) the funding risk profile of the recipient of the funding has been adequately taken into account in the liquidity risk management of the funding provider.

The competent authorities shall consult each other in accordance with point (b) of Article 20(1) to determine whether the additional criteria set out in this paragraph are met.

CHAPTER 3

Available stable funding

Section 1

General provisions

Article 428i

Calculation of the amount of available stable funding

Unless otherwise specified in this Chapter, the amount of available stable funding shall be calculated by multiplying the accounting value of various categories or types of liabilities and own funds by the available stable funding factors to be applied under Section 2. The total amount of available stable funding shall be the sum of the weighted amounts of liabilities and own funds.

Bonds and other debt securities that are issued by the institution, sold exclusively in the retail market, and held in a retail account, may be treated as belonging to the appropriate retail deposit category. Limitations shall be in place, such that those instruments cannot be bought and held by parties other than retail customers.

Article 428j

Residual maturity of a liability or of own funds

1. Unless otherwise specified in this Chapter, institutions shall take into account the residual contractual maturity of their liabilities and own funds to determine the available stable funding factors to be applied under Section 2.

2. Institutions shall take into account existing options in determining the residual maturity of a liability or of own funds. They shall do so on the assumption that the counterparty will redeem call options at the earliest possible date. For options exercisable at the discretion of the institution, the institution and the competent authorities shall take into account reputational factors that may limit an institution's ability not to exercise the option, in particular market expectations that institutions should redeem certain liabilities before their maturity.

3. Institutions shall treat deposits with fixed notice periods in accordance with their notice period, and shall treat term deposits in accordance with their residual maturity. By way of derogation from paragraph 2 of this Article, institutions shall not take into account options for early withdrawals where the depositor has to pay a material penalty for early withdrawals which occur in less than one year, such penalty being laid down in the delegated act referred to in Article 460(1), to determine the residual maturity of term retail deposits.

4. In order to determine the available stable funding factors to be applied under Section 2, institutions shall treat any portion of liabilities having a residual maturity of one year or more that matures in less than six months and any portion of such liabilities that matures between six months and less than one year as having a residual maturity of less than six months and between six months and less than one year, respectively.

Section 2

Available stable funding factors

Article 428k

0 % available stable funding factor

1. Unless otherwise specified in Articles 428l to 428o, all liabilities without a stated maturity, including short positions and open maturity positions, shall be subject to a 0 % available stable funding factor, with the exception of the following:

   (a) deferred tax liabilities, which shall be treated in accordance with the nearest possible date on which such liabilities could be realised;

   (b) minority interests, which shall be treated in accordance with the term of the instrument.

2. Deferred tax liabilities and minority interests as referred to in paragraph 1 shall be subject to one of the following factors:

(a) 0 %, where the effective residual maturity of the deferred tax liability or minority interest is less than six months;

(b) 50 %, where the effective residual maturity of the deferred tax liability or minority interest is a minimum of six months but less than one year;

(c) 100 %, where the effective residual maturity of the deferred tax liability or minority interest is one year or more.

3. The following liabilities shall be subject to a 0 % available stable funding factor:

(a) trade date payables arising from purchases of financial instruments, of foreign currencies and of commodities, that are expected to settle within the standard settlement cycle or period that is customary for the relevant exchange or type of transactions, or that have failed to settle but are nonetheless expected to settle;

(b) liabilities that are categorised as being interdependent with assets in accordance with Article 428f;

(c) liabilities with a residual maturity of less than six months provided by:

(i) the ECB or the central bank of a Member State;

(ii) the central bank of a third country;

(iii) financial customers;

(d) any other liabilities and capital items or instruments not referred to in Articles 428l to 428o.

4. Institutions shall apply a 0 % available stable funding factor to the absolute value of the difference, if negative, between the sum of fair values across all netting sets with positive fair value and the sum of fair values across all netting sets with negative fair value calculated in accordance with Article 428d.

The following rules shall apply to the calculation referred to in the first subparagraph:

(a) variation margin received by institutions from their counterparties shall be deducted from the fair value of a netting set with positive fair value where the collateral received as variation margin qualifies as a level 1 asset pursuant to the delegated act referred to in Article 460(1), excluding extremely high quality covered bonds specified in that delegated act, and where institutions are legally entitled and operationally able to reuse that collateral;

(b) all variation margin posted by institutions with their counterparties shall be deducted from the fair value of a netting set with negative fair value.

Article 428l

50 % available stable funding factor

The following liabilities shall be subject to a 50 % available stable funding factor:

(a) deposits received that fulfil the criteria for operational deposits set out in the delegated act referred to in Article 460(1);

(b) liabilities with a residual maturity of less than one year provided by:

(i) the central government of a Member State or of a third country;

(ii) regional governments or local authorities of a Member State or of a third country;

(iii) public sector entities in a Member State or in a third country;

(iv) multilateral development banks referred to in Article 117(2) and international organisations referred to in Article 118;

(v) non-financial corporate customers;

(vi) credit unions authorised by a competent authority, personal investment companies and clients that are deposit brokers to the extent that those liabilities do not fall under point (a) of this paragraph;

(c) liabilities with a residual contractual maturity of a minimum of six months but less than one year that are provided by:

(i) the ECB or the central bank of a Member State;

(ii) the central bank of a third country;

(iii) financial customers;

(d) any other liabilities with a residual maturity of a minimum of six months but less than one year not referred to in Articles 428m, 428n and 428o.

Article 428m
90 % available stable funding factor

Sight retail deposits, retail deposits with a fixed notice period of less than one year and term retail deposits having a residual maturity of less than one year that fulfil the relevant criteria for other retail deposits set out in the delegated act referred to in Article 460(1) shall be subject to a 90 % available stable funding factor.

Article 428n
95 % available stable funding factor

Sight retail deposits, retail deposits with a fixed notice period of less than one year and term retail deposits having a residual maturity of less than one year that fulfil the relevant criteria for stable retail deposits set out in the delegated act referred to in Article 460(1) shall be subject to a 95 % available stable funding factor.

Article 428o

100 % available stable funding factor

The following liabilities and capital items and instruments shall be subject to a 100 % available stable funding factor:

(a) the Common Equity Tier 1 items of the institution before the adjustments required pursuant to Articles 32 to 35, the deductions pursuant to Article 36 and the application of the exemptions and alternatives laid down in Articles 48, 49 and 79;

(b) the Additional Tier 1 items of the institution before the deduction of the items referred to in Article 56 and before Article 79 has been applied thereto, excluding any instruments with explicit or embedded options that, if exercised, would reduce the effective residual maturity to less than one year;

(c) the Tier 2 items of the institution before the deductions referred to in Article 66 and before the application of Article 79, having a residual maturity of one year or more, excluding any instruments with explicit or embedded options that, if exercised, would reduce the effective residual maturity to less than one year;

(d) any other capital instruments of the institution with a residual maturity of one year or more, excluding any instruments with explicit or embedded options that, if exercised, would reduce the effective residual maturity to less than one year;

(e) any other secured and unsecured borrowings and liabilities with a residual maturity of one year or more, including term deposits, unless otherwise specified in Articles 428k to 428n.

CHAPTER 4

Required stable funding

Section 1

General provisions

Article 428p

Calculation of the amount of required stable funding

1. Unless otherwise specified in this Chapter, the amount of required stable funding shall be calculated by multiplying the accounting value of various categories or types of assets and off-balance-sheet items by the required stable funding factors to be applied in accordance with Section 2. The total amount of required stable funding shall be the sum of the weighted amounts of assets and off-balance-sheet items.

2. Assets which institutions have borrowed, including in securities financing transactions, shall be excluded from the calculation of the amount of required stable funding where those assets are accounted for on the balance sheet of the institution and the institution does not have beneficial ownership of the asset.

Assets that institutions have borrowed, including in securities financing transactions, shall be subject to the required stable funding factors to be applied under Section 2 where those assets are not accounted for on the balance sheet of the institution but the institution does have beneficial ownership of the assets.

3. Assets that institutions have lent, including in securities financing transactions over which the institution retains beneficial ownership, shall be considered as encumbered assets for the purposes of this Chapter and shall be subject to the required stable funding factors to be applied under Section 2, even where the assets do not remain on the balance sheet of the institution. Otherwise, such assets shall be excluded from the calculation of the amount of required stable funding.

4. Assets that are encumbered for a residual maturity of six months or longer shall be assigned either the required stable funding factor that would be applied under Section 2 to those assets if they were held unencumbered or the required stable funding factor that is otherwise applicable to those encumbered assets, whichever factor is higher. The same shall apply where the residual maturity of the encumbered assets is shorter than the residual maturity of the transaction that is the source of encumbrance.

   Assets that have less than six months remaining in the encumbrance period shall be subject to the required stable funding factors to be applied under Section 2 to the same assets if they were held unencumbered.

5. Where an institution reuses or repledges an asset that was borrowed, including in securities financing transactions, and that asset is accounted for off-balance-sheet, the transaction in relation to which that asset has been borrowed shall be treated as encumbered, provided that the transaction cannot mature without the institution returning the asset borrowed.

6. The following assets shall be considered to be unencumbered:

   (a) assets included in a pool which are available for immediate use as collateral to obtain additional funding under committed or, where the pool is operated by a central bank, uncommitted but not yet funded, credit lines that are available to the institution; those assets shall include assets placed by a credit institution with a central institution in a cooperative network or institutional protection scheme; institutions shall assume that assets in the pool are encumbered in order of increasing liquidity on the basis of the liquidity classification pursuant to the delegated act referred to in Article 460(1), starting with assets ineligible for the liquidity buffer;

   (b) assets that the institution has received as collateral for credit risk mitigation purposes in secured lending, secured funding or collateral exchange transactions and that the institution may dispose of;

   (c) assets attached as non-mandatory overcollateralisation to a covered bond issuance.

7. In the case of non-standard, temporary operations conducted by the ECB or the central bank of a Member State or the central bank of a third country in order to fulfil its mandate in a period of market-wide financial stress or in exceptional macroeconomic circumstances, the following assets may receive a reduced required stable funding factor:

(a) by way of derogation from point (f) of Article 428ad and from point (a) of Article 428ah(1), assets encumbered for the purposes of the operations referred to in this subparagraph;

(b) by way of derogation from points (d)(i) and (d)(ii) of Article 428ad, from point (b) of Article 428af and from point (c) of Article 428ag, monies that result from the operations referred to in this subparagraph.

Competent authorities shall determine, in agreement with the central bank that is the counterparty to the transaction the required stable funding factor to be applied to the assets referred to in points (a) and (b) of the first subparagraph. For encumbered assets as referred to in point (a) of the first subparagraph, the required stable funding factor to be applied shall not be lower than the required stable funding factor that would apply under Section 2 to those assets if they were held unencumbered.

When applying a reduced required stable funding factor in accordance with the second subparagraph, competent authorities shall closely monitor the impact of that reduced factor on institutions' stable funding positions and shall take appropriate supervisory measures where necessary.

8. In order to avoid any double counting, institutions shall exclude assets that are associated with collateral that is recognised as variation margin posted in accordance with point (b) of Article 428k(4) and 428ah(2), recognised as initial margin posted, or recognised as a contribution to the default fund of a CCP in accordance with points (a) and (b) of Article 428ag from other parts of calculation of the amount of required stable funding in accordance with this Chapter.

9. Institutions shall include foreign currencies and commodities for which a purchase order has been executed in the calculation of the amount of required stable funding financial instruments. They shall exclude financial instruments, foreign currencies and commodities for which a sale order has been executed from the calculation of the amount of required stable funding, provided that those transactions are not reflected as derivatives or secured funding transactions on the institutions' balance sheet and that those transactions are to be reflected on the institutions' balance sheet when settled.

10. Competent authorities may determine the required stable funding factors to be applied to off-balance-sheet exposures that are not referred to in this Chapter to ensure that institutions hold an appropriate amount of available stable funding for the portion of those exposures that are expected to require funding over the one-year horizon of the net stable funding ratio. To determine those factors, competent authorities shall, in particular, take into account the material reputational damage to the institution that could result from not providing that funding.

Competent authorities shall report the types of off-balance-sheet exposures for which they have determined the required stable funding factors to EBA at least once a year. They shall include an explanation of the methodology applied to determine those factors in that report.

Article 428q

Residual maturity of an asset

1. Unless otherwise specified in this Chapter, institutions shall take into account the residual contractual maturity of their assets and off-balance-sheet transactions when determining the required stable funding factors to be applied to their assets and off-balance-sheet items under Section 2.

2. Institutions shall treat assets that have been segregated in accordance with Article 11(3) of Regulation (EU) No 648/2012 in accordance with the underlying exposure of those assets. Institutions shall, however, subject those assets to higher required stable funding factors, depending on the term of encumbrance to be determined by the competent authorities, who shall consider whether the institution is able to freely dispose of or exchange such assets and shall consider the term of the liabilities to the institutions' customers to whom that segregation requirement relates.

3. When calculating the residual maturity of an asset, institutions shall take options into account, based on the assumption that the issuer or counterparty will exercise any option to extend the maturity of an asset. For options that are exercisable at the discretion of the institution, the institution and competent authorities shall take into account reputational factors that may limit the institution's ability not to exercise the option, in particular markets' and clients' expectations that the institution should extend the maturity of certain assets at their maturity date.

4. In order to determine the required stable funding factors to be applied in accordance with Section 2, for amortising loans with a residual contractual maturity of one year or more, any portion that matures in less than six months and any portion that matures between six months and less than one year shall be treated as having a residual maturity of less than six months and between six months and less than one year, respectively.

Section 2

Required stable funding factors

Article 428r

0 % required stable funding factor

1. The following assets shall be subject to a 0 % required stable funding factor:

   (a) unencumbered assets that are eligible as level 1 high quality liquid assets pursuant to the delegated act referred to in Article 460(1), excluding extremely high quality covered bonds specified in that delegated act, regardless of whether they comply with the operational requirements as set out in that delegated act;

   (b) unencumbered shares or units in CIUs that are eligible for a 0 % haircut for the calculation of the liquidity coverage ratio pursuant to the delegated act referred to in Article 460(1), regardless of whether they comply with the operational requirements and with the requirements on the composition of the liquidity buffer set out in that delegated act;

   (c) all reserves held by the institution in the ECB or in the central bank of a Member State or the central bank of a third country, including required reserves and excess reserves;

(d) all claims on the ECB, the central bank of a Member State or the central bank of a third country that have a residual maturity of less than six months;

(e) trade date receivables arising from sales of financial instruments, foreign currencies or commodities that are expected to settle within the standard settlement cycle or period that is customary for the relevant exchange or type of transaction, or that have failed to settle but are nonetheless expected to settle;

(f) assets that are categorised as being interdependent with liabilities in accordance with Article 428f;

(g) monies due from securities financing transactions with financial customers, where those transactions have a residual maturity of less than six months, where those monies due are collateralised by assets that qualify as level 1 assets pursuant to the delegated act referred to in Article 460(1), excluding extremely high quality covered bonds specified therein, and where the institution would be legally entitled and operationally able to reuse those assets for the duration of the transaction.

Institutions shall take the monies due referred to in point (g) of the first subparagraph of this paragraph into account on a net basis where Article 428e applies.

2. By way of derogation from point (c) of paragraph 1, competent authorities may decide, with the agreement of the relevant central bank, to apply a higher required stable funding factor to required reserves, taking into account, in particular, the extent to which reserve requirements exist over a one-year horizon and therefore require associated stable funding.

For subsidiaries having their head office in a third country, where the required central bank reserves are subject to a higher required stable funding factor under the net stable funding requirement set out in the national law of that third country, that higher required stable funding factor shall be taken into account for consolidation purposes.

Article 428s

5 % required stable funding factor

1. The following assets and off-balance-sheet items shall be subject to a 5 % required stable funding factor:

(a) unencumbered shares or units in CIUs that are eligible for a 5 % haircut for the calculation of the liquidity coverage ratio in accordance with the delegated act referred to in Article 460(1), regardless of whether they comply with the operational requirements and with the requirements on the composition of the liquidity buffer as set out in that delegated act;

(b) monies due from securities financing transactions with financial customers, where those transactions have a residual maturity of less than six months, other than those referred to in point (g) of Article 428r(1);

(c) the undrawn portion of committed credit and liquidity facilities pursuant to the delegated act referred to in Article 460(1);

(d) trade finance off-balance-sheet related products as referred to in Annex I with a residual maturity of less than six months.

Institutions shall take the monies due referred to in point (b) of the first subparagraph of this paragraph into account on a net basis where Article 428e applies.

2. For all netting sets of derivative contracts, institutions shall apply a 5 % required stable funding factor to the absolute fair value of those netting sets of derivative contracts, gross of any collateral posted, where those netting sets have a negative fair value. For the purposes of this paragraph, institutions shall determine the fair value as gross of any collateral posted or settlement payments and receipts related to market valuation changes of such contracts.

Article 428t

7 % required stable funding factor

Unencumbered assets that are eligible as level 1 extremely high quality covered bonds pursuant to the delegated act referred to in Article 460(1) shall be subject to a 7 % required stable funding factor, regardless of whether they comply with the operational requirements and with the requirements on the composition of the liquidity buffer as set out in that delegated act.

Article 428u

7,5 % required stable funding factor

Trade finance off-balance-sheet related products as referred to in Annex I with a residual maturity of at least six months but less than one year shall be subject to a 7,5 % required stable funding factor.

Article 428v

10 % required stable funding factor

The following assets and off-balance-sheet items shall be subject to a 10 % required stable funding factor:

(a) monies due from transactions with financial customers that have a residual maturity of less than six months other than those referred to in point (g) of Article 428r(1) and in point (b) of Article 428s(1);

(b) trade finance on-balance-sheet related products with a residual maturity of less than six months;

(c) trade finance off-balance-sheet related products as referred to in Annex I with a residual maturity of one year or more.

Article 428w
12 % required stable funding factor

Unencumbered shares or units in CIUs that are eligible for a 12 % haircut for the calculation of the liquidity coverage ratio in accordance with the delegated act referred to in Article 460(1) shall be subject to a 12 % required stable funding factor, regardless of whether they comply with the operational requirements and with the requirements on the composition of the liquidity buffer as set out in that delegated act.

Article 428x
15 % required stable funding factor

Unencumbered assets that are eligible as level 2A assets pursuant to the delegated act referred to in Article 460(1) shall be subject to a 15 % required stable funding factor, regardless of whether they comply with the operational requirements and with the requirements on the composition of the liquidity buffer as set out in that delegated act.

Article 428y

20 % required stable funding factor

Unencumbered shares or units in CIUs that are eligible for a 20 % haircut for the calculation of the liquidity coverage ratio in accordance with the delegated act referred to in Article 460(1) shall be subject to a 20 % required stable funding factor, regardless of whether they comply with the operational requirements and with the requirements on the composition of the liquidity buffer as set out in that delegated act.

Article 428z

25 % required stable funding factor

Unencumbered level 2B securitisations pursuant to the delegated act referred to in Article 460(1) shall be subject to a 25 % required stable funding factor, regardless of whether they comply with the operational requirements and with the requirements on the composition of the liquidity buffer as set out in that delegated act.

Article 428aa

30 % required stable funding factor

The following assets shall be subject to a 30 % required stable funding factor:

(a) unencumbered high quality covered bonds pursuant to the delegated act referred to in Article 460(1), regardless of whether they comply with the operational requirements and with the requirements on the composition of the liquidity buffer as set out in that delegated act;

(b) unencumbered shares or units in CIUs that are eligible for a 30 % haircut for the calculation of the liquidity coverage ratio in accordance with the delegated act referred to in Article 460(1), regardless of whether they comply with the operational requirements and with the requirements on the composition of the liquidity buffer as set out in that delegated act.

Article 428ab

35 % required stable funding factor

The following assets shall be subject to a 35 % required stable funding factor:

(a) unencumbered level 2B securitisations pursuant to the delegated act referred to in Article 460(1), regardless of whether they comply with the operational requirements and with the requirements on the composition of the liquidity buffer as set out in that delegated act;

(b) unencumbered shares or units in CIUs that are eligible for a 35 % haircut for the calculation of the liquidity coverage ratio pursuant to the delegated act referred to in Article 460(1), regardless of whether they comply with the operational requirements and with the requirements on the composition of the liquidity buffer as set out in that delegated act.

Article 428ac

40 % required stable funding factor

Unencumbered shares or units in CIUs that are eligible for a 40 % haircut for the calculation of the liquidity coverage ratio pursuant to the delegated act referred to in Article 460(1) shall be subject to a 40 % required stable funding factor, regardless of whether they comply with the operational requirements and with the requirements on the composition of the liquidity buffer as set out in that delegated act.

Article 428ad

50 % required stable funding factor

The following assets shall be subject to a 50 % required stable funding factor:

(a) unencumbered assets that are eligible as level 2B assets pursuant to the delegated act referred to in Article 460(1), excluding level 2B securitisations and high quality covered bonds pursuant to that delegated act, regardless of whether they comply with the operational requirements and with the requirements on the composition of the liquidity buffer as set out in that delegated act;

(b) deposits held by the institution in another financial institution that fulfil the criteria for operational deposits as set out in the delegated act referred to in Article 460(1);

(c) monies due from transactions with a residual maturity of less than one year with:

    (i) the central government of a Member State or of a third country;

(ii) regional governments or local authorities in a Member State or in a third country;

(iii) public sector entities of a Member State or of a third country;

(iv) multilateral development banks referred to in Article 117(2) and international organisations referred to in Article 118;

(v) non-financial corporates, retail customers and SMEs;

(vi) credit unions authorised by a competent authority, personal investment companies and clients that are deposit brokers to the extent that those assets do not fall under point (b) of this paragraph;

(d) monies due from transactions with a residual maturity of at least six months but less than one year with:

(i) the European Central Bank or the central bank of a Member State;

(ii) the central bank of a third country;

(iii) financial customers;

(e) trade finance on-balance-sheet related products with a residual maturity of at least six months but less than one year;

(f) assets encumbered for a residual maturity of at least six months but less than one year, except where those assets would be assigned a higher required stable funding factor in accordance with Articles 428ae to 428ah if they were held unencumbered, in which case the higher required stable funding factor that would apply to those assets if they were held unencumbered shall apply;

(g) any other assets with a residual maturity of less than one year, unless otherwise specified in Articles 428r to 428ac.

Article 428ae

55 % required stable funding factor

Unencumbered shares or units in CIUs that are eligible for a 55 % haircut for the calculation of the liquidity coverage ratio in accordance with the delegated act referred to in Article 460(1) shall be subject to a 55 % required stable funding factor, regardless of whether they comply with the operational requirements and with the requirements on the composition of the liquidity buffer as set out in that delegated act.

Article 428af

65 % required stable funding factor

The following assets shall be subject to a 65 % required stable funding factor:

(a) unencumbered loans secured by mortgages on residential property or unencumbered residential loans fully guaranteed by an eligible protection provider as referred to in point (e) of Article 129(1) with a residual maturity of one year or more, provided that those loans are assigned a risk weight of 35 % or less in accordance with Chapter 2 of Title II of Part Three;

(b) unencumbered loans with a residual maturity of one year or more, excluding loans to financial customers and loans referred to in Articles 428r to 428ad, provided that those loans are assigned a risk weight of 35 % or less in accordance with Chapter 2 of Title II of Part Three.

Article 428ag

85 % required stable funding factor

The following assets and off-balance-sheet items shall be subject to a 85 % required stable funding factor:

(a) any assets and off-balance-sheet items, including cash, posted as initial margin for derivative contracts, unless those assets would be assigned a higher required stable funding factor in accordance with Article 428ah if held unencumbered, in which case the higher required stable funding factor that would apply to those assets if they were held unencumbered shall apply;

(b) any assets and off-balance-sheet items, including cash, posted as contribution to the default fund of a CCP, unless those would be assigned a higher required stable funding factor in accordance with Article 428ah if held unencumbered, in which case the higher required stable funding factor to be applied to the unencumbered asset shall apply;

(c) unencumbered loans with a residual maturity of one year or more, excluding loans to financial customers and loans referred to in Articles 428r to 428af, which are not past due for more than 90 days and which are assigned a risk weight of more than 35 % in accordance with Chapter 2 of Title II of Part Three;

(d) trade finance on-balance-sheet related products, with a residual maturity of one year or more;

(e) unencumbered securities with a residual maturity of one year or more that are not in default in accordance with Article 178 and that are not eligible as liquid assets pursuant to the delegated act referred to in Article 460(1);

(f) unencumbered exchange-traded equities that are not eligible as level 2B assets pursuant to the delegated act referred to in Article 460(1);

(g) physically traded commodities, including gold but excluding commodity derivatives;

(h) assets encumbered for a residual maturity of one year or more in a cover pool funded by covered bonds as referred to in Article 52(4) of Directive 2009/65/EC or covered bonds which meet the eligibility requirements for the treatment as set out in Article 129(4) or (5) of this Regulation.

Article 428ah

100 % required stable funding factor

1. The following assets shall be subject to a 100 % required stable funding factor:

   (a) unless otherwise specified in this Chapter, any assets encumbered for a residual maturity of one year or more;

(b) any assets other than those referred to in Articles 428r to 428ag, including loans to financial customers having a residual contractual maturity of one year or more, non-performing exposures, items deducted from own funds, fixed assets, non-exchange-traded equities, retained interest, insurance assets, defaulted securities.

2. Institutions shall apply a 100 % required stable funding factor to the difference, if positive, between the sum of fair values across all netting sets with positive fair value and the sum of fair values across all netting sets with negative fair value calculated in accordance with Article 428d.

The following rules shall apply to the calculation referred to in the first subparagraph:

(a) variation margin received by institutions from their counterparties shall be deducted from the fair value of a netting set with positive fair value where the collateral received as variation margin qualifies as a level 1 asset pursuant to the delegated act referred to in Article 460(1), excluding extremely high quality covered bonds specified in that delegated act, and where institutions are legally entitled and operationally able to reuse that collateral;

(b) all variation margin posted by institutions with their counterparties shall be deducted from the fair value of a netting set with negative fair value.

CHAPTER 5

Derogation for small and non-complex institutions

Article 428ai

Derogation for small and non-complex institutions

By way of derogation from Chapters 3 and 4, small and non-complex institutions may choose, with the prior permission of their competent authority, to calculate the ratio between an institution's available stable funding as referred to in Chapter 6, and the institution's required stable funding as referred to in Chapter 7, expressed as a percentage.

A competent authority may require a small and non-complex institution to comply with the net stable funding requirement based on an institution's available stable funding as referred to in Chapter 3 and the required stable funding as referred to in Chapter 4 where it considers that the simplified methodology is not adequate to capture the funding risks of that institution.

CHAPTER 6

Available stable funding for the simplified calculation of the net stable funding ratio

Section 1

General provisions

Article 428aj

Simplified calculation of the amount of available stable funding

1. Unless otherwise specified in this Chapter, the amount of available stable funding shall be calculated by multiplying the accounting value of various categories or types of liabilities and own funds by the available stable funding factors to be applied under Section 2. The total amount of available stable funding shall be the sum of the weighted amounts of liabilities and own funds.

2. Bonds and other debt securities that are issued by the institution, sold exclusively in the retail market, and held in a retail account, may be treated as belonging to the appropriate retail deposit category. Limitations shall be in place, such that those instruments cannot be bought and held by parties other than retail customers.

Article 428ak

Residual maturity of a liability or own funds

1. Unless otherwise specified in this Chapter, institutions shall take into account the residual contractual maturity of their liabilities and own funds to determine the available stable funding factors to be applied under Section 2.

2. Institutions shall take into account existing options in determining the residual maturity of a liability or of own funds. They shall do so on the assumption that the counterparty will redeem call options at the earliest possible date. For options exercisable at the discretion of the institution, the institution and the competent authorities shall take into account reputational factors that may limit an institution's ability not to exercise the option, in particular market expectations that institutions should redeem certain liabilities before their maturity.

3. Institutions shall treat deposits with fixed notice periods in accordance with their notice period, and shall treat term deposits in accordance with their residual maturity. By way of derogation from paragraph 2 of this Article, institutions shall not take into account options for early withdrawals where the depositor has to pay a material penalty for early withdrawals which occur in less than one year, such penalty being laid down in the delegated act referred to in Article 460(1), to determine the residual maturity of term retail deposits.

4. In order to determine the available stable funding factors to be applied under Section 2, for liabilities with a residual contractual maturity of one year or more, any portion that matures in less than six months and any portion that matures between six months and less than one year, shall be treated as having a residual maturity of less than six months and between six months and less than one year, respectively.

Section 2

Available stable funding factors

Article 428al

0 % available stable funding factor

1. Unless otherwise specified in this Section, all liabilities without a stated maturity, including short positions and open maturity positions, shall be subject to a 0 % available stable funding factor, with the exception of the following:

   (a) deferred tax liabilities, which shall be treated in accordance with the nearest possible date on which such liabilities could be realised;

   (b) minority interests, which shall be treated in accordance with the term of the instrument concerned.

2. Deferred tax liabilities and minority interests as referred to in paragraph 1 shall be subject to one of the following factors:

   (a) 0 %, where the effective residual maturity of the deferred tax liability or minority interest is less than one year;

   (b) 100 %, where the effective residual maturity of the deferred tax liability or minority interest is one year or more.

3. The following liabilities shall be subject to a 0 % available stable funding factor:

(a) trade date payables arising from purchases of financial instruments, of foreign currencies and of commodities, that are expected to settle within the standard settlement cycle or period that is customary for the relevant exchange or type of transaction, or that have failed to settle but are nonetheless expected to settle;

(b) liabilities that are categorised as being interdependent with assets in accordance with Article 428f;

(c) liabilities with a residual maturity of less than one year provided by:

(i) the ECB or the central bank of a Member State;

(ii) the central bank of a third country;

(iii) financial customers;

(d) any other liabilities and capital items or instruments not referred to in this Article and Articles 428am to 428ap.

4. Institutions shall apply a 0 % available stable funding factor to the absolute value of the difference, if negative, between the sum of fair values across all netting sets with positive fair value and the sum of fair values across all netting sets with negative fair value calculated in accordance with Article 428d.

The following rules shall apply to the calculation referred to in the first subparagraph:

(a) variation margin received by institutions from their counterparties shall be deducted from the fair value of a netting set with positive fair value where the collateral received as variation margin qualifies as a level 1 asset pursuant to the delegated act referred to in Article 460(1), excluding extremely high quality covered bonds specified in that delegated act, and where institutions are legally entitled and operationally able to reuse that collateral;

(b) all variation margin posted by institutions with their counterparties shall be deducted from the fair value of a netting set with negative fair value.

Article 428am
50 % available stable funding factor

The following liabilities shall be subject to a 50 % available stable funding factor:

(a) deposits received that fulfil the criteria for operational deposits set out in the delegated act referred to in Article 460(1);

(b) liabilities with a residual maturity of less than one year provided by:

(i) the central government of a Member State or of a third country;

(ii) regional governments or local authorities in a Member State or in a third country;

(iii) public sector entities of a Member State or of a third country;

(iv) multilateral development banks referred to in Article 117(2) and international organisations referred to in Article 118;

(v) non-financial corporate customers;

(vi) credit unions authorised by a competent authority, personal investment companies and clients that are deposit brokers, with the exception of deposits received, that fulfil the criteria for operational deposits as set out in the delegated act referred to in Article 460(1).

Article 428an
90 % available stable funding factor

Sight retail deposits, retail deposits with a fixed notice period of less than one year and term retail deposits having a residual maturity of less than one year that fulfil the relevant criteria for other retail deposits set out in the delegated act referred to in Article 460(1) shall be subject to a 90 % available stable funding factor.

Article 428ao

95 % available stable funding factor

Sight retail deposits, retail deposits with a fixed notice period of less than one year and term retail deposits having a residual maturity of less than one year that fulfil the relevant criteria for stable retail deposits set out in the delegated act referred to in Article 460(1) shall be subject to a 95 % available stable funding factor.

Article 428ap

100 % available stable funding factor

The following liabilities and capital items and instruments shall be subject to a 100 % available stable funding factor:

(a) the Common Equity Tier 1 items of the institution before the adjustments required pursuant to Articles 32 to 35, the deductions pursuant to Article 36 and the application of the exemptions and alternatives laid down in Articles 48, 49 and 79;

(b) the Additional Tier 1 items of the institution before the deduction of the items referred to in Article 56 and before Article 79 has been applied thereto, excluding any instruments with explicit or embedded options that, if exercised, would reduce the effective residual maturity to less than one year;

(c) the Tier 2 items of the institution before the deductions referred to in Article 66 and before the application of Article 79, having a residual maturity of one year or more, excluding any instruments with explicit or embedded options that, if exercised, would reduce the effective residual maturity to less than one year;

(d) any other capital instruments of the institution with a residual maturity of one year or more, excluding any instruments with explicit or embedded options that, if exercised, would reduce the effective residual maturity to less than one year;

(e) any other secured and unsecured borrowings and liabilities with a residual maturity of one year or more, including term deposits, unless otherwise specified in Articles 428al to 428ao.

CHAPTER 7

Required stable funding for the simplified calculation of the net stable funding ratio

Section 1

General provisions

Article 428aq

Simplified calculation of the amount of required stable funding

1. Unless otherwise specified in this Chapter, for small and non-complex institutions the amount of required stable funding shall be calculated by multiplying the accounting value of various categories or types of assets and off-balance-sheet items by the required stable funding factors to be applied in accordance with Section 2. The total amount of required stable funding shall be the sum of the weighted amounts of assets and off-balance-sheet items.

2 Assets that institutions have borrowed, including in securities financing transactions, that are accounted for in their balance sheet and on which they do not have beneficial ownership shall be excluded from the calculation of the amount of required stable funding.

Assets that institutions have borrowed, including in securities financing transactions, that are not accounted for in their balance sheet but on which they have beneficial ownership shall be subject to the required stable funding factors to be applied under Section 2.

3. Assets that institutions have lent, including in securities financing transactions, over which they retain beneficial ownership, even where they do not remain on their balance sheet, shall be considered as encumbered assets for the purposes of this Chapter and shall be subject to required stable funding factors to be applied under Section 2. Otherwise, such assets shall be excluded from the calculation of the amount of required stable funding.

4. Assets that are encumbered for a residual maturity of six months or longer shall be assigned either the required stable funding factor that would be applied under Section 2 to those assets if they were held unencumbered or the required stable funding factor that is otherwise applicable to those encumbered assets, whichever factor is higher. The same shall apply where the residual maturity of the encumbered assets is shorter than the residual maturity of the transaction that is the source of encumbrance.

   Assets that have less than six months remaining in the encumbrance period shall be subject to the required stable funding factors to be applied under Section 2 to the same assets if they were held unencumbered.

5. Where an institution reuses or repledges an asset that was borrowed, including in securities financing transactions, and that is accounted for off-balance-sheet, the transaction through which that asset has been borrowed shall be treated as encumbered to the extent that the transaction cannot mature without the institution returning the asset borrowed.

6. The following assets shall be considered to be unencumbered:

(a) assets included in a pool which are available for immediate use as collateral to obtain additional funding under committed or, where the pool is operated by a central bank, uncommitted but not yet funded credit lines available to the institution, including assets placed by a credit institution with the central institution in a cooperative network or institutional protection scheme;

(b) assets that the institution has received as collateral for credit risk mitigation purposes in secured lending, secured funding or collateral exchange transactions and that the institution may dispose of;

(c) assets attached as non-mandatory over-collateralisation to a covered bond issuance.

For the purposes of point (a) of the first subparagraph of this paragraph, institutions shall assume that assets in the pool are encumbered in order of increasing liquidity on the basis of the liquidity classification set out in the delegated act referred to in Article 460(1), starting with assets ineligible for the liquidity buffer.

7. In the case of non-standard, temporary operations conducted by the ECB or the central bank of a Member State or the central bank of a third country in order to fulfil its mandate in a period of market-wide financial stress or exceptional macroeconomic circumstances, the following assets may receive a reduced required stable funding factor:

(a) by way of derogation from Article 428aw and from point (a) of Article 428az(1), assets encumbered for the operations referred to in this subparagraph;

(b) by way of derogation from Article 428aw and from point (b) of Article 428ay, monies resulting from the operations referred to in this subparagraph.

Competent authorities shall determine, in agreement with the central bank that is the counterparty to the transaction the required stable funding factor to be applied to the assets referred to in points (a) and (b) of the first subparagraph. For encumbered assets referred to in point (a) of the first subparagraph, the required stable funding factor to be applied shall not be lower than the required stable funding factor that would apply under Section 2 to those assets if they were held unencumbered.

When applying a reduced required stable funding factor in accordance with the second subparagraph, competent authorities shall closely monitor the impact of that reduced factor on institutions' stable funding positions and take appropriate supervisory measures where necessary.

8. Institutions shall exclude assets associated with collateral recognised as variation margin posted in accordance with point (b) of Article 428k(4) and Article 428ah(2) or as initial margin posted or as contribution to the default fund of a CCP in accordance with points (a) and (b) of Article 428ag from other parts of calculation of the amount of required stable funding in accordance with this Chapter in order to avoid any double counting.

9. Institutions shall include in the calculation of the amount of required stable funding financial instruments, foreign currencies and commodities for which a purchase order has been executed. They shall exclude from the calculation of the amount of required stable funding financial instruments, foreign currencies and commodities for which a sale order has been executed, provided that those transactions are not reflected as derivatives or secured funding transactions on the institutions' balance sheet and that those transactions are to be reflected on the institutions' balance sheet when settled.

10. Competent authorities may determine the required stable funding factors to be applied to off-balance-sheet exposures that are not referred to in this Chapter to ensure that institutions hold an appropriate amount of available stable funding for the portion of those exposures that are expected to require funding over the one-year horizon of the net stable funding ratio. To determine those factors, competent authorities shall, in particular, take into account the material reputational damage to the institution that could result from not providing that funding.

Competent authorities shall report to EBA the types of off-balance-sheet exposures for which they have determined the required stable funding factors at least once a year. They shall include in that report an explanation of the methodology applied to determine those factors.

Article 428ar

Residual maturity of an asset

1. Unless otherwise specified in this Chapter, institutions shall take into account the residual contractual maturity of their assets and off-balance-sheet transactions when determining the required stable funding factors to be applied to their assets and off-balance-sheet items under Section 2.

2. Institutions shall treat assets that have been segregated in accordance with Article 11(3) of Regulation (EU) No 648/2012 in accordance with the underlying exposure of those assets. Institutions shall, however, subject those assets to higher required stable funding factors, depending on the term of encumbrance to be determined by the competent authorities, who shall consider whether the institution is able to freely dispose of or exchange such assets and shall consider the term of the liabilities to the institutions' customers to whom that segregation requirement relates.

3. When calculating the residual maturity of an asset, institutions shall take options into account, based on the assumption that the issuer or counterparty will exercise any option to extend the maturity of an asset. For options that are exercisable at the discretion of the institution, the institution and competent authorities shall take into account reputational factors that may limit the institution's ability not to exercise the option, in particular markets' and clients' expectations that the institution should extend the maturity of certain assets at their maturity date.

4. In order to determine the required stable funding factors to be applied in accordance with Section 2, for amortising loans with a residual contractual maturity of one year or more, the portions that mature in less than six months and between six months and less than one year shall be treated as having a residual maturity of less than six months and between six months and less than one year respectively.

Section 2

Required stable funding factors

Article 428as

0 % required stable funding factor

1. The following assets shall be subject to a 0 % required stable funding factor:

   (a) unencumbered assets that are eligible as level 1 high quality liquid assets pursuant to the delegated act referred to in Article 460(1), excluding extremely high quality covered bonds specified in that delegated act, regardless of whether they comply with the operational requirements as set out in that delegated act;

   (b) all reserves held by the institution in the ECB or in the central bank of a Member State or the central bank of a third country, including required reserves and excess reserves;

   (c) all claims on the ECB, the central bank of a Member State or the central bank of a third country that have a residual maturity of less than six months;

   (d) assets that are categorised as being interdependent with liabilities in accordance with Article 428f.

2. By way of derogation from point (b) of paragraph 1, competent authorities may decide, with the agreement of the relevant central bank, to apply a higher required stable funding factor to required reserves, taking into account, in particular, the extent to which reserve requirements exist over a one-year horizon and therefore require associated stable funding.

For subsidiaries having their head office in a third country, where the required central bank reserves are subject to a higher required stable funding factor under the net stable funding requirement set out in the national law of that third country, that higher required stable funding factor shall be taken into account for consolidation purposes.

Article 428at

5 % required stable funding factor

1. The undrawn portion of committed credit and liquidity facilities specified in the delegated act referred to in Article 460(1) shall be subject to a 5 % required stable funding factor.

2. For all netting sets of derivative contracts, institutions shall apply a 5 % required stable funding factor to the absolute fair value of those netting sets of derivative contracts, gross of any collateral posted, where those netting sets have a negative fair value. For the purposes of this paragraph, institutions shall determine the fair value as gross of any collateral posted or settlement payments and receipts related to market valuation changes of such contracts.

Article 428au

10 % required stable funding factor

The following assets and off-balance-sheet items shall be subject to a 10 % required stable funding factor:

(a) unencumbered assets that are eligible as level 1 extremely high quality covered bonds pursuant to the delegated act referred to in Article 460(1), regardless of whether they comply with the operational requirements and with the requirements on the composition of the liquidity buffer as set out in that delegated act;

(b) trade finance off-balance-sheet related products as referred to in Annex I.

Article 428av

20 % required stable funding factor

Unencumbered assets that are eligible as level 2A assets pursuant to the delegated act referred to in Article 460(1), and unencumbered shares or units in CIUs pursuant to that delegated act shall be subject to a 20 % required stable funding factor, regardless of whether they comply with the operational requirements and with the requirements on the composition of the liquidity buffer as set out in that delegated act.

Article 428aw

50 % required stable funding factor

The following assets shall be subject to a 50 % required stable funding factor:

(a) secured and unsecured loans with a residual maturity of less than one year and provided that they are encumbered less than one year;

(b) any other assets with a residual maturity of less than one year, unless otherwise specified in Articles 428as to 428av;

(c) assets encumbered for a residual maturity of at least six months but less than one year, except where those assets would be assigned a higher required stable funding factor in accordance with Articles 428ax, 428ay and 428az if they were held unencumbered, in which case the higher required stable funding factor that would apply to those assets if they were held unencumbered shall apply.

Article 428ax

55 % required stable funding factor

Assets that are eligible as level 2B assets pursuant to the delegated act referred to in Article 460(1), and shares or units in CIUs pursuant to that delegated act shall be subject to a 55 % required stable funding factor, regardless of whether they comply with the operational requirements and with the requirements on the composition of the liquidity buffer as set out in that delegated act, provided that they are encumbered less than one year.

Article 428ay

85 % required stable funding factor

The following assets and off-balance-sheet items shall be subject to a 85 % required stable funding factor:

(a) any assets and off-balance-sheet items, including cash, posted as initial margin for derivative contracts or posted as contribution to the default fund of a CCP, unless those assets would be assigned a higher required stable funding factor in accordance with Article 428az if held unencumbered, in which case the higher required stable funding factor that would apply to those assets if they were held unencumbered shall apply;

(b) unencumbered loans with a residual maturity of one year or more, excluding loans to financial customers, which are not past due for more than 90 days;

(c) trade finance on-balance-sheet related products, with a residual maturity of one year or more;

(d) unencumbered securities with a residual maturity of one year or more that are not in default in accordance with Article 178 and that are not eligible as liquid assets pursuant to the delegated act referred to in Article 460(1);

(e) unencumbered exchange-traded equities that are not eligible as level 2B assets pursuant to the delegated act referred to in Article 460(1);

(f) physically traded commodities, including gold but excluding commodity derivatives.

Article 428az

100 % required stable funding factor

1. The following assets shall be subject to a 100 % required stable funding factor:

   (a) any assets encumbered for a residual maturity of one year or more;

   (b) any assets other than those referred to in Articles 428as to 428ay, including loans to financial customers having a residual contractual maturity of one year or more, non-performing exposures, items deducted from own funds, fixed assets, non-exchange traded equities, retained interest, insurance assets, defaulted securities.

2. Institutions shall apply a 100 % required stable funding factor to the difference, if positive, between the sum of fair values across all netting sets with positive fair value and the sum of fair values across all netting sets with negative fair value calculated in accordance with Article 428d.

The following rules shall apply to the calculation referred to in the first subparagraph:

(a) variation margin received by institutions from their counterparties shall be deducted from the fair value of a netting set with positive fair value where the collateral received as variation margin qualifies as a level 1 asset pursuant to the delegated act referred to in Article 460(1), excluding extremely high quality covered bonds specified in that delegated act, and where institutions are legally entitled and operationally able to reuse that collateral;

(b) all variation margin posted by institutions with their counterparties shall be deducted from the fair value of a netting set with negative fair value.";

(117) Part Seven is replaced by the following:

"PART SEVEN
LEVERAGE

Article 429
Calculation of the leverage ratio

1. Institutions shall calculate their leverage ratio in accordance with the methodology set out in paragraphs 2, 3 and 4.

2. The leverage ratio shall be calculated as an institution's capital measure divided by that institution's total exposure measure and shall be expressed as a percentage.

Institutions shall calculate the leverage ratio at the reporting reference date.

3. For the purposes of paragraph 2, the capital measure shall be the Tier 1 capital.

4. For the purposes of paragraph 2, the total exposure measure shall be the sum of the exposure values of:

(a) assets, excluding derivative contracts listed in Annex II, credit derivatives and the positions referred to in Article 429e, calculated in accordance with Article 429b(1);

(b) derivative contracts listed in Annex II and credit derivatives, including those contracts and credit derivatives that are off-balance-sheet, calculated in accordance with Articles 429c and 429d;

(c) add-ons for counterparty credit risk of securities financing transactions, including those that are off-balance-sheet, calculated in accordance with Article 429e;

(d) off-balance-sheet items, excluding derivative contracts listed in Annex II, credit derivatives, securities financing transactions and positions referred to in Articles 429d and 429g, calculated in accordance with Article 429f;

(e) regular-way purchases or sales awaiting settlement, calculated in accordance with Article 429g.

Institutions shall treat long settlement transactions in accordance with points (a) to (d) of the first subparagraph, as applicable.

Institutions may reduce the exposure values referred to in points (a) and (d) of the first subparagraph by the corresponding amount of general credit risk adjustments to on- and off-balance-sheet items, respectively, subject to a floor of 0 where the credit risk adjustments have reduced the Tier 1 capital.

5. By way of derogation from point (d) of paragraph 4, the following provisions shall apply:

(a) a derivative instrument that is considered an off-balance-sheet item in accordance with point (d) of paragraph 4 but is treated as a derivative in accordance with the applicable accounting framework, shall be subject to the treatment set out in that point;

(b) where a client of an institution acting as a clearing member enters directly into a derivative transaction with a CCP and the institution guarantees the performance of its client's trade exposures to the CCP arising from that transaction, the institution shall calculate its exposure resulting from the guarantee in accordance with point (b) of paragraph 4, as if that institution had entered directly into the transaction with the client, including with regard to the receipt or provision of cash variation margin.

The treatment set out in point (b) of the first subparagraph shall also apply to an institution acting as a higher-level client that guarantees the performance of its client's trade exposures.

For the purposes of point (b) of the first subparagraph and of the second subparagraph of this paragraph, institutions may consider an affiliated entity as a client only where that entity is outside the regulatory scope of consolidation at the level at which the requirement set out in point (d) of Article 92(3) is applied.

6. For the purposes of point (e) of paragraph 4 of this Article and Article 429g, 'regular-way purchase or sale' means a purchase or a sale of a security under contracts for which the terms require delivery of the security within the period established generally by law or convention in the marketplace concerned.

7. Unless otherwise expressly provided for in this Part, institutions shall calculate the total exposure measure in accordance with the following principles:

   (a) physical or financial collateral, guarantees or credit risk mitigation purchased shall not be used to reduce the total exposure measure;

   (b) assets shall not be netted with liabilities.

8. By way of derogation from point (b) of paragraph 7, institutions may reduce the exposure value of a pre-financing loan or an intermediate loan by the positive balance on the savings account of the debtor to which the loan was granted and only include the resulting amount in the total exposure measure, provided that all the following conditions are met:

(a) the granting of the loan is conditional upon the opening of the savings account at the institution granting the loan and both the loan and the savings account are regulated by the same sectoral law;

(b) the balance on the savings account cannot be withdrawn, in part or in full, by the debtor for the entire duration of the loan;

(c) the institution can unconditionally and irrevocably use the balance on the savings account to settle any claim originating under the loan agreement in cases regulated by the sectoral law referred to in point (a), including the case of non-payment by or the insolvency of the debtor.

'Pre-financing loan' or 'intermediate loan' means a loan that is granted to the borrower for a limited period of time in order to bridge the borrower's financing gaps until the final loan is granted in accordance with the criteria laid down in the sectoral law regulating such transactions.

Article 429a

Exposures excluded from the total exposure measure

1. By way of derogation from Article 429(4), an institution may exclude any of the following exposures from its total exposure measure:

   (a) the amounts deducted from Common Equity Tier 1 items in accordance with point (d) of Article 36(1);

   (b) the assets deducted in the calculation of the capital measure referred to in Article 429(3);

   (c) exposures that are assigned a risk weight of 0 % in accordance with Article 113(6) or (7);

   (d) where the institution is a public development credit institution, the exposures arising from assets that constitute claims on central governments, regional governments, local authorities or public sector entities in relation to public sector investments and promotional loans;

   (e) where the institution is not a public development credit institution, the parts of exposures arising from passing-through promotional loans to other credit institutions;

(f) the guaranteed parts of exposures arising from export credits that meet both of the following conditions:

(i) the guarantee is provided by an eligible provider of unfunded credit protection in accordance with Articles 201 and 202, including by export credit agencies or by central governments;

(ii) a 0 % risk weight applies to the guaranteed part of the exposure in accordance with Article 114(2) or (4) or Article 116(4);

(g) where the institution is a clearing member of a QCCP, the trade exposures of that institution, provided that they are cleared with that QCCP and meet the conditions set out in point (c) of Article 306(1);

(h) where the institution is a higher-level client within a multi-level client structure, the trade exposures to the clearing member or to an entity that serves as a higher-level client to that institution, provided that the conditions set out in Article 305(2) are met and provided that the institution is not obligated to reimburse its client for any losses suffered in the event of default of either the clearing member or the QCCP;

(i) fiduciary assets which meet all the following conditions:

(i) they are recognised on the institution's balance sheet by national generally accepted accounting principles, in accordance with Article 10 of Directive 86/635/EEC;

(ii) they meet the criteria for non-recognition set out in International Financial Reporting Standard (IFRS) 9, as applied in accordance with Regulation (EC) No 1606/2002;

(iii) they meet the criteria for non-consolidation set out in IFRS 10, as applied in accordance with Regulation (EC) No 1606/2002, where applicable;

(j) exposures that meet all the following conditions:

(i) they are exposures to a public sector entity;

(ii) they are treated in accordance with Article 116(4);

(iii) they arise from deposits that the institution is legally obliged to transfer to the public sector entity referred to in point (i) for the purpose of funding general interest investments;

(k) the excess collateral deposited at tri-party agents that has not been lent out;

(l) where under the applicable accounting framework an institution recognises the variation margin paid in cash to its counterparty as a receivable asset, the receivable asset, provided that the conditions set out in points (a) to (e) of Article 429c(3) are met;

(m) the securitised exposures from traditional securitisations that meet the conditions for significant risk transfer set out in Article 244(2);

(n) the following exposures to the institution's central bank entered into after the exemption took effect and subject to the conditions set out in paragraphs 5 and 6:

(i) coins and banknotes constituting legal currency in the jurisdiction of the central bank;

(ii) assets representing claims on the central bank, including reserves held at the central bank;

(o) where the institution is authorised in accordance with Article 16 and point (a) of Article 54(2) of Regulation (EU) No 909/2014, the institution's exposures due to banking-type ancillary services listed in point (a) of Section C of the Annex to that Regulation which are directly related to the core or ancillary services listed in Sections A and B of that Annex;

(p) where the institution is designated in accordance with point (b) of Article 54(2) of Regulation (EU) No 909/2014, the institution's exposures due to banking-type ancillary services listed in point (a) of Section C of the Annex to that Regulation which are directly related to the core or ancillary services of a central securities depository, authorised in accordance with Article 16 of that Regulation, listed in Sections A and B of that Annex.

For the purposes of point (m) of the first subparagraph, institutions shall include any retained exposure in the total exposure measure.

2. For the purposes of points (d) and (e) of paragraph 1, 'public development credit institution' means a credit institution that meets all the following conditions:

(a) it has been established by a Member State's central government, regional government or local authority;

(b) its activity is limited to advancing specified objectives of financial, social or economic public policy in accordance with the laws and provisions governing that institution, including articles of association, on a non-competitive basis;

(c) its goal is not to maximise profit or market share;

(d) subject to Union State aid rules, the central government, regional government or local authority has an obligation to protect the credit institution's viability or directly or indirectly guarantees at least 90 % of the credit institution's own funds requirements, funding requirements or promotional loans granted;

(e) it does not take covered deposits as defined in point (5) of Article 2(1) of Directive 2014/49/EU or in national law implementing that Directive that may be classified as fixed term or savings deposits from consumers as defined in point (a) of Article 3 of Directive 2008/48/EC of the European Parliament and of the Council*.

For the purposes of point (b) of the first subparagraph, public policy objectives may include the provision of financing for promotional or development purposes to specified economic sectors or geographical areas of the relevant Member State.

For the purposes of points (d) and (e) of the first subparagraph, and without prejudice to the Union State aid rules and the obligations of the Member States thereunder, competent authorities may, upon request of an institution, treat an organisationally, structurally and financially independent and autonomous unit of that institution as a public development credit institution, provided that the unit fulfils all the conditions listed in the first subparagraph and that such treatment does not affect the effectiveness of the supervision of that institution. Competent authorities shall without delay notify the Commission and EBA of any decision to treat, for the purposes of this subparagraph, a unit of an institution as a public development credit institution. The competent authority shall annually review such decision.

3. For the purposes of points (d) and (e) of paragraph 1 and point (d) of paragraph 2, ‘promotional loan’ means a loan granted by a public development credit institution or an entity set up by the central government, regional government or local authority of a Member State, directly or through an intermediate credit institution on a non-competitive, not-for-profit basis, in order to promote the public policy objectives of the central government, regional government or local authority in a Member State.

4. Institutions shall not exclude the trade exposures referred to in points (g) and (h) of paragraph 1 of this Article, where the condition set out in the third subparagraph of Article 429(5) is not met.

5. Institutions may exclude the exposures listed in point (n) of paragraph 1 where both of the following conditions are met:

   (a) the institution’s competent authority has determined, after consultation with the relevant central bank, and publicly declared that exceptional circumstances exist that warrant the exclusion in order to facilitate the implementation of monetary policies;

   (b) the exemption is granted for a limited period of time not exceeding one year.

6. The exposures to be excluded under point (n) of paragraph 1 shall meet both of the following conditions:

(a) they are denominated in the same currency as the deposits taken by the institution;

(b) their average maturity does not significantly exceed the average maturity of the deposits taken by the institution.

7. By way of derogation from point (d) of Article 92(1), where an institution excludes the exposures referred to in point (n) of paragraph 1 of this Article, it shall at all times satisfy the following adjusted leverage ratio requirement for the duration of the exclusion:

$$\mathrm{aLR} = 3\,\% \cdot \frac{\mathrm{EM_{LR}}}{\mathrm{EM_{LR}} - \mathrm{CB}}$$

where:

aLR = the adjusted leverage ratio;

EM_{LR} = the institution's total exposure measure as defined in Article 429(4), including the exposures excluded in accordance with point (n) of paragraph 1 of this Article; and

CB = the amount of exposures excluded in accordance with point (n) of paragraph 1 of this Article.

Article 429b

Calculation of the exposure value of assets

1. Institutions shall calculate the exposure value of assets, excluding derivative contracts listed in Annex II, credit derivatives and the positions referred to in Article 429e in accordance with the following principles:

   (a) the exposure values of assets means an exposure value as referred to in the first sentence of Article 111(1);

   (b) securities financing transactions shall not be netted.

2. A cash pooling arrangement offered by an institution does not violate the condition set out in point (b) of Article 429(7) only where the arrangement meets both of the following conditions:

   (a) the institution offering the cash pooling arrangement transfers the credit and debit balances of several individual accounts of entities of a group included in the arrangement (‘original accounts’) into a separate, single account and thereby sets the balances of the original accounts to zero;

   (b) the institution carries out the actions referred to in point (a) of this subparagraph on a daily basis.

For the purposes of this paragraph and paragraph 3, cash pooling arrangement means an arrangement whereby the credit or debit balances of several individual accounts are combined for the purposes of cash or liquidity management.

3. By way of derogation from paragraph 2 of this Article, a cash pooling arrangement that does not meet the condition set out in point (b) of that paragraph, but meets the condition set out in point (a) of that paragraph, does not violate the condition set out in point (b) of Article 429(7), provided that the arrangement meets all the following conditions:

   (a) the institution has a legally enforceable right to set off the balances of the original accounts through the transfer into a single account at any point in time;

   (b) there are no maturity mismatches between the balances of the original accounts;

   (c) the institution charges or pays interest based on the combined balance of the original accounts;

   (d) the competent authority of the institution considers that the frequency by which the balances of all original accounts are transferred is adequate for the purpose of including only the combined balance of the cash pooling arrangement in the total exposure measure.

4. By way of derogation from point (b) of paragraph 1, institutions may calculate the exposure value of cash receivable and cash payable under securities financing transactions with the same counterparty on a net basis only where all the following conditions are met:

   (a) the transactions have the same explicit final settlement date;

   (b) the right to set off the amount owed to the counterparty with the amount owed by the counterparty is legally enforceable in the normal course of business and in the event of default, insolvency and bankruptcy;

   (c) the counterparties intend to settle on a net basis or to settle simultaneously, or the transactions are subject to a settlement mechanism that results in the functional equivalent of net settlement.

5. For the purposes of point (c) of paragraph 4, institutions may consider that a settlement mechanism results in the functional equivalent of net settlement only where, on the settlement date, the net result of the cash flows of the transactions under that mechanism is equal to the single net amount under net settlement and all the following conditions are met:

   (a) the transactions are settled through the same settlement system or settlement systems using a common settlement infrastructure;

(b) the settlement arrangements are supported by cash or intraday credit facilities intended to ensure that the settlement of the transactions will occur by the end of the business day;

(c) any issues arising from the securities legs of the securities financing transactions do not interfere with the completion of the net settlement of the cash receivables and payables.

The condition set out in point (c) of the first subparagraph is met only where the failure of any securities financing transaction in the settlement mechanism may delay settlement of only the matching cash leg or may create an obligation to the settlement mechanism, supported by an associated credit facility.

Where there is a failure of the securities leg of a securities financing transaction in the settlement mechanism at the end of the window for settlement in the settlement mechanism, institutions shall split out this transaction and its matching cash leg from the netting set and treat them on a gross basis.

Article 429c

Calculation of the exposure value of derivatives

1. Institutions shall calculate the exposure value of derivative contracts listed in Annex II and of credit derivatives, including those that are off-balance-sheet, in accordance with the method set out in Section 3 of Chapter 6 of Title II of Part Three.

When calculating the exposure value, institutions may take into account the effects of contracts for novation and other netting agreements in accordance with Article 295. Institutions shall not take into account cross-product netting, but may net within the product category as referred to in point (25)(c) of Article 272 and credit derivatives where they are subject to a contractual cross-product netting agreement as referred to in point (c) of Article 295.

Institutions shall include in the total exposure measure sold options even where their exposure value can be set to zero in accordance with the treatment laid down in Article 274(5).

2. Where the provision of collateral related to derivative contracts reduces the amount of assets under the applicable accounting framework, institutions shall reverse that reduction.

3. For the purposes of paragraph 1 of this Article, institutions calculating the replacement cost of derivative contracts in accordance with Article 275 may recognise only collateral received in cash from their counterparties as the variation margin referred to in Article 275, where the applicable accounting framework has not already recognised the variation margin as a reduction of the exposure value and where all the following conditions are met:

   (a) for trades not cleared through a QCCP, the cash received by the recipient counterparty is not segregated;

(b) the variation margin is calculated and exchanged at least daily based on a mark-to-market valuation of derivatives positions;

(c) the variation margin received is in a currency specified in the derivative contract, governing master netting agreement, credit support annex to the qualifying master netting agreement or as defined by any netting agreement with a QCCP;

(d) the variation margin received is the full amount that would be necessary to extinguish the mark-to-market exposure of the derivative contract subject to the threshold and minimum transfer amounts that are applicable to the counterparty;

(e) the derivative contract and the variation margin between the institution and the counterparty to that contract are covered by a single netting agreement that the institution may treat as risk-reducing in accordance with Article 295.

Where an institution provides cash collateral to a counterparty and that collateral meets the conditions set out in points (a) to (e) of the first subparagraph, the institution shall consider that collateral as the variation margin posted with the counterparty and shall include it in the calculation of the replacement cost.

For the purposes of point (b) of the first subparagraph, an institution shall be considered to have met the condition set out therein where the variation margin is exchanged on the morning of the trading day following the trading day on which the derivative contract was stipulated, provided that the exchange is based on the value of the contract at the end of the trading day on which the contract was stipulated.

For the purposes of point (d) of the first subparagraph, where a margin dispute arises, institutions may recognise the amount of non-disputed collateral that has been exchanged.

4. For the purposes of paragraph 1 of this Article, institutions shall not include collateral received in the calculation of NICA as defined in point (12a) of Article 272, except in the case of derivative contracts with clients where those contracts are cleared by a QCCP.

5. For the purposes of paragraph 1 of this Article, institutions shall set the value of the multiplier used in the calculation of the potential future exposure in accordance with Article 278(1) to one, except in the case of derivative contracts with clients where those contracts are cleared by a QCCP.

6. By way of derogation from paragraph 1 of this Article, institutions may use the method set out in Section 4 or 5 of Chapter 6 of Title II of Part Three to determine the exposure value of derivative contracts listed in points 1 and 2 of Annex II, but only where they also use that method for determining the exposure value of those contracts for the purpose of meeting the own funds requirements set out in Article 92.

Where institutions apply one of the methods referred to in the first subparagraph, they shall not reduce the total exposure measure by the amount of margin they have received.

Article 429d

Additional provisions on the calculation of the exposure value of written credit derivatives

1. For the purposes of this Article, 'written credit derivative' means any financial instrument through which an institution effectively provides credit protection including credit default swaps, total return swaps and options where the institution has the obligation to provide credit protection under conditions specified in the options contract.

2. In addition to the calculation laid down in Article 429c, institutions shall include in the calculation of the exposure value of written credit derivatives the effective notional amounts referenced in the written credit derivatives reduced by any negative fair value changes that have been incorporated in Tier 1 capital with respect to those written credit derivatives.

   Institutions shall calculate the effective notional amount of written credit derivatives by adjusting the notional amount of those derivatives to reflect the true exposure of the contracts that are leveraged or otherwise enhanced by the structure of the transaction.

3. Institutions may fully or partly reduce the exposure value calculated in accordance with paragraph 2 by the effective notional amount of purchased credit derivatives, provided that all the following conditions are met:

   (a) the remaining maturity of the purchased credit derivative is equal to or greater than the remaining maturity of the written credit derivative;

   (b) the purchased credit derivative is otherwise subject to the same or more conservative material terms as those in the corresponding written credit derivative;

(c) the purchased credit derivative is not purchased from a counterparty that would expose the institution to Specific Wrong-Way risk, as defined in point (b) of Article 291(1);

(d) where the effective notional amount of the written credit derivative is reduced by any negative change in fair value incorporated in the institution's Tier 1 capital, the effective notional amount of the purchased credit derivative is reduced by any positive fair value change that has been incorporated in Tier 1 capital;

(e) the purchased credit derivative is not included in a transaction that has been cleared by the institution on behalf of a client or that has been cleared by the institution in its role as a higher-level client in a multi-level client structure and for which the effective notional amount referenced by the corresponding written credit derivative is excluded from the total exposure measure in accordance with point (g) or (h) of the first subparagraph of Article 429a(1), as applicable.

For the purpose of calculating the potential future exposure in accordance with Article 429c(1), institutions may exclude from the netting set the portion of a written credit derivative which is not offset in accordance with the first subparagraph of this paragraph and for which the effective notional amount is included in the total exposure measure.

4. For the purposes of point (b) of paragraph 3, ‘material term’ means any characteristic of the credit derivative that is relevant to the valuation thereof, including the level of subordination, the optionality, the credit events, the underlying reference entity or pool of entities, and the underlying reference obligation or pool of obligations, with the exception of the notional amount and the residual maturity of the credit derivative. Two reference names shall be the same only where they refer to the same legal entity.

5. By way of derogation from point (b) of paragraph 3, institutions may use purchased credit derivatives on a pool of reference names to offset written credit derivatives on individual reference names within that pool where the pool of reference entities and the level of subordination in both transactions are the same.

6. Institutions shall not reduce the effective notional amount of written credit derivatives where they buy credit protection through a total return swap and record the net payments received as net income, but do not record any offsetting deterioration in the value of the written credit derivative in Tier 1 capital.

7. In the case of purchased credit derivatives on a pool of reference obligations, institutions may reduce the effective notional amount of written credit derivatives on individual reference obligations by the effective notional amount of purchased credit derivatives in accordance with paragraph 3 only where the protection purchased is economically equivalent to buying protection separately on each of the individual obligations in the pool.

Article 429e

Counterparty credit risk add-on for securities financing transactions

1. In addition to the calculation of the exposure value of securities financing transactions, including those that are off-balance-sheet in accordance with Article 429b(1), institutions shall include in the total exposure measure an add-on for counterparty credit risk calculated in accordance with paragraph 2 or 3 of this Article, as applicable.

2. Institutions shall calculate the add-on for transactions with a counterparty that are not subject to a master netting agreement that meets the conditions set out in Article 206 on a transaction-by-transaction basis in accordance with the following formula:

$$E_i^* = \max\{0, E_i - C_i\}$$

where:

E_i^* = the add-on;

i = the index that denotes the transaction;

E_i = the fair value of securities or cash lent to the counterparty under transaction i; and

C_i = the fair value of securities or cash received from the counterparty under transaction i.

Institutions may set E_i^* equal to zero where E_i is the cash lent to a counterparty and the associated cash receivable is not eligible for the netting treatment set out in Article 429b(4).

3. Institutions shall calculate the add-on for transactions with a counterparty that are subject to a master netting agreement that meets the conditions set out in Article 206 on an agreement-by-agreement basis in accordance with the following formula:

$$E_i^* = \max\left\{0, \sum_i E_i - \sum_i C_i\right\}$$

where:

E_i^* = the add-on;

i = the index that denotes the netting agreement;

E_i = the fair value of securities or cash lent to the counterparty for the transactions that are subject to master netting agreement i; and

C_i = the fair value of securities or cash received from the counterparty that is subject to master netting agreement i.

4. For the purposes of paragraphs 2 and 3, the term counterparty includes also tri-party agents that receive collateral in deposit and manage the collateral in the case of tri-party transactions.

5. By way of derogation from paragraph 1 of this Article, institutions may use the method set out in Article 222, subject to a 20 % floor for the applicable risk weight, to determine the add-on for securities financing transactions including those that are off-balance-sheet. Institutions may use that method only where they also use it for calculating the exposure value of those transactions for the purpose of meeting the own funds requirements as set out in points (a), (b) and (c) of Article 92(1).

6. Where sale accounting is achieved for a repurchase transaction under the applicable accounting framework, the institution shall reverse all sales-related accounting entries.

7. Where an institution acts as an agent between two parties in a securities financing transaction, including an off-balance-sheet transaction, the following provisions shall apply to the calculation of the institution's total exposure measure:

   (a) where the institution provides an indemnity or guarantee to one of the parties in the securities financing transaction and the indemnity or guarantee is limited to any difference between the value of the security or cash the party has lent and the value of collateral the borrower has provided, the institution shall only include the add-on calculated in accordance with paragraph 2 or 3, as applicable, in the total exposure measure;

(b) where the institution does not provide an indemnity or guarantee to any of the involved parties, the transaction shall not be included in the total exposure measure;

(c) where the institution is economically exposed to the underlying security or the cash in the transaction to an amount greater than the exposure covered by the add-on, it shall include in the total exposure measure also the full amount of the security or the cash to which it is exposed;

(d) where the institution acting as agent provides an indemnity or guarantee to both parties involved in a securities financing transaction, the institution shall calculate its total exposure measure in accordance with points (a), (b) and (c) separately for each party involved in the transaction.

Article 429f

Calculation of the exposure value of off-balance-sheet items

1. Institutions shall calculate, in accordance with Article 111(1), the exposure value of off-balance-sheet items, excluding derivative contracts listed in Annex II, credit derivatives, securities financing transactions and positions referred to in Article 429d.

   Where a commitment refers to the extension of another commitment, Article 166(9) shall apply.

2. By way of derogation from paragraph 1, institutions may reduce the credit exposure equivalent amount of an off-balance-sheet item by the corresponding amount of specific credit risk adjustments. The calculation shall be subject to a floor of zero.

3. By way of derogation from paragraph 1 of this Article, institutions shall apply a conversion factor of 10 % to low-risk off-balance-sheet items referred to in point (d) of Article 111(1).

Article 429g

Calculation of the exposure value of regular-way purchases and sales awaiting settlement

1. Institutions shall treat cash related to regular-way sales and securities related to regular-way purchases which remain on the balance sheet until the settlement date as assets in accordance with point (a) of Article 429(4).

2. Institutions that, in accordance with the applicable accounting framework, apply trade date accounting to regular-way purchases and sales which are awaiting settlement shall reverse out any offsetting between cash receivables for regular-way sales awaiting settlement and cash payables for regular-way purchase awaiting settlement allowed under that framework. After institutions have reversed out the accounting offsetting, they may offset between those cash receivables and cash payables where both the related regular-way sales and purchases are settled on a delivery-versus-payment basis.

3. Institutions that, in accordance with the applicable accounting framework, apply settlement date accounting to regular-way purchases and sales which are awaiting settlement shall include in the total exposure measure the full nominal value of commitments to pay related to regular-way purchases.

Institutions may offset the full nominal value of the commitments to pay related to regular-way purchases by the full nominal value of cash receivables related to regular-way sales awaiting settlement only where both of the following conditions are met:

(a) both the regular-way purchases and sales are settled on a delivery-versus-payment basis;

(b) the financial assets bought and sold that are associated with cash payables and receivables are fair valued through profit and loss and included in the institution's trading book.

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* Directive 2008/48/EC of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers and repealing Council Directive 87/102/EEC (OJ L 133, 22.5.2008, p. 66)."

(118) the following part is inserted after Article 429g:

"PART SEVEN A
REPORTING REQUIREMENTS

Article 430
Reporting on prudential requirements and financial information

1. Institutions shall report to their competent authorities on:

(a) own funds requirements, including the leverage ratio, as set out in Article 92 and Part Seven;

(b) the requirements laid down in Articles 92a and 92b, for institutions that are subject to those requirements;

(c) large exposures as set out in Article 394;

(d) liquidity requirements as set out in Article 415;

(e) the aggregate data for each national immovable property market as set out in Article 430a(1);

(f) the requirements and guidance set out in Directive 2013/36/EU qualified for standardised reporting, except for any additional reporting requirement under point (j) of Article 104(1) of that Directive;

(g) the level of asset encumbrance, including a breakdown by the type of asset encumbrance, such as repurchase agreements, securities lending, securitised exposures or loans.

Institutions exempted in accordance with Article 6(5) shall not be subject to the reporting requirement on the leverage ratio set out in point (a) of the first subparagraph of this paragraph on an individual basis.

2. In addition to the reporting on the leverage ratio referred to in point (a) of the first subparagraph of paragraph 1 and in order to enable the competent authorities to monitor leverage ratio volatility, in particular around reporting reference dates, large institutions shall report specific components of the leverage ratio to their competent authorities based on averages over the reporting period and the data used to calculate those averages.

3. In addition to the reporting on prudential requirements referred to in paragraph 1 of this Article, institutions shall report financial information to their competent authorities where they are one of the following:

(a) an institution that is subject to Article 4 of Regulation (EC) No 1606/2002;

(b) a credit institution that prepares its consolidated accounts in accordance with the international accounting standards pursuant to point (b) of Article 5 of Regulation (EC) No 1606/2002.

4. Competent authorities may require credit institutions that determine their own funds on a consolidated basis in accordance with international accounting standards pursuant to Article 24(2) to report financial information in accordance with this Article.

5. The reporting on financial information referred to in paragraphs 3 and 4 shall only comprise information that is needed to provide a comprehensive view of the institution's risk profile and the systemic risks posed by the institution to the financial sector or the real economy as set out in Regulation (EU) No 1093/2010.

6. The reporting requirements laid down in this Article shall be applied to institutions in a proportionate manner taking into account the report referred to in paragraph 8, having regard to their size, complexity and the nature and level of risk of their activities.

7. EBA shall develop draft implementing technical standards to specify the uniform reporting formats and templates, the instructions and methodology on how to use those templates, the frequency and dates of reporting, the definitions and the IT solutions for the reporting referred to in paragraphs 1 to 4.

   Any new reporting requirements set out in such implementing technical standards shall not be applicable earlier than six months from the date of their entry into force.

For the purposes of paragraph 2, the draft implementing technical standards shall specify which components of the leverage ratio shall be reported using day-end or month-end values. For that purpose, EBA shall take into account both of the following:

(a) how susceptible a component is to significant temporary reductions in transaction volumes that could result in an underrepresentation of the risk of excessive leverage at the reporting reference date;

(b) developments and findings at international level.

EBA shall submit to the Commission the draft implementing technical standards referred to in this paragraph by … [24 months after the date of entry into force of this amending Regulation], except in relation to the following:

(a) the leverage ratio, which shall be submitted by … [12 months after the date of entry into force of this amending Regulation];

(b) the obligations laid down in Articles 92a and 92b, which shall be submitted by … [12 months after the date of entry into force of this amending Regulation].

Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph in accordance with Article 15 of Regulation (EU) No 1093/2010.

8. EBA shall assess the costs and benefits of the reporting requirements laid down in Commission Implementing Regulation (EU) No 680/2014* in accordance with this paragraph and report its findings to the Commission by … [12 months after the date of entry into force of this amending Regulation]. That assessment shall be carried out in particular in relation to small and non-complex institutions. For those purposes, the report shall:

(a) classify institutions into categories based on their size, complexity and the nature and level of risk of their activities;

(b) measure the reporting costs incurred by each category of institutions during the relevant period to meet the reporting requirements set out in Implementing Regulation (EU) No 680/2014, taking into account the following principles:

(i) the reporting costs shall be measured as the ratio of the reporting costs relative to the institution's total costs during the relevant period;

(ii) the reporting costs shall comprise all expenditure related to the implementation and operation on an on-going basis of the reporting systems, including expenditure on staff, IT systems, legal, accounting, auditing and consultancy services;

(iii) the relevant period shall refer to each annual period during which institutions have incurred reporting costs to prepare for the implementation of the reporting requirements laid down in Implementing Regulation (EU) No 680/2014 and to continue operating the reporting systems on an on-going basis;

(c) assess whether the reporting costs incurred by each category of institutions were proportionate with regard to the benefits delivered by the reporting requirements for the purposes of prudential supervision;

(d) assess the effects of a reduction of reporting requirement on costs and supervisory effectiveness; and

(e) make recommendations on how to reduce reporting requirements at least for small and non-complex institutions, to which end EBA shall target an expected average cost reduction of at least 10 % but ideally a 20 % cost reduction. EBA shall, in particular, assess whether:

(i) the reporting requirements referred to in point (g) of paragraph 1 could be waived for small and non-complex institutions where asset encumbrance was below a certain threshold;

(ii) the reporting frequency required in accordance with points (a), (c), and (g) of paragraph 1 could be reduced for small and non-complex institutions.

EBA shall accompany that report by draft implementing technical standards referred to in paragraph 7.

9. Competent authorities shall consult EBA on whether institutions, other than those referred to in paragraphs 3 and 4, should report on financial information on a consolidated basis in accordance with paragraph 3, provided that all the following conditions are met:

(a) the relevant institutions are not already reporting on a consolidated basis;

(b) the relevant institutions are subject to an accounting framework in accordance with Directive 86/635/EEC;

(c) financial reporting is considered necessary to provide a comprehensive view of the risk profile of those institutions' activities and of the systemic risks they pose to the financial sector or the real economy as set out in Regulation (EU) No 1093/2010.

EBA shall develop draft implementing technical standards to specify the formats and templates that institutions referred to in the first subparagraph shall use for the purposes set out therein.

Power is conferred on the Commission to adopt the implementing technical standards referred to in the second subparagraph in accordance with Article 15 of Regulation (EU) No 1093/2010.

10. Where a competent authority considers information not covered by the implementing technical standards referred to in paragraph 7 as necessary for the purposes set out in paragraph 5, it shall notify EBA and the ESRB of the additional information it considers necessary to include in the implementing technical standards referred to in that paragraph.

11. Competent authorities may waive the requirement to submit any of the data points set out in the reporting templates specified in the implementing technical standards referred to in this Article where those data points are duplicative. For those purposes, duplicative data points shall refer to any data points which are already available to the competent authorities by means other than by collecting those reporting templates, including where those data points can be obtained from data that is already available to the competent authorities in different formats or levels of granularity; the competent authority may only grant the waivers referred to in this paragraph if data received, collated or aggregated through such alternative methods are identical to those data points which would otherwise have to be reported in accordance with the respective implementing technical standards.

    Competent authorities, resolution authorities and designated authorities shall make use of data exchange wherever possible to reduce reporting requirements. The provisions on the exchange of information and professional secrecy as laid down in Section II of Chapter I of Title VII of Directive 2013/36/EU shall apply.

Article 430a

Specific reporting obligations

1. Institutions shall report to their competent authorities on an annual basis the following aggregate data for each national immovable property market to which they are exposed:

   (a) losses stemming from exposures for which an institution has recognised residential property as collateral, up to the lower of the pledged amount and 80 % of the market value or 80 % of the mortgage lending value, unless otherwise decided under Article 124(2);

   (b) overall losses stemming from exposures for which an institution has recognised residential property as collateral, up to the part of the exposure treated as fully secured by residential property in accordance with Article 124(1);

   (c) the exposure value of all outstanding exposures for which an institution has recognised residential property as collateral limited to the part treated as fully secured by residential property in accordance with Article 124(1);

   (d) losses stemming from exposures for which an institution has recognised immovable commercial property as collateral, up to the lower of the pledged amount and 50 % of the market value or 60 % of the mortgage lending value, unless otherwise decided under Article 124(2);

(e) overall losses stemming from exposures for which an institution has recognised immovable commercial property as collateral, up to the part of the exposure treated as fully secured by immovable commercial property in accordance with Article 124(1);

(f) the exposure value of all outstanding exposures for which an institution has recognised immovable commercial property as collateral limited to the part treated as fully secured by immovable commercial property in accordance with Article 124(1).

2. The data referred to in paragraph 1 shall be reported to the competent authority of the home Member State of the relevant institution. Where an institution has a branch in another Member State, the data relating to that branch shall also be reported to the competent authorities of the host Member State. The data shall be reported separately for each immovable property market within the Union to which the relevant institution is exposed.

3. The competent authorities shall publish annually on an aggregated basis the data specified in points (a) to (f) of paragraph 1, together with historical data, where available. A competent authority shall, upon the request of another competent authority in a Member State or EBA provide to that competent authority or EBA more detailed information on the condition of the residential property or commercial immovable property markets in that Member State.

Article 430b

Specific reporting requirements for market risk

1. From the date of application of the delegated act referred to in Article 461a, institutions that do not meet the conditions set out in Article 94(1) nor the conditions set out in Article 325a(1) shall report, for all their trading book positions and all their non-trading book positions that are subject to foreign exchange or commodity risks, the results of the calculations based on using the alternative standardised approach set out in Chapter 1a of Title IV of Part Three on the same basis as such institutions report the obligations laid down in points (b)(i) and (c) of Article 92(3).

2. Institutions referred to in paragraph 1 of this Article shall report separately the calculations set out in points (a), (b) and (c) of Article 325c(2) for the portfolio of all trading book positions or non-trading book positions that are subject to foreign exchange and commodity risks.

3. In addition to the requirement set out in paragraph 1 of this Article, from the end of a three-year-period following the date of entry into force of the latest regulatory technical standards referred to in Articles 325bd(7), 325be(3), 325bf(9), 325bg(4), institutions shall report, for those positions assigned to trading desks for which they have been granted permission by the competent authorities to use the alternative internal model approach in accordance with Article 325az(2), the results of the calculations based on using that approach set out in Chapter 1b of Title IV of Part Three on the same basis as such institutions report the obligations laid down in points (b)(i) and (c) of Article 92(3).

4. For the purposes of the reporting requirement in paragraph 3 of this Article, institutions shall report separately the calculations set out in points (a)(i), (a)(ii), (b)(i) and (b)(ii) of Article 325ba(1) and for the portfolio of all trading book positions or non-trading book positions that are subject to foreign exchange and commodity risks assigned to trading desks for which the institution has been granted permission by the competent authorities to use the alternative internal model approach in accordance with Article 325az(2).

5. Institutions may use in combination the approaches referred to in paragraphs 1 and 3 within a group, provided that the calculation under the approach referred to in paragraph 1 does not exceed 90 % of the total calculation. Otherwise, the institution shall use the approach referred to in paragraph 1 for all its trading book positions and all its non-trading book positions that are subject to foreign exchange or commodity risk.

6. EBA shall develop draft implementing technical standards, to specify the uniform reporting templates, the instructions and methodology on how to use the templates, the frequency and dates of reporting, the definitions and the IT solutions for the reporting referred to in this Article.

Any new reporting requirements set out in such implementing technical standards shall not be applicable earlier than six months from the date of their entry into force.

EBA shall submit those draft implementing technical standards to the Commission by 30 June 2020.

Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph in accordance with Article 15 of Regulation (EU) No 1093/2010.

Article 430c

Feasibility report on the integrated reporting system

1. EBA shall prepare a report on feasibility regarding the development of a consistent and integrated system for collecting statistical data, resolution data and prudential data and report its findings to the Commission by … [12 months after the date of entry into force of this amending Regulation].

2. When drafting the feasibility report, EBA shall involve competent authorities, as well as authorities that are responsible for deposit guarantee schemes, resolution and in particular the ESCB. The report shall take into account the previous work of the ESCB regarding integrated data collections and shall be based on an overall cost and benefit analysis including as a minimum:

(a) an overview of the quantity and scope of the current data collected by the competent authorities in their jurisdiction and of its origins and granularity;

(b) the establishment of a standard dictionary of the data to be collected, in order to increase the convergence of reporting requirements as regards regular reporting obligations, and to avoid unnecessary queries;

(c) the establishment of a joint committee, including as a minimum EBA and the ESCB, for the development and implementation of the integrated reporting system;

(d) the feasibility and possible design of a central data collection point for the integrated reporting system, including requirements to ensure strict confidentiality of the data collected, strong authentication and management of access rights to the system and cybersecurity, which:

(i) contains a central data register with all statistical data, resolution data and prudential data in the necessary granularity and frequency for the particular institution and is updated at necessary intervals;

(ii) serves as a point of contact for the competent authorities, where they receive, process and pool all data queries, where queries can be matched with existing collected reported data and which allows the competent authorities quick access to the requested information;

(iii) provides additional support to the competent authorities for the transmission of data queries to the institutions and enters the requested data into the central data register;

(iv) holds a coordinating role for the exchange of information and data between competent authorities; and

(v) takes into account the proceedings and processes of competent authorities and transfers them into a standardised system.

3. By one year after the presentation of the report referred to in this Article, the Commission shall, if appropriate and taking into account the feasibility report by EBA, submit to the European Parliament and to the Council a legislative proposal for the establishment of a standardised and integrated reporting system for reporting requirements.

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* Commission Implementing Regulation (EU) No 680/2014 of 16 April 2014 laying down implementing technical standards with regard to supervisory reporting of institutions according to Regulation (EU) No 575/2013 of the European Parliament and of the Council (OJ L 191, 28.6.2014, p. 1).";

(119) Part Eight is replaced by the following:

"PART EIGHT
DISCLOSURE BY INSTITUTIONS

TITLE I
GENERAL PRINCIPLES

Article 431
Disclosure requirements and policies

1. Institutions shall publicly disclose the information referred to in Titles II and III in accordance with the provisions laid down in this Title, subject to the exceptions referred to in Article 432.

2. Institutions that have been granted permission by the competent authorities under Part Three for the instruments and methodologies referred to in Title III of this Part shall publicly disclose the information laid down therein.

3. The management body or senior management shall adopt formal policies to comply with the disclosure requirements laid down in this Part and put in place and maintain internal processes, systems and controls to verify that the institutions' disclosures are appropriate and in compliance with the requirements laid down in this Part. At least one member of the management body or senior management shall attest in writing that the relevant institution has made the disclosures required under this Part in accordance with the formal policies and internal processes, systems and controls. The written attestation and the key elements of the institution's formal policies to comply with the disclosure requirements shall be included in institutions' disclosures.

Information to be disclosed in accordance with this Part shall be subject to the same level of internal verification as that applicable to the management report included in the institution's financial report.

Institutions shall also have policies in place to verify that their disclosures convey their risk profile comprehensively to market participants. Where institutions find that the disclosures required under this Part do not convey the risk profile comprehensively to market participants, they shall publicly disclose information in addition to the information required to be disclosed under this Part. Nonetheless, institutions shall only be required to disclose information that is material and not proprietary or confidential as referred to in Article 432.

4. All quantitative disclosures shall be accompanied by a qualitative narrative and any other supplementary information that may be necessary in order for the users of that information to understand the quantitative disclosures, noting in particular any significant change in any given disclosure compared to the information contained in the previous disclosures.

5. Institutions shall, if requested, explain their rating decisions to SMEs and other corporate applicants for loans, providing an explanation in writing when asked. The administrative costs of that explanation shall be proportionate to the size of the loan.

Article 432

Non-material, proprietary or confidential information

1. With the exception of the disclosures laid down in point (c) of Article 435(2) and in Articles 437 and 450, institutions may omit one or more of the disclosures listed in Titles II and III where the information provided by those disclosures is not regarded as material.

   Information in disclosures shall be regarded as material where its omission or misstatement could change or influence the assessment or decision of a user of that information relying on it for the purpose of making economic decisions.

   EBA shall issue guidelines, in accordance with Article 16 of Regulation (EU) No 1093/2010, on how institutions have to apply materiality in relation to the disclosure requirements of Titles II and III.

2. Institutions may also omit one or more items of information referred to in Titles II and III where those items include information that is regarded as proprietary or confidential in accordance with this paragraph, except for the disclosures laid down in Articles 437 and 450.

Information shall be regarded as proprietary to institutions where disclosing it publicly would undermine their competitive position. Proprietary information may include information on products or systems that would render the investments of institutions therein less valuable, if shared with competitors.

Information shall be regarded as confidential where the institutions are obliged by customers or other counterparty relationships to keep that information confidential.

EBA shall issue guidelines, in accordance with Article 16 of Regulation (EU) No 1093/2010, on how institutions have to apply proprietary and confidentiality in relation to the disclosure requirements of Titles II and III.

3. In the exceptional cases referred to in paragraph 2, the institution concerned shall state in its disclosures the fact that specific items of information are not being disclosed and the reason for not disclosing those items, and publish more general information about the subject matter of the disclosure requirement, except where that subject matter is, in itself, proprietary or confidential.

Article 433

Frequency and scope of disclosures

Institutions shall publish the disclosures required under Titles II and III in the manner set out in Articles 433a, 433b and 433c.

Annual disclosures shall be published on the same date as the date on which institutions publish their financial statements or as soon as possible thereafter.

Semi-annual and quarterly disclosures shall be published on the same date as the date on which the institutions publish their financial reports for the corresponding period where applicable or as soon as possible thereafter.

Any delay between the date of publication of the disclosures required under this Part and the relevant financial statements shall be reasonable and, in any event, shall not exceed the timeframe set by competent authorities pursuant to Article 106 of Directive 2013/36/EU.

Article 433a

Disclosures by large institutions

1. Large institutions shall disclose the information outlined below with the following frequency:

   (a) all the information required under this Part on an annual basis;

(b) on a semi-annual basis the information referred to in:

(i) point (a) of Article 437;

(ii) point (e) of Article 438;

(iii) points (e) to (l) of Article 439;

(iv) Article 440;

(v) points (c), (e), (f) and (g) of Article 442;

(vi) point (e) of Article 444;

(vii) Article 445;

(viii) point (a) and (b) of Article 448(1);

(ix) point (j) to (l) of Article 449;

(x) points (a) and (b) of Article 451(1);

(xi) Article 451a(3);

(xii) point (g) of Article 452;

(xiii) points (f) to (j) of Article 453;

(xiv) points (d), (e) and (g) of Article 455;

(c) on a quarterly basis the information referred to in:

(i) points (d) and (h) of Article 438;

(ii) the key metrics referred to in Article 447;

(iii) Article 451a(2).

2. By way of derogation from paragraph 1, large institutions other than G-SIIs that are non-listed institutions shall disclose the information outlined below with the following frequency:

(a) all the information required under this Part on an annual basis;

(b) the key metrics referred to in Article 447 on a semi-annual basis.

3. Large institutions that are subject to Article 92a or 92b shall disclose the information required under Article 437a on a semi-annual basis, except for the key metrics referred to in point (h) of Article 447, which are to be disclosed on a quarterly basis.

Article 433b

Disclosures by small and non-complex institutions

1. Small and non-complex institutions shall disclose the information outlined below with the following frequency:

   (a) on an annual basis the information referred to in:

      (i) points (a), (e) and (f) of Article 435(1);

      (ii) point (d) of Article 438;

      (iii) points (a) to (d), (h), (i), (j) of Article 450(1);

   (b) on a semi-annual basis the key metrics referred to in Article 447.

2. By way of derogation from paragraph 1 of this Article, small and non-complex institutions that are non-listed institutions shall disclose the key metrics referred to in Article 447 on an annual basis.

Article 433c

Disclosures by other institutions

1. Institutions that are not subject to Article 433a or 433b shall disclose the information outlined below with the following frequency:

   (a) all the information required under this Part on an annual basis;

(b) the key metrics referred to in Article 447 on a semi-annual basis.

2. By way of derogation from paragraph 1 of this Article, other institutions that are non-listed institutions shall disclose the following information on an annual basis:

(a) points (a), (e) and (f) of Article 435(1);

(b) points (a, (b) and (c) of Article 435(2);

(c) point (a) of Article 437;

(d) points (c) and (d) of Article 438;

(e) the key metrics referred to in Article 447;

(f) points (a) to (d), (h) to (k) of Article 450(1).

Article 434

Means of disclosures

1. Institutions shall disclose all the information required under Titles II and III in electronic format and in a single medium or location. The single medium or location shall be a standalone document that provides a readily accessible source of prudential information for users of that information or a distinctive section included in or appended to the institutions' financial statements or financial reports containing the required disclosures and being easily identifiable to those users.

2. Institutions shall make available on their website or, in the absence of a website, in any other appropriate location an archive of the information required to be disclosed in accordance with this Part. That archive shall be kept accessible for a period of time that shall be no less than the storage period set by national law for information included in the institutions' financial reports.

Article 434a

Uniform disclosure formats

EBA shall develop draft implementing technical standards specifying uniform disclosure formats, and associated instructions in accordance with which the disclosures required under Titles II and III shall be made.

Those uniform disclosure formats shall convey sufficiently comprehensive and comparable information for users of that information to assess the risk profiles of institutions and their degree of compliance with the requirements laid down in Parts One to Seven. To facilitate the comparability of information, the implementing technical standards shall seek to maintain consistency of disclosure formats with international standards on disclosures.

Uniform disclosure formats shall be tabular where appropriate.

EBA shall submit those draft implementing technical standards to the Commission by … [12 months after the date of entry into force of this amending Regulation].

Power is conferred on the Commission to adopt those implementing technical standards in accordance with Article 15 of Regulation (EU) No 1093/2010.

TITLE II

TECHNICAL CRITERIA ON TRANSPARENCY AND DISCLOSURE

Article 435

Disclosure of risk management objectives and policies

1. Institutions shall disclose their risk management objectives and policies for each separate category of risk, including the risks referred to in this Title. Those disclosures shall include:

   (a) the strategies and processes to manage those categories of risks;

   (b) the structure and organisation of the relevant risk management function including information on the basis of its authority, its powers and accountability in accordance with the institution's incorporation and governing documents;

   (c) the scope and nature of risk reporting and measurement systems;

   (d) the policies for hedging and mitigating risk, and the strategies and processes for monitoring the continuing effectiveness of hedges and mitigants;

   (e) a declaration approved by the management body on the adequacy of the risk management arrangements of the relevant institution providing assurance that the risk management systems put in place are adequate with regard to the institution's profile and strategy;

(f) a concise risk statement approved by the management body succinctly describing the relevant institution's overall risk profile associated with the business strategy; that statement shall include:

(i) key ratios and figures providing external stakeholders a comprehensive view of the institution's management of risk, including how the risk profile of the institution interacts with the risk tolerance set by the management body;

(ii) information on intragroup transactions and transactions with related parties that may have a material impact of the risk profile of the consolidated group.

2. Institutions shall disclose the following information regarding governance arrangements:

(a) the number of directorships held by members of the management body;

(b) the recruitment policy for the selection of members of the management body and their actual knowledge, skills and expertise;

(c) the policy on diversity with regard to selection of members of the management body, its objectives and any relevant targets set out in that policy, and the extent to which those objectives and targets have been achieved;

(d) whether or not the institution has set up a separate risk committee and the number of times the risk committee has met;

(e) the description of the information flow on risk to the management body.

Article 436

Disclosure of the scope of application

Institutions shall disclose the following information regarding the scope of application of this Regulation as follows:

(a) the name of the institution to which this Regulation applies;

(b) a reconciliation between the consolidated financial statements prepared in accordance with the applicable accounting framework and the consolidated financial statements prepared in accordance with the requirements on regulatory consolidation pursuant to Sections 2 and 3 of Title II of Part One; that reconciliation shall outline the differences between the accounting and regulatory scopes of consolidation and the legal entities included within the regulatory scope of consolidation where it differs from the accounting scope of consolidation; the outline of the legal entities included within the regulatory scope of consolidation shall describe the method of regulatory consolidation where it is different from the accounting consolidation method, whether those entities are fully or proportionally consolidated and whether the holdings in those legal entities are deducted from own funds;

(c) a breakdown of assets and liabilities of the consolidated financial statements prepared in accordance with the requirements on regulatory consolidation pursuant to Sections 2 and 3 of Title II of Part One, broken down by type of risks as referred to under this Part;

(d) a reconciliation identifying the main sources of differences between the carrying value amounts in the financial statements under the regulatory scope of consolidation as defined in Sections 2 and 3 of Title II of Part One, and the exposure amount used for regulatory purposes; that reconciliation shall be supplemented by qualitative information on those main sources of differences;

(e) for exposures from the trading book and the non-trading book that are adjusted in accordance with Article 34 and Article 105, a breakdown of the amounts of the constituent elements of an institution's prudent valuation adjustment, by type of risks, and the total of constituent elements separately for the trading book and non-trading book positions;

(f) any current or expected material practical or legal impediment to the prompt transfer of own funds or to the repayment of liabilities between the parent undertaking and its subsidiaries;

(g) the aggregate amount by which the actual own funds are less than required in all subsidiaries that are not included in the consolidation, and the name or names of those subsidiaries;

(h) where applicable, the circumstances under which use is made of the derogation referred to in Article 7 or the individual consolidation method laid down in Article 9.

Article 437

Disclosure of own funds

Institutions shall disclose the following information regarding their own funds:

(a) a full reconciliation of Common Equity Tier 1 items, Additional Tier 1 items, Tier 2 items and the filters and deductions applied to own funds of the institution pursuant to Articles 32 to 36, 56, 66 and 79 with the balance sheet in the audited financial statements of the institution;

(b) a description of the main features of the Common Equity Tier 1 and Additional Tier 1 instruments and Tier 2 instruments issued by the institution;

(c) the full terms and conditions of all Common Equity Tier 1, Additional Tier 1 and Tier 2 instruments;

(d) a separate disclosure of the nature and amounts of the following:

(i) each prudential filter applied pursuant to Articles 32 to 35;

(ii) items deducted pursuant to Articles 36, 56 and 66;

(iii) items not deducted pursuant to Articles 47, 48, 56, 66 and 79;

(e) a description of all restrictions applied to the calculation of own funds in accordance with this Regulation and the instruments, prudential filters and deductions to which those restrictions apply;

(f) a comprehensive explanation of the basis on which capital ratios are calculated where those capital ratios are calculated by using elements of own funds determined on a basis other than the basis laid down in this Regulation.

Article 437a

Disclosure of own funds and eligible liabilities

Institutions that are subject to Article 92a or 92b shall disclose the following information regarding their own funds and eligible liabilities:

(a) the composition of their own funds and eligible liabilities, their maturity and their main features;

(b) the ranking of eligible liabilities in the creditor hierarchy;

(c) the total amount of each issuance of eligible liabilities instruments referred to in Article 72b and the amount of those issuances that is included in eligible liabilities items within the limits specified in Article 72b(3) and (4);

(d) the total amount of excluded liabilities referred to in Article 72a(2).

Article 438

Disclosure of own funds requirements and risk-weighted exposure amounts

Institutions shall disclose the following information regarding their compliance with Article 92 of this Regulation and with the requirements laid down in Article 73 and in point (a) of Article 104(1) of Directive 2013/36/EU:

(a) a summary of their approach to assessing the adequacy of their internal capital to support current and future activities;

(b) the amount of the additional own funds requirements based on the supervisory review process as referred to in point (a) of Article 104(1) of Directive 2013/36/EU and its composition in terms of Common Equity Tier 1, additional Tier 1 and Tier 2 instruments;

(c) upon demand from the relevant competent authority, the result of the institution's internal capital adequacy assessment process;

(d) the total risk-weighted exposure amount and the corresponding total own funds requirement determined in accordance with Article 92, to be broken down by the different risk categories set out in Part Three and, where applicable, an explanation of the effect on the calculation of own funds and risk-weighted exposure amounts that results from applying capital floors and not deducting items from own funds;

(e) the on- and off-balance-sheet exposures, the risk-weighted exposure amounts and associated expected losses for each category of specialised lending referred to in Table 1 of Article 153(5) and the on- and off-balance-sheet exposures and risk-weighted exposure amounts for the categories of equity exposures set out in Article 155(2);

(f) the exposure value and the risk-weighted exposure amount of own funds instruments held in any insurance undertaking, reinsurance undertaking or insurance holding company that the institutions do not deduct from their own funds in accordance with Article 49 when calculating their capital requirements on an individual, sub-consolidated and consolidated basis;

(g) the supplementary own funds requirement and the capital adequacy ratio of the financial conglomerate calculated in accordance with Article 6 of Directive 2002/87/EC and Annex I to that Directive where method 1 or 2 set out in that Annex is applied;

(h) the variations in the risk-weighted exposure amounts of the current disclosure period compared to the immediately preceding disclosure period that result from the use of internal models, including an outline of the key drivers explaining those variations.

Article 439

Disclosure of exposures to counterparty credit risk

Institutions shall disclose the following information regarding their exposure to counterparty credit risk as referred to in Chapter 6 of Title II of Part Three:

(a) a description of the methodology used to assign internal capital and credit limits for counterparty credit exposures, including the methods to assign those limits to exposures to central counterparties;

(b) a description of policies related to guarantees and other credit risk mitigants, such as the policies for securing collateral and establishing credit reserves;

(c) a description of policies with respect to General Wrong-Way risk and Specific Wrong-Way risk as defined in Article 291;

(d) the amount of collateral the institution would have to provide if its credit rating was downgraded;

(e) the amount of segregated and unsegregated collateral received and posted per type of collateral, further broken down between collateral used for derivatives and securities financing transactions;

(f) for derivative transactions, the exposure values before and after the effect of the credit risk mitigation as determined under the methods set out in Sections 3 to 6 of Chapter 6 of Title II of Part Three, whichever method is applicable, and the associated risk exposure amounts broken down by applicable method;

(g) for securities financing transactions, the exposure values before and after the effect of the credit risk mitigation as determined under the methods set out in Chapters 4 and 6 of Title II of Part Three, whichever method is used, and the associated risk exposure amounts broken down by applicable method;

(h) the exposure values after credit risk mitigation effects and the associated risk exposures for credit valuation adjustment capital charge, separately for each method as set out in Title VI of Part Three;

(i) the exposure value to central counterparties and the associated risk exposures within the scope of Section 9 of Chapter 6 of Title II of Part Three, separately for qualifying and non-qualifying central counterparties, and broken down by types of exposures;

(j) the notional amounts and fair value of credit derivative transactions; credit derivative transactions shall be broken down by product type; within each product type, credit derivative transactions shall be broken down further by credit protection bought and credit protection sold;

(k) the estimate of alpha where the institution has received the permission of the competent authorities to use its own estimate of alpha in accordance with Article 284(9);

(l) separately, the disclosures included in point (e) of Article 444 and point (g) of Article 452;

(m) for institutions using the methods set out in Sections 4 to 5 of Chapter 6 of Title II Part Three, the size of their on- and off-balance-sheet derivative business as calculated in accordance with Article 273a(1) or (2), as applicable.

Where the central bank of a Member State provides liquidity assistance in the form of collateral swap transactions, the competent authority may exempt institutions from the requirements in points (d) and (e) of the first subparagraph where that competent authority considers that the disclosure of the information referred to therein could reveal that emergency liquidity assistance has been provided. For those purposes, the competent authority shall set out appropriate thresholds and objective criteria.

Article 440

Disclosure of countercyclical capital buffers

Institutions shall disclose the following information in relation to their compliance with the requirement for a countercyclical capital buffer as referred to in Chapter 4 of Title VII of Directive 2013/36/EU:

(a) the geographical distribution of the exposure amounts and risk-weighted exposure amounts of its credit exposures used as a basis for the calculation of their countercyclical capital buffer;

(b) the amount of their institution-specific countercyclical capital buffer.

Article 441

Disclosure of indicators of global systemic importance

G-SIIs shall disclose, on an annual basis, the values of the indicators used for determining their score in accordance with the identification methodology referred to in Article 131 of Directive 2013/36/EU.

Article 442

Disclosure of exposures to credit risk and dilution risk

Institutions shall disclose the following information regarding their exposures to credit risk and dilution risk:

(a) the scope and definitions that they use for accounting purposes of 'past due' and 'impaired' and the differences, if any, between the definitions of 'past due' and 'default' for accounting and regulatory purposes;

(b) a description of the approaches and methods adopted for determining specific and general credit risk adjustments;

(c) information on the amount and quality of performing, non-performing and forborne exposures for loans, debt securities and off-balance-sheet exposures, including their related accumulated impairment, provisions and negative fair value changes due to credit risk and amounts of collateral and financial guarantees received;

(d) an ageing analysis of accounting past due exposures;

(e) the gross carrying amounts of both defaulted and non-defaulted exposures, the accumulated specific and general credit risk adjustments, the accumulated write-offs taken against those exposures and the net carrying amounts and their distribution by geographical area and industry type and for loans, debt securities and off-balance-sheet exposures;

(f) any changes in the gross amount of defaulted on- and off-balance-sheet exposures, including, as a minimum, information on the opening and closing balances of those exposures, the gross amount of any of those exposures reverted to non-defaulted status or subject to a write-off;

(g) the breakdown of loans and debt securities by residual maturity.

Article 443

Disclosure of encumbered and unencumbered assets

Institutions shall disclose information concerning their encumbered and unencumbered assets. For those purposes, institutions shall use the carrying amount per exposure class broken down by asset quality and the total amount of the carrying amount that is encumbered and unencumbered. Disclosure of information on encumbered and unencumbered assets shall not reveal emergency liquidity assistance provided by central banks.

Article 444

Disclosure of the use of the Standardised Approach

Institutions calculating their risk-weighted exposure amounts in accordance with Chapter 2 of Title II of Part Three shall disclose the following information for each of the exposure classes set out in Article 112:

(a) the names of the nominated ECAIs and ECAs and the reasons for any changes in those nominations over the disclosure period;

(b) the exposure classes for which each ECAI or ECA is used;

(c) a description of the process used to transfer the issuer and issue credit ratings onto items not included in the trading book;

(d) the association of the external rating of each nominated ECAI or ECA with the risk weights that correspond to the credit quality steps as set out in Chapter 2 of Title II of Part Three, taking into account that it is not necessary to disclose that information where the institutions comply with the standard association published by EBA;

(e) the exposure values and the exposure values after credit risk mitigation associated with each credit quality step as set out in Chapter 2 of Title II of Part Three, by exposure class, as well as the exposure values deducted from own funds.

Article 445

Disclosure of exposure to market risk

Institutions calculating their own funds requirements in accordance with points (b) and (c) of Article 92(3) shall disclose those requirements separately for each risk referred to in those points. In addition, own funds requirements for the specific interest rate risk of securitisation positions shall be disclosed separately.

Article 446

Disclosure of operational risk management

Institutions shall disclose the following information about their operational risk management:

(a) the approaches for the assessment of own funds requirements for operation risk that the institution qualifies for;

(b) where the institution makes use of it, a description of the methodology set out in Article 312(2), which shall include a discussion of the relevant internal and external factors being considered in the institution's advanced measurement approach;

(c) in the case of partial use, the scope and coverage of the different methodologies used.

Article 447

Disclosure of key metrics

Institutions shall disclose the following key metrics in a tabular format:

(a) the composition of their own funds and their own funds requirements as calculated in accordance with Article 92;

(b) the total risk exposure amount as calculated in accordance with Article 92(3);

(c) where applicable, the amount and composition of additional own funds which the institutions are required to hold in accordance with point (a) of Article 104(1) of Directive 2013/36/EU;

(d) their combined buffer requirement which the institutions are required to hold in accordance with Chapter 4 of Title VII of Directive 2013/36/EU;

(e) their leverage ratio and the total exposure measure as calculated in accordance with Article 429;

(f) the following information in relation to their liquidity coverage ratio as calculated in accordance with the delegated act referred to in Article 460(1):

(i) the average or averages, as applicable, of their liquidity coverage ratio based on end-of-the-month observations over the preceding 12 months for each quarter of the relevant disclosure period;

(ii) the average or averages, as applicable, of total liquid assets, after applying the relevant haircuts, included in the liquidity buffer pursuant to the delegated act referred to in Article 460(1), based on end-of-the-month observations over the preceding 12 months for each quarter of the relevant disclosure period;

(iii) the averages of their liquidity outflows, inflows and net liquidity outflows as calculated pursuant to the delegated act referred to in Article 460(1), based on end-of-the-month observations over the preceding 12 months for each quarter of the relevant disclosure period;

(g) the following information in relation to their net stable funding requirement as calculated in accordance with Title IV of Part Six:

(i) the net stable funding ratio at the end of each quarter of the relevant disclosure period;

(ii) the available stable funding at the end of each quarter of the relevant disclosure period;

(iii) the required stable funding at the end of each quarter of the relevant disclosure period;

(h) their own funds and eligible liabilities ratios and their components, numerator and denominator, as calculated in accordance with Articles 92a and 92b and broken down at the level of each resolution group, where applicable.

Article 448

Disclosure of exposures to interest rate risk on positions not held in the trading book

1. As from … [two years after the date of entry into force of this amending Regulation], institutions shall disclose the following quantitative and qualitative information on the risks arising from potential changes in interest rates that affect both the economic value of equity and the net interest income of their non-trading book activities referred to in Article 84 and Article 98(5) of Directive 2013/36/EU:

   (a) the changes in the economic value of equity calculated under the six supervisory shock scenarios referred to in Article 98(5) of Directive 2013/36/EU for the current and previous disclosure periods;

   (b) the changes in the net interest income calculated under the two supervisory shock scenarios referred to in Article 98(5) of Directive 2013/36/EU for the current and previous disclosure periods;

   (c) a description of key modelling and parametric assumptions, other than those referred to in points (b) and (c) of Article 98(5a) of Directive 2013/36/EU used to calculate changes in the economic value of equity and in the net interest income required under points (a) and (b) of this paragraph;

(d) an explanation of the significance of the risk measures disclosed under points (a) and (b) of this paragraph and of any significant variations of those risk measures since the previous disclosure reference date;

(e) the description of how institutions define, measure, mitigate and control the interest rate risk of their non-trading book activities for the purposes of the competent authorities' review in accordance with Article 84 of Directive 2013/36/EU, including:

(i) a description of the specific risk measures that the institutions use to evaluate changes in their economic value of equity and in their net interest income;

(ii) a description of the key modelling and parametric assumptions used in the institutions' internal measurement systems that would differ from the common modelling and parametric assumptions referred to in Article 98(5a) of Directive 2013/36/EU for the purpose of calculating changes to the economic value of equity and to the net interest income, including the rationale for those differences;

(iii) a description of the interest rate shock scenarios that institutions use to estimate the interest rate risk;

(iv) the recognition of the effect of hedges against those interest rate risks, including internal hedges that meet the requirements laid down in Article 106(3);

(v) an outline of how often the evaluation of the interest rate risk occurs;

(f) the description of the overall risk management and mitigation strategies for those risks;

(g) average and longest repricing maturity assigned to non-maturity deposits.

2. By way of derogation from paragraph 1 of this Article, the requirements set out in points (c) and (e)(i) to (e)(iv) of paragraph 1 of this Article shall not apply to institutions that use the standardised methodology or the simplified standardised methodology referred to in Article 84(1) of Directive 2013/36/EU.

Article 449

Disclosure of exposures to securitisation positions

Institutions calculating risk-weighted exposure amounts in accordance with Chapter 5 of Title II of Part Three or own funds requirements in accordance with Article 337 or 338 shall disclose the following information separately for their trading book and non-trading book activities:

(a) a description of their securitisation and re-securitisation activities, including their risk management and investment objectives in connection with those activities, their role in securitisation and re-securitisation transactions, whether they use the simple, transparent and standardised securitisation (STS) as defined in point (10) of Article 242, and the extent to which they use securitisation transactions to transfer the credit risk of the securitised exposures to third parties with, where applicable, a separate description of their synthetic securitisation risk transfer policy;

(b) the type of risks they are exposed to in their securitisation and re-securitisation activities by level of seniority of the relevant securitisation positions providing a distinction between STS and non-STS positions and:

(i) the risk retained in own-originated transactions;

(ii) the risk incurred in relation to transactions originated by third parties;

(c) their approaches for calculating the risk-weighted exposure amounts that they apply to their securitisation activities, including the types of securitisation positions to which each approach applies and with a distinction between STS and non-STS positions;

(d) a list of SSPEs falling into any of the following categories, with a description of their types of exposures to those SSPEs, including derivative contracts:

(i) SSPEs which acquire exposures originated by the institutions;

(ii) SSPEs sponsored by the institutions;

(iii) SSPEs and other legal entities for which the institutions provide securitisation-related services, such as advisory, asset servicing or management services;

(iv) SSPEs included in the institutions' regulatory scope of consolidation;

(e) a list of any legal entities in relation to which the institutions have disclosed that they have provided support in accordance with Chapter 5 of Title II of Part Three;

(f) a list of legal entities affiliated with the institutions and that invest in securitisations originated by the institutions or in securitisation positions issued by SSPEs sponsored by the institutions;

(g) a summary of their accounting policies for securitisation activity, including where relevant a distinction between securitisation and re-securitisation positions;

(h) the names of the ECAIs used for securitisations and the types of exposure for which each agency is used;

(i) where applicable, a description of the Internal Assessment Approach as set out in Chapter 5 of Title II of Part Three, including the structure of the internal assessment process and the relation between internal assessment and external ratings of the relevant ECAI disclosed in accordance with point (h), the control mechanisms for the internal assessment process including discussion of independence, accountability, and internal assessment process review, the exposure types to which the internal assessment process is applied and the stress factors used for determining credit enhancement levels;

(j) separately for the trading book and the non-trading book, the carrying amount of securitisation exposures, including information on whether institutions have transferred significant credit risk in accordance with Articles 244 and 245, for which institutions act as originator, sponsor or investor, separately for traditional and synthetic securitisations, and for STS and non-STS transactions and broken down by type of securitisation exposures;

(k) for the non-trading book activities, the following information:

(i) the aggregate amount of securitisation positions where institutions act as originator or sponsor and the associated risk-weighted assets and capital requirements by regulatory approaches, including exposures deducted from own funds or risk weighted at 1 250 %, broken down between traditional and synthetic securitisations and between securitisation and re-securitisation exposures, separately for STS and non-STS positions, and further broken down into a meaningful number of risk-weight or capital requirement bands and by approach used to calculate the capital requirements;

(ii) the aggregate amount of securitisation positions where institutions act as investor and the associated risk-weighted assets and capital requirements by regulatory approaches, including exposures deducted from own funds or risk weighted at 1 250 %, broken down between traditional and synthetic securitisations, securitisation and re-securitisation positions, and STS and non-STS positions, and further broken down into a meaningful number of risk weight or capital requirement bands and by approach used to calculate the capital requirements;

(l) for exposures securitised by the institution, the amount of exposures in default and the amount of the specific credit risk adjustments made by the institution during the current period, both broken down by exposure type.

Article 449a

Disclosure of environmental, social and governance risks (ESG risks)

From … [3 years after the date of entry into force of this amending Regulation], large institutions which have issued securities that are admitted to trading on a regulated market of any Member State, as defined in point (21) of Article 4(1) of Directive 2014/65/EU, shall disclose information on ESG risks, including physical risks and transition risks, as defined in the report referred to in Article 98(8) of Directive 2013/36/EU.

The information referred to in the first paragraph shall be disclosed on an annual basis for the first year and biannually thereafter.

Article 450

Disclosure of remuneration policy

1. Institutions shall disclose the following information regarding their remuneration policy and practices for those categories of staff whose professional activities have a material impact on the risk profile of the institutions:

   (a) information concerning the decision-making process used for determining the remuneration policy, as well as the number of meetings held by the main body overseeing remuneration during the financial year, including, where applicable, information about the composition and the mandate of a remuneration committee, the external consultant whose services have been used for the determination of the remuneration policy and the role of the relevant stakeholders;

   (b) information about the link between pay of the staff and their performance;

   (c) the most important design characteristics of the remuneration system, including information on the criteria used for performance measurement and risk adjustment, deferral policy and vesting criteria;

   (d) the ratios between fixed and variable remuneration set in accordance with point (g) of Article 94(1) of Directive 2013/36/EU;

(e) information on the performance criteria on which the entitlement to shares, options or variable components of remuneration is based;

(f) the main parameters and rationale for any variable component scheme and any other non-cash benefits;

(g) aggregate quantitative information on remuneration, broken down by business area;

(h) aggregate quantitative information on remuneration, broken down by senior management and members of staff whose professional activities have a material impact on the risk profile of the institutions, indicating the following:

(i) the amounts of remuneration awarded for the financial year, split into fixed remuneration including a description of the fixed components, and variable remuneration, and the number of beneficiaries;

(ii) the amounts and forms of awarded variable remuneration, split into cash, shares, share-linked instruments and other types separately for the part paid upfront and the deferred part;

(iii) the amounts of deferred remuneration awarded for previous performance periods, split into the amount due to vest in the financial year and the amount due to vest in subsequent years;

(iv) the amount of deferred remuneration due to vest in the financial year that is paid out during the financial year, and that is reduced through performance adjustments;

(v) the guaranteed variable remuneration awards during the financial year, and the number of beneficiaries of those awards;

(vi) the severance payments awarded in previous periods, that have been paid out during the financial year;

(vii) the amounts of severance payments awarded during the financial year, split into paid upfront and deferred, the number of beneficiaries of those payments and highest payment that has been awarded to a single person;

(i) the number of individuals that have been remunerated EUR 1 million or more per financial year, with the remuneration between EUR 1 million and EUR 5 million broken down into pay bands of EUR 500 000 and with the remuneration of EUR 5 million and above broken down into pay bands of EUR 1 million;

(j) upon demand from the relevant Member State or competent authority, the total remuneration for each member of the management body or senior management;

(k) information on whether the institution benefits from a derogation laid down in Article 94(3) of Directive 2013/36/EU.

For the purposes of point (k) of the first subparagraph of this paragraph, institutions that benefit from such a derogation shall indicate whether they benefit from that derogation on the basis of point (a) or (b) of Article 94(3) of Directive 2013/36/EU. They shall also indicate for which of the remuneration principles they apply the derogation(s), the number of staff members that benefit from the derogation(s) and their total remuneration, split into fixed and variable remuneration.

2. For large institutions, the quantitative information on the remuneration of institutions' collective management body referred to in this Article shall also be made available to the public, differentiating between executive and non-executive members.

Institutions shall comply with the requirements set out in this Article in a manner that is appropriate to their size, internal organisation and the nature, scope and complexity of their activities and without prejudice to Regulation (EU) 2016/679 of the European Parliament and of the Council*.

Article 451

Disclosure of the leverage ratio

1. Institutions that are subject to Part Seven shall disclose the following information regarding their leverage ratio as calculated in accordance with Article 429 and their management of the risk of excessive leverage:

   (a) the leverage ratio and how the institutions apply Article 499(2);

   (b) a breakdown of the total exposure measure referred to in Article 429(4), as well as a reconciliation of the total exposure measure with the relevant information disclosed in published financial statements;

   (c) where applicable, the amount of exposures calculated in accordance with Articles 429(8) and 429a(1) and the adjusted leverage ratio calculated in accordance with Article 429a(7);

   (d) a description of the processes used to manage the risk of excessive leverage;

   (e) a description of the factors that had an impact on the leverage ratio during the period to which the disclosed leverage ratio refers.

2. Public development credit institutions as defined in Article 429a(2) shall disclose the leverage ratio without the adjustment to the total exposure measure determined in accordance with point (d) of the first subparagraph of Article 429a(1).

3. In addition to points (a) and (b) of paragraph 1 of this Article, large institutions shall disclose the leverage ratio and the breakdown of the total exposure measure referred to in Article 429(4) based on averages calculated in accordance with the implementing act referred to in Article 430(7).

Article 451a

Disclosure of liquidity requirements

1. Institutions that are subject to Part Six shall disclose information on their liquidity coverage ratio, net stable funding ratio and liquidity risk management in accordance with this Article.

2. Institutions shall disclose the following information in relation to their liquidity coverage ratio as calculated in accordance with the delegated act referred to in Article 460(1):

   (a) the average or averages, as applicable, of their liquidity coverage ratio based on end-of-the-month observations over the preceding 12 months for each quarter of the relevant disclosure period;

   (b) the average or averages, as applicable, of total liquid assets, after applying the relevant haircuts, included in the liquidity buffer pursuant to the delegated act referred to in Article 460(1), based on end-of-the-month observations over the preceding 12 months for each quarter of the relevant disclosure period, and a description of the composition of that liquidity buffer;

(c) the averages of their liquidity outflows, inflows and net liquidity outflows as calculated in accordance with the delegated act referred to in Article 460(1), based on end-of-the-month observations over the preceding 12 months for each quarter of the relevant disclosure period and the description of their composition.

3. Institutions shall disclose the following information in relation to their net stable funding ratio as calculated in accordance with Title IV of Part Six:

(a) quarter-end figures of their net stable funding ratio calculated in accordance with Chapter 2 of Title IV of Part Six for each quarter of the relevant disclosure period;

(b) an overview of the amount of available stable funding calculated in accordance with Chapter 3 of Title IV of Part Six;

(c) an overview of the amount of required stable funding calculated in accordance with Chapter 4 of Title IV of Part Six.

4. Institutions shall disclose the arrangements, systems, processes and strategies put in place to identify, measure, manage and monitor their liquidity risk in accordance with Article 86 of Directive 2013/36/EU.

TITLE III

QUALIFYING REQUIREMENTS FOR THE USE OF PARTICULAR INSTRUMENTS OR METHODOLOGIES

Article 452

Disclosure of the use of the IRB Approach to credit risk

Institutions calculating the risk-weighted exposure amounts under the IRB Approach to credit risk shall disclose the following information:

(a) the competent authority's permission of the approach or approved transition;

(b) for each exposure class referred to in Article 147, the percentage of the total exposure value of each exposure class subject to the Standardised Approach laid down in Chapter 2 of Title II of Part Three or to the IRB Approach laid down in Chapter 3 of Title II of Part Three, as well as the part of each exposure class subject to a roll-out plan; where institutions have received permission to use own LGDs and conversion factors for the calculation of risk-weighted exposure amounts, they shall disclose separately the percentage of the total exposure value of each exposure class subject to that permission;

(c) the control mechanisms for rating systems at the different stages of model development, controls and changes, which shall include information on:

(i) the relationship between the risk management function and the internal audit function;

(ii) the rating system review;

(iii) the procedure to ensure the independence of the function in charge of reviewing the models from the functions responsible for the development of the models;

(iv) the procedure to ensure the accountability of the functions in charge of developing and reviewing the models;

(d) the role of the functions involved in the development, approval and subsequent changes of the credit risk models;

(e) the scope and main content of the reporting related to credit risk models;

(f) a description of the internal ratings process by exposure class, including the number of key models used with respect to each portfolio and a brief discussion of the main differences between the models within the same portfolio, covering:

(i) the definitions, methods and data for estimation and validation of PD, which shall include information on how PDs are estimated for low default portfolios, whether there are regulatory floors and the drivers for differences observed between PD and actual default rates at least for the last three periods;

(ii) where applicable, the definitions, methods and data for estimation and validation of LGD, such as methods to calculate downturn LGD, how LGDs are estimated for low default portfolio and the time lapse between the default event and the closure of the exposure;

(iii) where applicable, the definitions, methods and data for estimation and validation of conversion factors, including assumptions employed in the derivation of those variables;

(g) as applicable, the following information in relation to each exposure class referred to in Article 147:

(i) their gross on-balance-sheet exposure;

(ii) their off-balance-sheet exposure values prior to the relevant conversion factor;

(iii) their exposure after applying the relevant conversion factor and credit risk mitigation;

(iv) any model, parameter or input relevant for the understanding of the risk weighting and the resulting risk exposure amounts disclosed across a sufficient number of obligor grades (including default) to allow for a meaningful differentiation of credit risk;

(v) separately for those exposure classes in relation to which institutions have received permission to use own LGDs and conversion factors for the calculation of risk-weighted exposure amounts, and for exposures for which the institutions do not use such estimates, the values referred to in points (i) to (iv) subject to that permission;

(h) institutions' estimates of PDs against the actual default rate for each exposure class over a longer period, with separate disclosure of the PD range, the external rating equivalent, the weighted average and arithmetic average PD, the number of obligors at the end of the previous year and of the year under review, the number of defaulted obligors, including the new defaulted obligors, and the annual average historical default rate.

For the purposes of point (b) of this Article, institutions shall use the exposure value as defined in Article 166.

Article 453
Disclosure of the use of credit risk mitigation techniques

Institutions using credit risk mitigation techniques shall disclose the following information:

(a) the core features of the policies and processes for on- and off-balance-sheet netting and an indication of the extent to which institutions make use of balance sheet netting;

(b) the core features of the policies and processes for eligible collateral evaluation and management;

(c) a description of the main types of collateral taken by the institution to mitigate credit risk;

(d) for guarantees and credit derivatives used as credit protection, the main types of guarantor and credit derivative counterparty and their creditworthiness used for the purpose of reducing capital requirements, excluding those used as part of synthetic securitisation structures;

(e) information about market or credit risk concentrations within the credit risk mitigation taken;

(f) for institutions calculating risk-weighted exposure amounts under the Standardised Approach or the IRB Approach, the total exposure value not covered by any eligible credit protection and the total exposure value covered by eligible credit protection after applying volatility adjustments; the disclosure set out in this point shall be made separately for loans and debt securities and including a breakdown of defaulted exposures;

(g) the corresponding conversion factor and the credit risk mitigation associated with the exposure and the incidence of credit risk mitigation techniques with and without substitution effect;

(h) for institutions calculating risk-weighted exposure amounts under the Standardised Approach, the on- and off-balance-sheet exposure value by exposure class before and after the application of conversion factors and any associated credit risk mitigation;

(i) for institutions calculating risk-weighted exposure amounts under the Standardised Approach, the risk-weighted exposure amount and the ratio between that risk-weighted exposure amount and the exposure value after applying the corresponding conversion factor and the credit risk mitigation associated with the exposure; the disclosure set out in this point shall be made separately for each exposure class;

(j) for institutions calculating risk-weighted exposure amounts under the IRB Approach, the risk-weighted exposure amount before and after recognition of the credit risk mitigation impact of credit derivatives; where institutions have received permission to use own LGDs and conversion factors for the calculation of risk-weighted exposure amounts, they shall make the disclosure set out in this point separately for the exposure classes subject to that permission.

Article 454

Disclosure of the use of the Advanced Measurement Approaches to operational risk

The institutions using the Advanced Measurement Approaches set out in Articles 321 to 324 for the calculation of their own funds requirements for operational risk shall disclose a description of their use of insurance and other risk-transfer mechanisms for the purpose of mitigating that risk.

Article 455

Use of internal market risk models

Institutions calculating their capital requirements in accordance with Article 363 shall disclose the following information:

(a) for each sub-portfolio covered:

(i) the characteristics of the models used;

(ii) where applicable, for the internal models for incremental default and migration risk and for correlation trading, the methodologies used and the risks measured through the use of an internal model including a description of the approach used by the institution to determine liquidity horizons, the methodologies used to achieve a capital assessment that is consistent with the required soundness standard and the approaches used in the validation of the model;

(iii) a description of stress testing applied to the sub-portfolio;

(iv) a description of the approaches used for back-testing and validating the accuracy and consistency of the internal models and modelling processes;

(b) the scope of permission by the competent authority;

(c) a description of the extent and methodologies for compliance with the requirements set out in Articles 104 and 105;

(d) the highest, the lowest and the mean of the following:

(i) the daily value-at-risk measures over the reporting period and at the end of the reporting period;

(ii) the stressed value-at-risk measures over the reporting period and at the end of the reporting period;

(iii) the risk numbers for incremental default and migration risk and for the specific risk of the correlation trading portfolio over the reporting period and at the end of the reporting period;

(e) the elements of the own funds requirement as specified in Article 364;

(f) the weighted average liquidity horizon for each sub-portfolio covered by the internal models for incremental default and migration risk and for correlation trading;

(g) a comparison of the daily end-of-day value-at-risk measures to the one-day changes of the portfolio's value by the end of the subsequent business day together with an analysis of any important overshooting during the reporting period.

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* Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).";

(120) in Article 456, the following point is added:

"(k) amendments to the disclosure requirements laid down in Titles II and III of Part Eight to take account of developments or amendments of the international standards on disclosure.";

(121) in Article 457, point (i) is replaced by the following:

"(i) Part Two and Article 430 only as a result of developments in accounting standards or requirements which take account of Union legislative acts";

(122) Article 458 is amended as follows:

(a) paragraph 2 is replaced by the following:

"2. Where the authority designated in accordance with paragraph 1 of this Article identifies changes in the intensity of macroprudential or systemic risk in the financial system with the potential to have serious negative consequences to the financial system and the real economy in a specific Member State and which that authority considers that cannot be addressed by means of other macroprudential tools set out in this Regulation and in Directive 2013/36/EU as effectively as by implementing stricter national measures, it shall notify the Commission and the ESRB accordingly. The ESRB shall forward the notification to the European Parliament, to the Council and to EBA without delay.

The notification shall be accompanied by the following documents and include, where appropriate, relevant quantitative or qualitative evidence on:

(a) the changes in the intensity of macroprudential or systemic risk;

(b) the reasons why such changes could pose a threat to financial stability at national level or to the real economy;

(c) an explanation as to why the authority considers that the macroprudential tools set out in Articles 124 and 164 of this Regulation and Articles 133 and 136 of Directive 2013/36/EU would be less suitable and effective to deal with those risks than the draft national measures referred to in point (d) of this paragraph;

(d) the draft national measures for domestically authorised institutions, or a subset of those institutions, intended to mitigate the changes in the intensity of risk and concerning:

(i) the level of own funds laid down in Article 92;

(ii) the requirements for large exposures laid down in Article 392 and Articles 395 to 403;

(iii) liquidity requirements laid down in Part Six;

(iv) risk weights for targeting asset bubbles in the residential property and commercial immovable property sector;

(v) the public disclosure requirements laid down in Part Eight;

(vi) the level of the capital conservation buffer laid down in Article 129 of Directive 2013/36/EU; or

(vii) intra-financial sector exposures;

(e) an explanation as to why the draft measures are considered by the authority designated in accordance with paragraph 1 to be suitable, effective and proportionate to address the situation; and

(f) an assessment of the likely positive or negative impact of the draft measures on the internal market based on information which is available to the Member State concerned.";

(b) paragraphs 4 and 5 are replaced by the following:

"4. The power to adopt an implementing act to reject the draft national measures referred to in point (d) of paragraph 2 is conferred on the Council, acting by qualified majority, on a proposal from the Commission.

Within one month of receipt of the notification referred to in paragraph 2, the ESRB and EBA shall provide their opinions on the matters referred to in points (a) to (f) of that paragraph to the Council, to the Commission and to the Member State concerned.

Taking utmost account of the opinions referred to in the second subparagraph and if there is robust, strong and detailed evidence that the measure will have a negative impact on the internal market that outweighs the financial stability benefits resulting in a reduction of the macroprudential or systemic risk identified, the Commission may, within one month, propose to the Council an implementing act to reject the draft national measures.

In the absence of a Commission proposal within that period of one month, the Member State concerned may immediately adopt the draft national measures for a period of up to two years or until the macroprudential or systemic risk ceases to exist if that occurs sooner.

The Council shall decide on the proposal by the Commission within one month after receipt of the proposal and state its reasons for rejecting or not rejecting the draft national measures.

The Council shall only reject the draft national measures if it considers that one or more of the following conditions are not met:

(a) the changes in the intensity of macroprudential or systemic risk are of such nature as to pose risk to financial stability at national level;

(b) the macroprudential tools set out in this Regulation and in Directive 2013/36/EU are less suitable or effective than the draft national measures to deal with the macroprudential or systemic risk identified;

(c) the draft national measures do not entail disproportionate adverse effects on the whole or parts of the financial system in other Member States or in the Union as a whole, thus forming or creating an obstacle to the functioning of the internal market; and

(d) the issue concerns only one Member State.

The assessment of the Council shall take into account the opinion of the ESRB and EBA and shall be based on the evidence presented in accordance with paragraph 2 by the authority designated in accordance with paragraph 1.

In the absence of a Council implementing act to reject the draft national measures within one month of receipt of the proposal by the Commission, the Member State concerned may adopt the measures and apply them for a period of up to two years or until the macroprudential or systemic risk ceases to exist if that occurs sooner.

5. Other Member States may recognise the measures adopted in accordance with this Article and apply them to domestically authorised institutions, which have branches or have exposures located in the Member State authorised to apply the measure.";

(c) paragraphs 9 and 10 are replaced by the following:

"9. Before the expiry of the authorisation issued in accordance with paragraph 4, the Member State concerned shall, in consultation with the ESRB and EBA, review the situation and may adopt, in accordance with the procedure referred to in paragraph 4, a new decision for the extension of the period of application of national measures for up to two additional years each time. After the first extension, the Commission shall in consultation with the ESRB and EBA review the situation at least every two years thereafter.

10. Notwithstanding the procedure as set out in paragraphs 3 to 9 of this Article, Member States shall be allowed to increase the risk weights beyond those provided for in this Regulation by up to 25 %, for those exposures identified in points (d)(iv) and (d)(vii) of paragraph 2 of this Article and tighten the large exposure limit provided for in Article 395 by up to 15 % for a period of up to two years or until the macroprudential or systemic risk ceases to exist if that occurs sooner, provided that the conditions and notification requirements laid down in paragraph 2 of this Article are met.";

(123) Article 460 is amended as follows:

(a) paragraph 1 is replaced by the following:

"1. The Commission is empowered to supplement this Regulation by adopting delegated acts in accordance with Article 462 to specify in detail the general requirement set out in Article 412(1). Delegated acts adopted in accordance with this paragraph shall be based on the items to be reported in accordance with Title II of Part Six and Annex III and shall specify under which circumstances competent authorities have to impose specific in- and outflow levels on institutions in order to capture specific risks to which they are exposed and shall respect the thresholds set out in paragraph 2 of this Article.

In particular, the Commission is empowered to supplement this Regulation by adopting delegated acts specifying the detailed liquidity requirements for the purposes of the application of Article 8(3), Articles 411 to 416, 419, 422, 425, 428a, 428f, 428g, 428j to 428n, 428p, 428r, 428s, 428w, 428ae, 428ag, 428ah, 428ak and 451a.";

(b) the following paragraph is added:

"3. The Commission is empowered to amend this Regulation by adopting delegated acts in accordance with Article 462 amending the list of products or services set out in Article 428f(2) if it considers that assets and liabilities directly linked to other products or services meet the conditions set out in Article 428f(1).

The Commission shall adopt the delegated act referred to in the first subparagraph by … [five years after the date of entry into force of this amending Regulation].";

(124) the following article is inserted:

"*Article 461a*
Alternative standardised approach for market risk

For the purposes of the reporting requirements set out in Article 430b(1), the Commission is empowered to adopt delegated acts in accordance with Article 462, to amend this Regulation by making technical adjustments to Articles 325e, 325g to 325j, 325p, 325q, 325ae, 325ak, 325am, 325ap to 325at, 325av, 325ax, and specify the risk weight of bucket 11 of Table 4 in Article 325ah and the risk weights of covered bonds issued by credit institutions in third countries in accordance with Article 325ah, and the correlation of covered bonds issued by credit institutions in third countries in accordance with Article 325aj of the alternative standardised approach set out in Chapter 1a of Title IV of Part Three, taking into account developments in international regulatory standards.

The Commission shall adopt the delegated act referred to in paragraph 1 by 31 December 2019.";

(125) Article 462 is replaced by the following:

"*Article 462*
Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Articles 244(6) and 245(6), in Articles 456 to 460 and in Article 461a shall be conferred on the Commission for an indeterminate period of time from 28 June 2013.

3. The delegation of power referred to in Articles 244(6) and 245(6), in Articles 456 to 460 and in Article 461a may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of the delegated acts already in force.

4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6. A delegated act adopted pursuant to Articles 244(6) and 245(6), Articles 456 to 460 and in Article 461a shall enter into force only if no objection has been expressed by the European Parliament or the Council within a period of three months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by three months at the initiative of the European Parliament or of the Council.";

(126) in Article 471, paragraph 1 is replaced by the following:

"1. By way of derogation from Article 49(1), during the period from 31 December 2018 to 31 December 2024, institutions may choose not to deduct equity holdings in insurance undertakings, reinsurance undertakings and insurance holding companies where the following conditions are met:

(a) the conditions set out in points (a), and (e) of Article 49(1);

(b) the competent authorities are satisfied with the level of risk control and financial analysis procedures specifically adopted by the institution in order to supervise the investment in the undertaking or holding company;

(c) the equity holdings of the institution in the insurance undertaking, reinsurance undertaking or insurance holding company do not exceed 15 % of the Common Equity Tier 1 instruments issued by that insurance entity as at 31 December 2012 and during the period from 1 January 2013 to 31 December 2024;

(d) the amount of the equity holding which is not deducted does not exceed the amount held in the Common Equity Tier 1 instruments in the insurance undertaking, reinsurance undertaking or insurance holding company as at 31 December 2012.";

(127) Article 493 is amended as follows:

(a) in paragraph 1, the first sentence is replaced by the following:

"The provisions on large exposures as laid down in Articles 387 to 403 of this Regulation shall not apply to investment firms the main business of which consists exclusively of the provision of investment services or activities in relation to the financial instruments set out in points (5), (6), (7), (9), (10) and (11) of Section C of Annex I to Directive 2014/65/EU and to which Directive 2004/39/EC of the European Parliament and of the Council* did not apply on 31 December 2006.

_____

* Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments amending Council Directives 85/611/EEC and 93/6/EEC and Directive 2000/12/EC of the European Parliament and of the Council and repealing Council Directive 93/22/EEC (OJ L 145, 30.4.2004, p. 1).";

(b) in paragraph 3, point (c) is replaced by the following:

"(c) exposures, including participations or other kinds of holdings, incurred by an institution to its parent undertaking, to other subsidiaries of that parent undertaking or to its own subsidiaries and qualifying holdings, in so far as those undertakings are covered by the supervision on a consolidated basis to which the institution itself is subject, in accordance with this Regulation, Directive 2002/87/EC or with equivalent standards in force in a third country; exposures that do not meet those criteria, whether or not exempted from Article 395(1) of this Regulation, shall be treated as exposures to a third party;";

(128) Article 494 is replaced by the following:

"*Article 494*
Transitional provisions concerning the requirement for own funds and eligible liabilities

1. By way of derogation from Article 92a, as from … [date of entry into force of this amending Regulation] until 31 December 2021, institutions identified as resolution entities that are G-SIIs or part of a G-SII shall at all times satisfy the following requirements for own funds and eligible liabilities:

(a) a risk-based ratio of 16 %, representing the own funds and eligible liabilities of the institution expressed as a percentage of the total risk exposure amount calculated in accordance with Article 92(3) and (4);

(b) a non-risk-based ratio of 6 %, representing the own funds and eligible liabilities of the institution expressed as a percentage of the total exposure measure referred to in Article 429(4).

2. By way of derogation from Article 72b(3), as from … [date of entry into force of this amending Regulation] until 31 December 2021, the extent to which eligible liabilities instruments referred to in Article 72b(3) may be included in eligible liabilities items shall be 2,5 % of the total risk exposure amount calculated in accordance with Article 92(3) and (4).

3. By way of derogation from Article 72b(3), until the resolution authority assesses for the first time the compliance with the condition set out in point (c) of that paragraph, liabilities shall qualify as eligible liabilities instruments up to an aggregate amount that does not exceed, until 31 December 2021, 2,5 % and, after that date, 3,5 % of the total risk exposure amount calculated in accordance with Article 92(3) and (4), provided that they meet the conditions set out in points (a) and (b) of Article 72b(3).";

(129) the following articles are inserted:

"*Article 494a*

Grandfathering of issuances through special purpose entities

1. By way of derogation from Article 52, capital instruments not issued directly by an institution shall qualify as Additional Tier 1 instruments until 31 December 2021 only where all the following conditions are met:

   (a) the conditions set out in Article 52(1), except for the condition requiring that the instruments are directly issued by the institution;

   (b) the instruments are issued through an entity within the consolidation pursuant to Chapter 2 of Title II of Part One;

   (c) the proceeds are immediately available to the institution without limitation and in a form that satisfies the conditions set out in this paragraph.

2. By way of derogation from Article 63, capital instruments not issued directly by an institution shall qualify as Tier 2 instruments until 31 December 2021 only where all the following conditions are met:

   (a) the conditions set out in Article 63(1), except for the condition requiring that the instruments are directly issued by the institution;

(b) the instruments are issued through an entity within the consolidation pursuant to Chapter 2 of Title II of Part One;

(c) the proceeds are immediately available to the institution without limitation and in a form that satisfies the conditions set out in this paragraph.

Article 494b

Grandfathering of own funds instruments and eligible liabilities instruments

1. By way of derogation from Articles 51 and 52, instruments issued prior to … [date of entry into force of this amending Regulation] shall qualify as Additional Tier 1 instruments at the latest until … [6 years after the date of entry into force of this amending Regulation], where they meet the conditions set out in Articles 51 and 52, except for the conditions referred to in points (p), (q) and (r) of Article 52(1).

2. By way of derogation from Articles 62 and 63, instruments issued prior to … [date of entry into force of this amending Regulation] shall qualify as Tier 2 instruments at the latest until … [6 years after the date of entry into force of this amending Regulation], where they meet the conditions set out in Articles 62 and 63, except for the conditions referred to in points (n), (o) and (p) of Article 63.

3. By way of derogation from point (a) of Article 72a(1), liabilities issued prior to … [date of entry into force of this amending Regulation] shall qualify as eligible liabilities items where they meet the conditions set out in Article 72b, except for the conditions referred to in point (b)(ii) and points (f) to (m) of Article 72b(2).";

(130) Article 497 is replaced by the following:

"*Article 497*

Own funds requirements for exposures to CCPs

1. Where a third-country CCP applies for recognition in accordance with Article 25 of Regulation (EU) No 648/2012, institutions may consider that CCP as a QCCP from the date on which it submitted its application for recognition to ESMA and until one of the following dates:

   (a) where the Commission has already adopted an implementing act referred to in Article 25(6) of Regulation (EU) No 648/2012 in relation to the third country in which the CCP is established and that implementing act has entered into force, two years after the date of submission of the application;

   (b) where the Commission has not yet adopted an implementing act referred to in Article 25(6) of Regulation (EU) No 648/2012 in relation to the third country in which the CCP is established or where that implementing act has not yet entered into force, the earlier of the following dates:

      (i) two years after the date of entry into force of the implementing act;

(ii) for CCPs that submitted the application after … [date of entry into force of this amending Regulation], two years after the date of submission of the application;

(iii) for those CCPs that submitted the application before … [date of entry into force of this amending Regulation], … [two years after the date of entry into force of this amending Regulation].

2. Until the expiration of the deadline referred to in paragraph 1 of this Article, where a CCP referred to in that paragraph does not have a default fund and does not have in place a binding arrangement with its clearing members that allows it to use all or part of the initial margin received from its clearing members as if they were pre-funded contributions, the institution shall substitute the formula for calculating the own funds requirement in Article 308(2) with the following one:

$$K_{CM_i} = \max\left\{K_{CCP} \cdot \frac{IM_i}{DF_{CCP} + IM}; 8\,\% \cdot 2\,\% \cdot IM_i\right\}$$

where:

K_{CM_i} = the own funds requirement;

K_{CCP} = the hypothetical capital of the QCCP communicated to the institution by the QCCP in accordance with Article 50c of Regulation (EU) No 648/2012;

DF_{CCP} = the pre-funded financial resources of the CCP communicated to the institution by the CCP in accordance with Article 50c of Regulation (EU) No 648/2012;

i = the index denoting the clearing member;

IM_i = the initial margin posted with the CCP by clearing member i; and

IM = the total amount of initial margin communicated to the institution by the CCP in accordance with Article 89(5a) of Regulation (EU) No 648/2012.

3. In exceptional circumstances, where it is necessary and proportionate in order to avoid disruption to international financial markets, the Commission may adopt, by way of implementing acts, and subject to the examination procedure referred to in Article 464(2), a decision to extend once, by 12 months, the transitional provisions set out in paragraph 1 of this Article.";

(131) in Article 498(1), the first subparagraph is replaced by the following:

"1. The provisions on own funds requirements as set out in this Regulation shall not apply to investment firms the main business of which consists exclusively of the provision of investment services or activities in relation to the financial instruments set out in points (5), (6), (7), (9), (10) and (11) of Section C of Annex I to Directive 2014/65/EU and to which Directive 2004/39/EC did not apply on 31 December 2006.";

(132) Article 499(3) is deleted;

(133) Articles 500 and 501 are replaced by the following:

"*Article 500*
Adjustment for massive disposals

1. By way of derogation from point (a) of Article 181(1), an institution may adjust its LGD estimates by partly or fully offsetting the effect of massive disposals of defaulted exposures on realised LGDs up to the difference between the average estimated LGDs for comparable exposures in default that have not been finally liquidated and the average realised LGDs including on the basis of the losses realised due to massive disposals, as soon as all the following conditions are met:

   (a) the institution has notified the competent authority of a plan providing the scale, composition and the dates of the disposals of defaulted exposures;

   (b) the dates of the disposals of defaulted exposures are after 23 November 2016 but not later than … [three years after the date of entry into force of this amending Regulation];

   (c) the cumulative amount of defaulted exposures disposed of since the date of the first disposal in accordance with the plan referred to in point (a) has surpassed 20 % of the cumulative amount of all observed defaults as of the date of the first disposal referred to in points (a) and (b).

The adjustment referred to in the first subparagraph may only be carried out until … [three years after the date of entry into force of this amending Regulation] and its effects may last for as long as the corresponding exposures are included in the institution's own LGD estimates.

2. Institutions shall notify the competent authority without delay when the condition set out in point (c) of paragraph 1 has been met.

Article 501

Adjustment of risk-weighted non-defaulted SME exposures

1. Institutions shall adjust the risk-weighted exposure amounts for non-defaulted exposures to an SME (RWEA), which are calculated in accordance with Chapter 2 or 3 of Title II of Part Three, as applicable, in accordance with the following formula:

$$\mathrm{RWEA}^{*} = \mathrm{RWEA} \cdot \frac{\min\{\mathrm{E}^{*}; \mathrm{EUR}\ 2\ 500\ 000\} \cdot 0.7619 + \max\{\mathrm{E}^{*} - \mathrm{EUR}\ 2\ 500\ 000; 0\} \cdot 0.85}{\mathrm{E}^{*}}$$

where:

RWEA^{*} = the RWEA adjusted by an SME supporting factor; and

E^{*} = the total amount owed to the institution, its subsidiaries, its parent undertakings and other subsidiaries of those parent undertakings, including any exposure in default, but excluding claims or contingent claims secured on residential property collateral, by the SME or the group of connected clients of the SME.

2. For the purposes of this Article:

(a) the exposure to an SME shall be included either in the retail or in the corporates or secured by mortgages on immovable property classes;

(b) an SME is defined in accordance with Commission Recommendation 2003/361/EC*; among the criteria listed in Article 2 of the Annex to that Recommendation only the annual turnover shall be taken into account;

(c) institutions shall take reasonable steps to correctly determine E^* and obtain the information required under point (b).

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* Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5.2003, p. 36).";

(134) the following article is inserted:

"*Article 501a*

Adjustment to own funds requirements for credit risk for exposures to entities that operate or finance physical structures or facilities, systems and networks that provide or support essential public services

1. Own funds requirements for credit risk calculated in accordance with Title II of Part III shall be multiplied by a factor of 0,75, provided that the exposure complies with all the following criteria:

   (a) the exposure is included either in the corporate exposure class or in the specialised lending exposures class, with the exclusion of exposures in default;

   (b) the exposure is to an entity which was created specifically to finance or operate physical structures or facilities, systems and networks that provide or support essential public services;

   (c) the source of repayment of the obligation is represented for not less than two thirds of its amount by the income generated by the assets being financed, rather than the independent capacity of a broader commercial enterprise, or by subsidies, grants or funding provided by one or more of the entities listed in points (b)(i) and (b)(ii) of paragraph 2;

(d) the obligor can meet its financial obligations even under severely stressed conditions that are relevant for the risk of the project;

(e) the cash flows that the obligor generates are predictable and cover all future loan repayments during the duration of the loan;

(f) the re-financing risk of the exposure is low or adequately mitigated, taking into account any subsidies, grants or funding provided by one or more of the entities listed in points (b)(i) and (b)(ii) of paragraph 2;

(g) the contractual arrangements provide lenders with a high degree of protection including the following:

(i) where the revenues of the obligor are not funded by payments from a large number of users, the contractual arrangements shall include provisions that effectively protect lenders against losses resulting from the termination of the project by the party which agrees to purchase the goods or services provided by the obligor;

(ii) the obligor has sufficient reserve funds fully funded in cash or other financial arrangements with highly rated guarantors to cover the contingency funding and working capital requirements over the lifetime of the assets referred to in point (b) of this paragraph;

(iii) the lenders have a substantial degree of control over the assets and the income generated by the obligor;

(iv) the lenders have the benefit of security to the extent permitted by applicable law in assets and contracts critical to the infrastructure business or have alternative mechanisms in place to secure their position;

(v) equity is pledged to lenders such that they are able to take control of the entity upon default;

(vi) the use of net operating cash flows after mandatory payments from the project for purposes other than servicing debt obligations is restricted;

(vii) there are contractual restrictions on the ability of the obligor to perform activities that may be detrimental to lenders, including the restriction that new debt cannot be issued without the consent of existing debt providers;

(h) the obligation is senior to all other claims other than statutory claims and claims from derivatives counterparties;

(i) where the obligor is in the construction phase, the following criteria shall be fulfilled by the equity investor, or where there is more than one equity investor, the following criteria shall be fulfilled by a group of equity investors as a whole:

(i) the equity investors have a history of successfully overseeing infrastructure projects, the financial strength and the relevant expertise;

(ii) the equity investors have a low risk of default, or there is a low risk of material losses for the obligor as a result of their default;

(iii) there are adequate mechanisms in place to align the interest of the equity investors with the interests of lenders;

(j) the obligor has adequate safeguards to ensure completion of the project according to the agreed specification, budget or completion date; including strong completion guarantees or the involvement of an experienced constructor and adequate contract provisions for liquidated damages;

(k) where operating risks are material, they are properly managed;

(l) the obligor uses tested technology and design;

(m) all necessary permits and authorisations have been obtained;

(n) the obligor uses derivatives only for risk-mitigation purposes;

(o) the obligor has carried out an assessment whether the assets being financed contribute to the following environmental objectives:

(i) climate change mitigation;

(ii) climate change adaptation;

(iii) sustainable use and protection of water and marine resources;

(iv) transition to a circular economy, waste prevention and recycling;

(v) pollution prevention and control;

(vi) protection of healthy ecosystems.

2. For the purposes of point (e) of paragraph 1, the cash flows generated shall not be considered predictable unless a substantial part of the revenues satisfies the following conditions:

(a) one of the following criteria is met:

(i) the revenues are availability-based;

(ii) the revenues are subject to a rate-of-return regulation;

(iii) the revenues are subject to a take-or-pay contract;

(iv) the level of output or the usage and the price shall independently meet one of the following criteria:

– it is regulated,

– it is contractually fixed,

– it is sufficiently predictable as a result of low demand risk;

(b) where the revenues of the obligor are not funded by payments from a large number of users, the party which agrees to purchase the goods or services provided by the obligor shall be one of the following:

(i) a central bank, a central government, a regional government or a local authority, provided that they are assigned a risk weight of 0 % in accordance with Articles 114 and 115 or are assigned an ECAI rating with a credit quality step of at least 3;

(ii) a public sector entity, provided that it is assigned a risk weight of 20 % or below in accordance with Article 116 or is assigned an ECAI rating with a credit quality step of at least 3;

(iii) a multilateral development bank referred to in Article 117(2);

(iv) an international organisation referred to in Article 118;

(v) a corporate entity which has been assigned an ECAI rating with a credit quality step of at least 3;

(vi) an entity that is replaceable without a significant change in the level and timing of revenues.

3. Institutions shall report to competent authorities every six months on the total amount of exposures to infrastructure project entities calculated in accordance with paragraph 1 of this Article.

4. The Commission shall, by … [three years after the entry into force of this amending Regulation] report on the impact of the own funds requirements laid down in this Regulation on lending to infrastructure project entities and shall submit that report to the European Parliament and to the Council, together with a legislative proposal, if appropriate.

5. For the purposes of paragraph 4, EBA shall report on the following to the Commission:

(a) an analysis of the evolution of the trends and conditions in markets for infrastructure lending and project finance over the period referred to in paragraph 4;

(b) an analysis of the effective riskiness of entities referred to in point (b) of paragraph 1 over a full economic cycle;

(c) the consistency of own funds requirements laid down in this Regulation with the outcomes of the analysis under points (a) and (b) of this paragraph.

Article 501b

Derogation from reporting requirements

By way of derogation from Article 430, during the period between the date of application of the relevant provisions of this Regulation and the date of the first remittance of reports specified in the implementing technical standards referred to in that Article, a competent authority may waive the requirement to report information in the format specified in the templates contained in the implementing act referred to in Article 430(7) where those templates have not been updated to reflect the provisions of this Regulation.";

(135) in Part Ten, the following article is inserted after Title II: REPORTS AND REVIEWS:

"*Article 501c*

Prudential treatment of exposures related to environmental and/or social objectives

EBA, after consulting the ESRB, shall assess, on the basis of available data and the findings of the Commission High-Level Expert Group on Sustainable Finance, whether a dedicated prudential treatment of exposures related to assets or activities associated substantially with environmental and/or social objectives would be justified. In particular, EBA shall assess:

(a) methodologies for the assessment of the effective riskiness of exposures related to assets and activities associated substantially with environmental and/or social objectives compared to the riskiness of other exposure;

(b) the development of appropriate criteria for the assessment of physical risks and transition risks, including the risks related to the depreciation of assets due to regulatory changes;

(c) the potential effects of a dedicated prudential treatment of exposures related to assets and activities which are associated substantially with environmental and/or social objectives on financial stability and bank lending in the Union.

EBA shall submit a report on its findings to the European Parliament, to the Council and to the Commission by… [six years after the date of entry into force of this amending Regulation].

On the basis of that report, the Commission shall, if appropriate, submit to the European Parliament and to the Council a legislative proposal.";

(136) the following article is inserted:

"*Article 504a*
Holdings of eligible liabilities instruments

By … [three years after the date of entry into force of this amending Regulation] EBA shall report to the Commission on the amounts and distribution of holdings of eligible liabilities instruments among institutions identified as G-SIIs or O-SIIs and on potential impediments to resolution and the risk of contagion in relation to those holdings.

Based on the report by EBA the Commission shall, by … [four years after the date of entry into force of this amending Regulation], report to the European Parliament and to the Council on the appropriate treatment of such holdings, accompanied by a legislative proposal, where appropriate.";

(137) Article 507 is replaced by the following:

"*Article 507*

Large exposures

1. EBA shall monitor the use of exemptions set out in point (b) of Article 390(6), points (f) to (m) of Article 400(1), point (a) and points (c) to (g), (i), (j) and (k) of Article 400(2) and by … [two years after the date of entry into force of this amending Regulation] submit a report to the Commission assessing the quantitative impact that the removal of those exemptions or the setting of a limit on their use would have. That report shall assess, in particular, for each exemption provided for in those Articles:

   (a) the number of large exposures exempted in each Member State;

   (b) the number of institutions that make use of the exemption in each Member State;

   (c) the aggregate amount of exposures exempted in each Member State.

2. By 31 December 2023, the Commission shall submit a report to the European Parliament and to the Council on the application of the derogations referred to in Articles 390(4) and 401(2) concerning the methods for the calculation of exposure value of securities financing transactions, and in particular the need to take account of amendments in international standards determining the methods for such calculation.";

(138) in Article 510, the following paragraphs are added:

"4. EBA shall monitor the amount of required stable funding covering the funding risk linked to the derivative contracts listed in Annex II and credit derivatives over the one-year horizon of the net stable funding ratio, in particular the future funding risk for those derivative contracts set out in Articles 428s(2) and 428at(2), and report to the Commission on the opportunity to adopt a higher required stable funding factor or a more risk-sensitive measure by … [five years after the date of entry into force of this amending Regulation]. That report shall at least assess:

(a) the opportunity to distinguish between margined and unmargined derivative contracts;

(b) the opportunity to remove, increase or replace the requirement set out in Articles 428s(2) and 428at(2);

(c) the opportunity to change more broadly the treatment of derivative contracts in the calculation of the net stable funding ratio, as set out in Article 428d, Articles 428k(4) and 428s(2), points (a) and (b) of Article 428ag, Articles 428ah(2), 428al(4) and 428at(2), points (a) and (b) of Article 428ay and Article 428az(2), to better capture the funding risk linked to those contracts over the one-year horizon of the net stable funding ratio;

(d) the impact of the proposed changes on the amount of stable funding required for institutions' derivative contracts.

5. If international standards affect the treatment of derivative contracts listed in Annex II and credit derivatives for the calculation of the net stable funding ratio, the Commission shall, if appropriate and taking into account the report referred to in paragraph 4, those changes of international standards and the diversity of the banking sector in the Union, submit a legislative proposal to the European Parliament and to the Council on how to amend the provisions regarding the treatment of derivative contracts listed in Annex II and credit derivatives for the calculation of the net stable funding ratio as set out in Title IV of Part Six to take better account of the funding risk linked to those transactions.

6. EBA shall monitor the amount of stable funding required to cover the funding risk linked to securities financing transactions, including to the assets received or given in those transactions, and to unsecured transactions with a residual maturity of less than six months with financial customers and report to the Commission on the appropriateness of that treatment by … [four years after the date of entry into force of this amending Regulation]. That report shall at least assess:

   (a) the opportunity to apply higher or lower stable funding factors to securities financing transactions with financial customers and to unsecured transactions with a residual maturity of less than six months with financial customers to take better account of their funding risk over the one-year horizon of the net stable funding ratio and of the possible contagion effects between financial customers;

(b) the opportunity to apply the treatment set out in point (g) of Article 428r(1) to securities financing transactions collateralised by other types of assets;

(c) the opportunity to apply stable funding factors to off-balance-sheet items used in securities financing transactions as an alternative to the treatment set out in Article 428p(5);

(d) the adequacy of the asymmetric treatment between liabilities with a residual maturity of less than six months provided by financial customers that are subject to a 0 % available stable funding factor in accordance with point (c) of Article 428k(3) and assets resulting from transactions with a residual maturity of less than six months with financial customers that are subject to a 0 %, 5 % or 10 % required stable funding factor in accordance with point (g) of Article 428r(1), point (c) of Article 428s(1) and point (b) of Article 428v;

(e) the impact of the introduction of higher or lower required stable funding factors for securities financing transactions, in particular with a residual maturity of less than six months with financial customers, on the market liquidity of assets received as collateral in those transactions, in particular of sovereign and corporate bonds;

(f) the impact of the proposed changes on the amount of stable funding required for those institutions' transactions, in particular for securities financing transactions with a residual maturity of less than six months with financial customers where sovereign bonds are received as collateral in those transactions.

7. By … [five years after the date of entry into force of this amending Regulation], the Commission shall, where appropriate and taking into account the report referred to in paragraph 6, any international standards and the diversity of the banking sector in the Union, submit a legislative proposal to the European Parliament and to the Council on how to amend the provisions regarding the treatment of securities financing transactions, including of the assets received or given in those transactions, and the treatment of unsecured transactions with a residual maturity of less than six months with financial customers for the calculation of the net stable funding ratio as set out in Title IV of Part Six where it considers it appropriate regarding the impact of the existing treatment on institutions' net stable funding ratio and to take better account of the funding risk linked to those transactions.

8. By … [six years after the date of entry into force of this amending Regulation], the required stable funding factors applied to the transactions referred to in point (g) of Article 428r(1), point (c) of Article 428s(1) and in point (b) of Article 428v, shall be raised from 0 % to 10 %, from 5 % to 15 % and from 10 % to 15 % respectively, unless otherwise specified in a legislative act adopted on the basis of a proposal by the Commission, in accordance with paragraph 7 of this Article.

9. EBA shall monitor the amount of stable funding required to cover the funding risk linked to institutions' holdings of securities to hedge derivative contracts. EBA shall report on the appropriateness of the treatment by … [four years after the date of entry into force of this amending Regulation]. That report shall at least assess:

   (a) the possible impact of the treatment on investors' ability to gain exposure to assets and the impact of the treatment on credit supply in the capital markets union;

   (b) the opportunity to apply adjusted stable funding requirements to securities that are held to hedge derivatives which are funded by initial margin, either wholly or in part;

   (c) the opportunity to apply adjusted stable funding requirements to securities that are held to hedge derivatives which are not funded by initial margin.

10. By … [four years after the date of entry into force of this amending Regulation] or a year after an agreement on international standards that is developed by the BCBS, whichever is the earliest, the Commission shall, where appropriate and taking into account the report referred to in paragraph 9, any international standards developed by the BCBS, the diversity of the banking sector in the Union and the aims of the capital markets union, submit a legislative proposal to the European Parliament and to the Council on how to amend the provisions regarding the treatment of institutions' holdings of securities to hedge derivative contracts for the calculation of the net stable funding ratio as set out in Title IV of Part Six where it considers it appropriate regarding the impact of the existing treatment on institutions' net stable funding ratio and to take better account of the funding risk linked to those transactions.

11. EBA shall assess whether it would be justified to reduce the required stable funding factor for assets used for providing clearing and settlement services of precious metals such as gold, silver, platinum and palladium or assets used for providing financing transactions of precious metals such as gold, silver, platinum and palladium of a term of 180 days or less. EBA shall submit its report to the Commission by … [24 months after the date of entry into force of this amending Regulation].";

(139) Article 511 is replaced by the following:

"*Article 511*

Leverage

1. The Commission shall by 31 December 2020 submit a report to the European Parliament and to the Council on whether:

   (a) it is appropriate to introduce a leverage ratio surcharge for O-SIIs; and

   (b) the definition and calculation of the total exposure measure referred to in Article 429(4), including the treatment of central bank reserves, is appropriate.

2. For the purposes of the report referred to in paragraph 1, the Commission shall take into account international developments and internationally agreed standards. Where appropriate, that report shall be accompanied by a legislative proposal.";

(140) Article 513 is replaced by the following:

"*Article 513*

Macroprudential rules

1. By 30 June 2022, and every five years thereafter, the Commission shall, after consulting the ESRB and EBA, review whether the macroprudential rules contained in this Regulation and in Directive 2013/36/EU are sufficient to mitigate systemic risks in sectors, regions and Member States including assessing:

   (a) whether the current macroprudential tools in this Regulation and in Directive 2013/36/EU are effective, efficient and transparent;

   (b) whether the coverage and the possible degrees of overlap between different macroprudential tools for targeting similar risks in this Regulation and in Directive 2013/36/EU are adequate and, if appropriate, propose new macroprudential rules;

   (c) how internationally agreed standards for systemic institutions interact with the provisions in this Regulation and in Directive 2013/36/EU and, if appropriate, propose new rules taking into account those internationally agreed standards;

(d) whether other types of instruments, such as borrower-based instruments, should be added to the macroprudential tools provided for in this Regulation and in Directive 2013/36/EU to complement capital-based instruments and to allow for the harmonised use of the instruments in the internal market; taking into account whether harmonised definitions of those instruments and the reporting of respective data at Union level are a prerequisite for the introduction of such instruments;

(e) whether the leverage ratio buffer requirement as referred to in Article 92(1a) should be extended to systemically important institutions other than G-SIIs, whether its calibration should be different from the calibration for G-SIIs, and whether its calibration should depend on the level of systemic importance of the institution;

(f) whether the current voluntary reciprocity of macroprudnetial measures should be turned into mandatory reciprocity and whether the current ESRB framework for voluntary reciprocity is an appropriate basis for that;

(g) how relevant Union and national macroprudential authorities can be mandated with tools to address new emerging systemic risks arising from credit institutions exposures to the non-banking sector, in particular from derivatives and securities financing transactions markets, the asset management sector and the insurance sector.

2. By 31 December 2022, and every five years thereafter, the Commission shall, on the basis of the consultation with the ESRB and EBA, report to the European Parliament and to the Council on the assessment referred to in paragraph 1 and, where appropriate, submit a legislative proposal to the European Parliament and to the Council.";

(141) Article 514 is replaced by the following:

"*Article 514*

Method for the calculation of the exposure value of derivative transactions

1. EBA shall, by … [four years after the date of the entry into force of this amending Regulation], report to the Commission on the impact and the relative calibration of the approaches set out in Sections 3, 4 and 5 of Chapter 6 of Title II of Part Three to calculate the exposure values of derivative transactions.

2. On the basis of the report by EBA, the Commission shall, where appropriate, submit a legislative proposal to amend the approaches set out in Sections 3, 4 and 5 of Chapter 6 of Title II of Part Three.";

(142) the following article is inserted:

"*Article 518a*
Review of cross-default provisions

By … [three years after the date of entry into force of this amending Regulation], the Commission shall review and assess whether it is appropriate to require that eligible liabilities may be bailed-in without triggering cross-default clauses in other contracts, with a view to reinforcing as much as possible the effectiveness of the bail-in tool and to assessing whether a no-cross-default provision referring to eligible liabilities should be included in the terms or contracts governing other liabilities. Where appropriate, that review and assessment shall be accompanied by a legislative proposal.";

(143) the following article is inserted:

"*Article 519b*
Own funds requirements for market risk

1. By 30 September 2019, EBA shall report on the impact, on institutions in the Union, of international standards to calculate the own funds requirements for market risk.

2. By 30 June 2020, the Commission shall, taking into account the results of the report referred to in paragraph 1 and the international standards and the approaches set out in Chapters 1a and 1b of Title IV of Part Three, submit a report together with a legislative proposal, where appropriate, to the European Parliament and to the Council on how to implement international standards on adequate own funds requirements for market risk.";

(144) in Part Ten, the following title is inserted:

"TITLE IIA
IMPLEMENTATION OF RULES

Article 519c
Compliance tool

1. EBA shall develop an electronic tool aimed at facilitating institutions' compliance with this Regulation and Directive 2013/36/EU, as well as with regulatory technical standards, implementing technical standards, guidelines and templates adopted to implement this Regulation and that Directive.

2. The tool referred to in paragraph 1 shall at least enable each institution to:

   (a) rapidly identify the relevant provisions to comply with in relation to the institution's size and business model;

   (b) follow the changes made in legislative acts and in the related implementing provisions, guidelines and templates.";

(145) Annex II is amended as set out in the Annex to this Regulation.

Article 2

Amendments to Regulation (EU) No 648/2012

Regulation (EU) No 648/2012 is amended as follows:

(1) in Article 50a, paragraph 2 is replaced by the following:

"2. A CCP shall calculate the hypothetical capital as follows:

$$K_{CCP} = \sum_{i} EAD_i \cdot RW \cdot \text{capital ratio}$$

where:

K_{CCP} = the hypothetical capital;

i = the index denoting the clearing member;

EAD_i = the exposure amount of the CCP to clearing member i, including the clearing member's own transactions with the CCP, the client transactions guaranteed by the clearing member, and all values of collateral held by the CCP, including the clearing member's pre-funded default fund contribution, against those transactions, relating to the valuation at the end of the regulatory reporting date before the margin called on the final margin call of that day is exchanged;

RW = a risk weight of 20 %; and

capital ratio = 8 %.";

(2) Article 50b is replaced by the following:

"*Article 50b*

General rules for the calculation of K_{CCP}

For the purpose of calculating K_{CCP} referred to in Article 50a(2), the following provisions shall apply:

(a) CCPs shall calculate the value of the exposures they have to their clearing members as follows:

(i) for exposures arising from contracts and transactions listed in points (a) and (c) of Article 301(1) of Regulation (EU) No 575/2013, CCPs shall calculate the value in accordance with the method set out in Section 3 of Chapter 6 of Title II of Part Three of that Regulation by using a margin period of risk of 10 business days;

(ii) for exposures arising from contracts and transactions listed in point (b) of Article 301(1) of Regulation (EU) No 575/2013, CCPs shall calculate the value (EAD_i) in accordance with the following formula:

$$\mathrm{EAD_i} = \max\{\mathrm{EBRM_i} - \mathrm{IM_i} - \mathrm{DF_i}; 0\}$$

where:

EAD_i = the exposure value;

i = the index denoting the clearing member;

$EBRM_i$ = the exposure value before risk mitigation that is equal to the exposure value of the CCP to clearing member i arising from all the contracts and transactions with that clearing member, calculated without taking into account the collateral posted by that clearing member;

IM_i = the initial margin posted with the CCP by clearing member i;

DF_i = the pre-funded default fund contribution of clearing member i.

All values in this formula shall relate to the valuation at the end of the day before the margin called on the final margin call of that day is exchanged;

(iii) for situations referred to in the third sentence of the second subparagraph of Article 301(1) of Regulation (EU) No 575/2013, CCPs shall calculate the value of the transactions referred to in the first sentence of that subparagraph in accordance with the formula set out in point (a)(ii) of this Article, and shall determine $EBRM_i$ in accordance with Title V of Part Three of that Regulation;

(b) for institutions that fall under the scope of Regulation (EU) No 575/2013 the netting sets are the same as those defined in point (4) of Article 272 of that Regulation;

(c) a CCP that has exposures to one or more CCPs shall treat those exposures as if they were exposures to clearing members and include any margin or pre-funded contributions received from those CCPs in the calculation of K_{CCP};

(d) a CCP that has in place a binding contractual arrangement with its clearing members that allows that CCP to use all or part of the initial margin received from its clearing members as if they were pre-funded contributions shall consider that initial margin as pre-funded contributions for the purposes of the calculation in paragraph 1 and not as initial margin;

(e) where collateral is held against an account containing more than one of the types of contracts and transactions referred to in Article 301(1) of Regulation (EU) No 575/2013, CCPs shall allocate the initial margin provided by their clearing members or clients, as applicable, in proportion to the EADs of the respective types of contracts and transactions calculated in accordance with point (a) of this paragraph, without taking into account initial margin in the calculation;

(f) CCPs that have more than one default fund shall carry out the calculation for each default fund separately;

(g) where a clearing member provides client clearing services, and the transactions and collateral of the clearing member's clients are held in sub-accounts which are separate from those of the clearing member's proprietary business, CCPs shall carry out the calculation of EAD_i for each sub-account separately and shall calculate the clearing member's total EAD_i as the sum of the EADs of the clients' sub-accounts and the EAD of the clearing member's proprietary business sub-account;

(h) for the purposes of point (f), where DF_i is not split between the clients' sub-accounts and the clearing member's proprietary business sub-accounts, CCPs shall allocate DF_i per sub-account according to the respective fraction the initial margin of that sub-account has in relation to the total initial margin posted by the clearing member or for the account of the clearing member;

(i) CCPs shall not carry out the calculation in accordance with Article 50a(2) where the default fund covers cash transactions only.

For the purposes of point (a)(ii) of this Article, the CCP shall use the method specified in Article 223 of Regulation (EU) No 575/2013 with supervisory volatility adjustments set out in Article 224 of that Regulation to calculate the exposure value.";

(3) in Article 50c(1), points (d) and (e) are deleted;

(4) in Article 50d, point (c) is deleted;

(5) in Article 89, paragraph 5a is replaced by the following:

"5a. During the transitional period set out in Article 497 of Regulation (EU) No 575/2013, a CCP referred to in that Article shall include in the information it shall report in accordance with Article 50c(1) of this Regulation the total amount of initial margin, as defined in point (140) of Article 4(1) of Regulation (EU) No 575/2013, it has received from its clearing members where both of the following conditions are met:

(a) the CCP does not have a default fund;

(b) the CCP does not have in place a binding arrangement with its clearing members that allows it to use all or part of the initial margin received from those clearing members as if they were pre-funded contributions.".

Article 3

Entry into force and application

1. This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

2. This Regulation shall apply from … [two years after the date of entry into force of this amending Regulation] with the exceptions listed in paragraphs 3 to 8.

3. The following points of Article 1 of this Regulation shall apply from … [date of entry into force of this amending Regulation]:

(a) point (1), containing the provisions on scope and on supervisory powers;

(b) point (2), containing the definitions, unless they relate exclusively to provisions that apply in accordance with this Article from a different date, in which case they shall apply from such different date;

(c) points (3)(b), (6)(c), (8), point (9), as regards Article 13 of Regulation (EU) No 575/2013, point (12), as regards the second subparagraph of Article 18(1) of Regulation (EU) No 575/2013, points (14) to (17), (19) to (44), (47), (128) and (129), containing the provisions related to own funds and the provisions on the introduction of the new requirements for own funds and eligible liabilities;

(d) point (9), as regards the provisions on the impact of new securitisation rules laid down in Article 14 of Regulation (EU) No 575/2013;

(e) point (57), containing the provisions on the risk weights for multilateral development banks, and point (58), containing the provisions on the risk weights for international organisations;

(f) point (53), as regards Article 104b of Regulation (EU) No 575/2013, points (89) and (90), point (118), as regards Article 430b of Regulation (EU) No 575/2013, and point (124), containing the provisions on the reporting requirements for market risk;

(g) point (130), containing the provisions on own funds requirements for CCP exposures;

(h) point (133), as regards the provisions on massive disposals laid down in Article 500 of Regulation (EU) No 575/2013;

(i) point (134), as regards Article 501b of Regulation (EU) No 575/2013, containing the provisions on waiver of reporting;

(j) point (144), containing the provisions on the compliance tool;

(k) the provisions that require European Supervisory Authorities or the ESRB to submit to the Commission draft regulatory or implementing technical standards and reports, the provisions that require the Commission to produce reports, the provisions that empower the Commission to adopt delegated acts or implementing acts, the provisions on review and on legislative proposals and the provisions that require the European Supervisory Authorities to issue guidelines, namely point (2)(b); point (12), as regards Article 18(9) of Regulation (EU) No 575/2013; point (18)(b); point (31), as regards Article 72b(7) of Regulation (EU) No 575/2013; point (38), as regards Article 78a(3) of Regulation (EU) No 575/2013; point (57)(b); point (60), as regards Article 124(4) and (5) of Regulation (EU) No 575/2013; point (63), as regards Article 132a(4) of Regulation (EU) No 575/2013; point (67), as regards Article 164(8) and (9) of Regulation (EU) No 575/2013); point (74), as regards Article 277(5) and 279a(3) of Regulation (EU) No 575/2013; point (89), as regards Article 325(9) of Regulation (EU) No 575/2013; point (90), as regards Articles 325u(5), 325w(8), 325ap(3), 325az(8) and (9), 325bd(7), 325be(3), 325bf(9), 325bg(4), 325bh(3), 325bk(3), 325bp(12) of Regulation (EU) No 575/2013; point (93), as regards Article 390(9) of Regulation (EU) No 575/2013;

point (94); point (96), as regards Article 394(4) of Regulation (EU) No 575/2013; point (98)(b); point (104), as regards Article 403(4) of Regulation (EU) No 575/2013; point (109)(b); point (111)(b); point (118), as regards Articles 430(7) and (8), 430b(6) and Article 430c of Regulation (EU) No 575/2013; point (119), as regards Article 432(1) and (2) and Article 434a of Regulation (EU) No 575/2013; point (123); point (124); point (125); point (134), as regards Article 501a(4) and (5) of Regulation (EU) No 575/2013; point (135); point (136); point (137); point (138); point (139); point (140); point (141), as regards Article 514(1) of Regulation (EU) No 575/2013; point (142); and point (143).

Without prejudice to point (f) of the first subparagraph, the provisions on disclosure and on reporting shall apply as of the date of application of the requirement to which the disclosure or the reporting relates.

4. The following points of Article 1 of this Regulation shall apply from … [18 months after entry into force of this amending Regulation]:

(a) points (6)(a), (6)(b), (6)(d), points (7) and (12), as regards the first subparagraph of Article 18(1) and Article 18(2) to (8) of Regulation (EU) No 575/2013, containing the provisions on prudential consolidation;

(b) point (60), containing the provisions on exposures secured by mortgages on immovable property, point (67), containing the provisions on loss given default, and point (122), containing the provisions on macroprudential or systemic risk identified at the level of a Member State.

5. Point (46)(b) of Article 1 of this Regulation, containing the provisions on the introduction of the new requirement for own funds for G-SIIs, shall apply from 1 January 2022.

6. Point (53), as regards Article 104a of Regulation (EU) No 575/2013, and points (55) and (69) of Article 1 of this Regulation, containing the provisions on the introduction of the new own funds requirements for market risk, shall apply from … [four years after the date of entry into force of this amending Regulation].

7. Point (18) of Article 1 of this Regulation, as regards point (b) of Article 36(1) of Regulation (EU) No 575/2013, containing the provision on the exemption from deductions of prudently valued software assets, shall apply from 12 months after the date of entry into force of the regulatory technical standards referred to in Article 36(4) of Regulation (EU) No 575/2013.

8. Point (126) of Article 1 of this Regulation, containing the provisions on the exemptions from deductions of equity holdings, shall apply retroactively from 1 January 2019.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the European Parliament	*For the Council*
The President	*The President*

ANNEX

Annex II is amended as follows:

(1) in point 1, point (e) is replaced by the following:

"(e) interest-rate options;";

(2) in point 2, point (d) is replaced by the following:

"(d) currency options;";

(3) point 3 is replaced by the following:

"3. Contracts of a nature similar to those in points 1(a) to (e) and 2(a) to (d) of this Annex concerning other reference items or indices. This includes as a minimum all instruments specified in points (4) to (7), (9), (10) and (11) of Section C of Annex I to Directive 2014/65/EU not otherwise included in point 1 or 2 of this Annex.".