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**NOTE**

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From: Presidency

To: Delegations

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Subject: Proposal for a 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 amending Regulation (EU) No 648/2012  
*- Presidency compromise*

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Delegations will find below a Presidency compromise text on the above mentioned proposal to be presented to Council on 25 May 2018.

**Proposal for a**

**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 amending 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<sup>1</sup>,

Having regard to the opinion of the European Economic and Social Committee<sup>2</sup>,

Acting in accordance with the ordinary legislative procedure,

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 internationally agreed standards. Among its many measures the reform package included the adoption of Regulation (EU) No 575/2013 of the European Parliament and of the Council<sup>3</sup> and Directive 2013/36/EU of the European Parliament and of the Council<sup>4</sup>, which strengthened the prudential requirements for credit institutions and investment firms.

(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 Basel Committee on Banking Supervision (Basel Committee) 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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<sup>1</sup> OJ, C,, p. .

<sup>2</sup> OJ C,, p. .

<sup>3</sup> 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).

<sup>4</sup> 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, 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 also by the Council in its Conclusions of 17 June 2016 and by the European Parliament in its resolution of 10 March 2016<sup>5</sup>.

(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, especially 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 amending Regulation should be equivalent to internationally agreed standards and ensure the continued equivalence of Directive 2013/36/EC and this Regulation 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.

(6) Existing risk reduction measures 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.

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<sup>5</sup> See the European Parliament resolution of 10 March 2016 on the Banking Union – Annual Report 2015, available at <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2016-0093+0+DOC+XML+V0//EN>.

(7) 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. Therefore, a leverage ratio requirement should be introduced to complement the current system of reporting and disclosure of the leverage ratio.

(8) 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.

(9) The European Banking Authority (EBA) concluded in its report to the Commission<sup>6</sup> 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 Basel Committee. The leverage ratio requirement should therefore be calibrated at 3%.

(10) 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 guaranteed export credits would be impacted disproportionately. The leverage ratio should therefore be adjusted for these 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 modality of establishment of the bank 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.

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<sup>6</sup> Report on the leverage ratio requirement of 3 August 2016  
[https://www.eba.europa.eu/documents/10180/1360107/EBA-Op-2016-13+\(Leverage+ratio+report\).pdf](https://www.eba.europa.eu/documents/10180/1360107/EBA-Op-2016-13+(Leverage+ratio+report).pdf)

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

(12) The Basel Committee 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 enhance the international level playing field for EU institutions operating outside the Union, and to ensure the leverage ratio remains an effective complement to risk-based own funds requirements.

(13) It is appropriate to implement a leverage ratio buffer requirement for institutions qualifying as global systemically important institutions (G-SIIs) in accordance with Article 131 of Directive 2013/36/EU and consistent with the Basel Committee's standards on a leverage ratio buffer for globally systemically important banks (G-SIBs) published in December 2017. The leverage ratio buffer was calibrated by the Basel Committee with the specific purpose of mitigating the comparably larger risks to financial stability posed by G-SIBs and, against this background, should apply to G-SIIs only 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 Article 131 of 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.

(14) On 9 November 2015, the FSB published the Total Loss-Absorbing Capacity (TLAC) Term Sheet (TLAC standard<sup>1</sup>) which was endorsed by the G-20 at the November 2015 summit in Turkey. The TLAC standard requires global systemically important banks (G-SIBs), to hold a sufficient amount of highly loss absorbing (bail-in-able) liabilities to ensure smooth and fast absorption of losses and recapitalisation in resolution. In its Communication of 24 November 2015, the Commission committed to bringing forward a legislative proposal by the end of 2016 that would enable the TLAC standard to be implemented by the internationally agreed deadline of 2019.

(15) The implementation of the TLAC standard in the Union needs to take into account the existing minimum requirement for own funds and eligible liabilities (MREL), set out in Directive 2014/59/EU of the European Parliament and of the Council<sup>7</sup>. As TLAC and MREL pursue the same objective of ensuring that institutions have sufficient loss absorbing capacity, the two requirements are 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 firm-specific add-on for global systemically important institutions (G-SIIs) and the firm-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<sup>8</sup>. The relevant provisions introducing the TLAC standard in this Regulation (EU) should be read together with those in the aforementioned legislation and with Directive 2013/36/EU.

(16) 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 in the case of 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 in Directive 2014/59/EU.

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<sup>7</sup> 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).

<sup>8</sup> 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 line with the TLAC standard, the requirement on 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 on 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.

(18) 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.

(19) To ensure the effectiveness of the requirement on own funds and eligible liabilities, it is essential that the instruments held for meeting that requirement have a high capacity of loss absorption. 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-in-able in principle might raise difficulties for being bailed in in practice. Those liabilities should therefore not be considered eligible for the requirement on 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.

(20) To avoid double counting of liabilities for the purposes of the requirement on 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 no sufficient liabilities, they should be deducted from Tier 2 capital instruments.



(21) 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.

(21a) It is necessary to provide for a clear and transparent process of approval for Common Equity Tier 1 instruments that can contribute to maintaining the high quality of these instruments. To that end, competent authorities should have the responsibility to approve these instruments before institutions may classify them as Common Equity Tier 1. However, competent authorities need not require prior approval of 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 of capital instruments for which the institution has received prior permission from the competent authority to classify them as Common Equity Tier 1 instruments. In view of EBA's role to further convergence of supervisory practices and enhance the quality of own funds instruments, competent authorities should consult the EBA before approving any new form of Common Equity Tier 1 instruments.

(21b) Capital instruments are eligible as Additional Tier 1 or Tier 2 instruments only to the extent they comply with the relevant eligibility criteria. Such capital instruments may consist of equity or liabilities, including subordinated loans that fulfil those criteria.

(21c) 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, such parts should not be eligible to qualify as own funds instruments.

(21d) Own funds instruments and eligible liabilities should not be subject to set-off or netting arrangements which would undermine their loss-absorbing capacity in resolution. Therefore, it is necessary that the liabilities are not subject to set-off or netting arrangements, which does 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. "

(21e) In order to avoid cliff-edge effects, it is necessary to grandfather existing instruments with respect to certain eligibility criteria. For liabilities issued before [the date of entry into force to be added when the text is published], 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 the TLAC requirement and the subordinated portion of the MREL requirement pursuant to Directive 2014/59/EU, as well as to liabilities counting towards, where applicable, the non-subordinated portion of the TLAC requirement and the non-subordinated portion of the MREL requirement pursuant to Directive 2014/59/EU.

(22) 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.

(23) 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 Basel Committee 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.

(24) 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').

(25) 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 Basel Committee decided to replace the SM and the MtMM with a new standardised approach for computing the exposure value of derivatives 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.

(26) The SA-CCR is more risk-sensitive than the SM and the MtM and should therefore lead to own funds requirements that better reflect the risks related to institutions' derivatives transactions. At the same time, the SA-CCR is more complex for institutions to implement. For some of the institutions which currently use the MtM method the SA-CCR may prove to be too complex and burdensome to implement. For those institutions, a simplified version of the 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 derivatives transactions.

(27) For institutions which have very limited derivatives exposures and which currently use the OEM, both the SA-CCR and the simplified SA-CCR could be too complex to implement. The OEM should therefore be reserved for those institutions, but should be revised in order to address its major shortcomings.

(28) 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.

(29) 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 Basel Committee to remove a number of weaknesses in the prudential treatment for trading book positions which are the own fund requirements for market risks.

(30) In 2009, a first set of reforms were finalised at international level and transposed in the Union law with Directive 2010/76/EU of the European Parliament and of the Council<sup>9</sup>.

(31) The 2009 reform, however, did not address the structural weaknesses of the own fund 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 fund requirements for market risks did not allow to capture the full range of risks to which institutions were exposed.

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<sup>9</sup> 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).

(32) The Basel Committee, therefore, initiated the Fundamental review of the trading book (FRTB) to address those weaknesses. This 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 Basel Committee 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 Committee's original expectations. Upon finalisation of this review and before an impact assessment is performed to assess the impacts 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 calculation derived from the revised standardised approach. To this end, the Commission should be empowered to adopt a delegated act by [31 December 2019] in order to fully operationalise the calculation of these reporting requirements in line with international developments. Institutions should start reporting this 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 [3 years] after its full operationalisation.

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

(34) A proportionate treatment for market risks should also apply to institutions with limited trading book activities, allowing more institutions with small trading 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 re-assesses how institutions with medium-sized trading books should calculate the own funds requirements for market risk. In particular, the calibration of the own funds requirements for market risks for those institutions with medium-sized trading books should be reviewed in light of developments at international level. In the meantime, those institutions, as well institutions with small trading activities, should be exempted from the reporting requirements under the FRTB.

(35) 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 with the SA-CCR. Moreover, the limit on the exposures that G-SIBs may have towards other G-SIBs should be lowered to reduce systemic risks related to interlinks among large institutions and the impact that the default of G-SIBs counterparty may have on financial stability.

(36) While the liquidity coverage ratio (LCR) ensures that credit institutions and systemic investment firms will be able to withstand severe stress on a short-term basis, it does not ensure that those credit institutions and investment firms 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 EU 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.

(37) Consistent with the Basel Committee's stable funding standards, 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. This is the binding net stable funding ratio ('NSFR'). The amount of available stable funding should be calculated by multiplying the institution's liabilities and regulatory capital 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.

(38) 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 during a one-year period under both normal and stressed conditions. Should its NSFR falls below the 100% level, the institution should comply with the specific requirements laid down in Article 414 of Regulation (EU) No 575/2013 for a timely restoration of its NSFR to the minimum level. The supervisory measures in case of non-compliance should not be automatic and competent authorities should instead assess the reasons for non-compliance with the NSFR requirement before defining potential supervisory measures.

(39) In accordance with the recommendations made by EBA in its report of 15 December 2015 prepared pursuant to paragraphs 1 and 2 of Article 510 of Regulation (EU) No 575/2013, the rules for calculating the NSFR should be closely aligned with the Basel Committee's standards, including developments in those standards regarding the treatment of derivatives transactions. The necessity to take into account some European specificities to ensure that the NSFR does not hinder the financing of the European real economy however justifies adopting some adjustments to the Basel NSFR for the definition of the European NSFR. Those adjustments due to the European context are recommended by the NSFR report prepared by EBA and relate mainly to specific treatments for i) pass-through models in general and covered bonds issuance in particular; ii) trade finance activities; iii) centralised regulated savings; iv) residential guaranteed loans; v) credit unions; and vi) CCPs not undertaking maturity transformation. These proposed specific treatments broadly reflect the preferential treatment granted to these activities in the European LCR compared to the Basel LCR. Because the NSFR complements the LCR, those two ratios should indeed 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 shall 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 frame of the NSFR calculation.



(40) Beyond European specificities, the treatment of derivative transactions in the Basel NSFR could have an important impact on institutions' derivatives 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 Basel NSFR 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 Basel level. This requirement, introduced at a level of 5%, could then be amended to take into account developments at Basel 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 Market Union.

(41) The Basel asymmetric treatment between 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 aims at discouraging extensive short term funding links between financial customers which 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 overly 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, as repo markets facilitate the management of the necessary inventory, thereby contradicting the objectives of the capital market union. Furthermore, this would make it more difficult to transform these securities into cash rapidly at a good price, which could endanger the effectiveness of the LCR whose logic is to have a buffer of liquid assets that can be easily transformed into cash in case of liquidity stress. Eventually, the calibration of this asymmetry may affect the liquidity of interbank funding markets, in particular for liquidity management purposes, as it will become more expensive for banks to lend to each other on a short term basis. The asymmetrical treatment should be maintained but RSF factors be reduced to 5% and 10% respectively (instead of 10% and 15%).

(42) In addition to the recalibration of the Basel RSF factor that applies to short term reverse repo transactions with financial customers secured by sovereign bonds (5% RSF factor instead of 10%), some other adjustments have proven to be necessary to ensure that the introduction of the NSFR does not hinder the liquidity of sovereign bonds markets. The Basel 5% RSF 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 these assets even in time of severe liquidity stress (0% haircut). The RSF factor of HQLA Level 1 as defined in the EU LCR, excluding extremely high quality covered bonds, should therefore be reduced from 5% to 0%.

(43) Furthermore, all HQLA Level 1 as defined in the EU LCR, excluding extremely high quality covered bonds, received as variation margins in derivatives contracts should offset derivatives assets while the Basel standard only accepts cash respecting the conditions of the leverage framework to offset derivatives assets. This broader recognition of assets received as variation margins will contribute to the liquidity of sovereign bonds markets, avoid penalizing 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.

(44) The NSFR should apply to institutions both on an individual and a consolidated basis, unless competent authorities waive the application of the NSFR on an individual basis. This duplicates the scope of application of the LCR that the NSFR complements. Where the application of the NSFR at individual level 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 may not 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.

(45) 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.

(46) In accordance with Article 508(3) of Regulation (EU) No 575/2013, the Commission is to report on an appropriate regime for the prudential supervision of investment firms and submit, where appropriate, a legislative proposal. Until that provision starts applying, investment firms other than systemic investment firms should remain subject to the national law of Member States on the net stable funding requirement. However, investment firms other than systemic investment firms should be subject to the NSFR laid down in Regulation (EU) No 575/2013 on a consolidated basis, where they form part of banking groups, to allow an appropriate calculation of the NSFR at consolidated level.

(47) 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 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.

(48) 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 Basel Committee on Banking Supervision (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.

(49) 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, smaller and less complex institutions should be required to produce less detailed disclosures than their larger peers, thus reducing the administrative burden to which they are subject.

(50) Some clarifications should be made to the remuneration disclosures. Furthermore, institutions benefitting from a derogation from certain remuneration rules should be required to disclose information concerning such derogation.

(51) [ ]

(52) 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 beyond the threshold of EUR 1.5 million and for the exceeding part should amount to a 15% reduction of a risk-weighted exposure amount.

(53) 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, notably broadband and energy networks, as well as transport 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 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.

(54) In order to encourage private investments in infrastructure projects it is therefore 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 by [three years after the entry into force] in order to assess a) its impact on the volume of infrastructure investments by institutions and the quality of investments having regard to EU's objectives to move towards a low-carbon, climate-resilient and circular economy; and b) its adequacy from a prudential standpoint. The Commission should also consider whether the scope should be extended to infrastructure investments by corporates.

(55) Article 508(3) of Regulation (EU) No 575/2013 of the European Parliament and of the Council<sup>2</sup> requires the Commission to report to the European Parliament and to the Council on an appropriate regime for the prudential supervision of investment firms and of firms referred to in points (2)(b) and (c) of Article 4(1) of that Regulation, to be followed, where appropriate, by a legislative proposal. That legislative proposal may introduce new requirements for those firms. In the interest of ensuring proportionality and to avoid unnecessary and repetitive regulatory changes, investment firms which are not systemic should therefore be precluded from complying with the new provisions amending Regulation (EU) No 575/2013. Investment firms that pose the same systemic risk as credit institutions should however be subject to the same requirements as those that apply to credit institutions.

(56) [ ]

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

(58) To facilitate the comparability of disclosures, the EBA should be mandated to develop standardised disclosure templates covering all substantial disclosure requirements set out in Regulation (EU) 575/2013 of the European Parliament and the Council. When developing these standards the EBA should take into account the size and complexity of institutions, as well as the nature and level of risk of their activities.

(59) In order to ensure an appropriate definition of some specific technical provisions of Regulation (EU) No 573/2013 and to take into account possible developments at international level, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of the list of products or services whose assets and liabilities can be considered as interdependent and in respect of the definition of the treatment of derivatives, secured lending and capital market driven transactions and of unsecured transactions of less than six months with financial customers for the calculation of the NSFR.

(60) The Commission should adopt draft regulatory technical standards developed by EBA in the areas of own funds requirements for market risk for non-trading book positions, instruments exposed to residual risks, jump to default calculations, permission to use internal models for market risk, internal model back testing, P&L attribution, non-modellable risk factors and default risk in the internal model approach for market risk by means of delegated acts pursuant to Article 290 TFEU and in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. 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.

(61) For the purposes of applying large exposures rules, the Commission should specify, through the adoption of acts in accordance with Article 290 of the Treaty on the Functioning of the European Union, in which circumstances the conditions for the existence of a group of connected clients are met and how to calculate the value of exposures arising from contracts referred to in Annex II and credit derivatives not directly entered into with a client but underlying a debt or equity instrument issued by that client and the cases and the time limit within which competent authorities might allow the exposure limit to be exceeded. The Commission should also issue regulatory technical standards to specify the format and frequency of reporting related to large exposures, as well as the criteria for identifying shadow banks to which reporting obligations on large exposures refer.



(62) On counterparty credit risk, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of the definition of aspects related to the material risk driver of transactions, the supervisory delta and the commodity risk category add-on.

(63) Before the adoption of acts in accordance with Article 290 of the Treaty on the Functioning of the European Union 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 on Better Law-Making of 13 April 2016. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council should 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.

(64) To react more efficiently to developments over time in disclosure standards at international and Union levels, the Commission should have a mandate to amend the disclosure requirements laid down in Regulation (EU) 575/2013 through a delegated act.

(65) The EBA should report on where proportionality of the Union supervisory reporting package could be improved in terms of scope, granularity or frequency.

(66) For the purpose of applying own funds requirements for exposures in the form of units or shares in CIUs, the Commission should specify, through the adoption of a regulatory technical standard, how institutions shall calculate the risk weighted exposure amount under the mandate-based approach where any of the inputs required for that calculation are not available.

(67) Since the objectives of this Regulation, namely to reinforce and refine already existing Union legislation ensuring uniform prudential requirements that apply to credit institutions and investment firms 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.

(68) In view of the amendments to the treatment of exposures to QCCPs, specifically to the treatment of institutions' contributions to QCCPs' default funds, the relevant provisions in Regulation (EU) No 648/2012 which were introduced in that Regulation by Regulation (EU) No 575/20136 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 also be amended.

(69) The application of certain provisions on new requirements for own funds and eligible liabilities that implement the TLAC standard should be 1 January 2019 as agreed at international level.

(69a) The relevant competent or designated authorities should aim at avoiding any form of duplicative or inconsistent actions in the use of the macroprudential powers included in Regulation 575/2013/EU and Directive 2013/36/EU. In particular, relevant competent or designated authorities are expected to duly consider whether measures taken under Articles 124, 164 and 458 of Regulation 575/2013/EU are duplicative or inconsistent with respect to other existing or upcoming measures under Article 133 of Directive 2013/36/EU.

(69b) Given that the guidance on additional own funds set out in Article 104b(3) of Directive 2013/36/EU is a capital target that reflects supervisory expectations, it should be subject neither to mandatory disclosure nor to prohibition of disclosure on request of competent authorities under Regulation 575/2013 or Directive 2013/36/EU. Similarly, it should not be subject to mandatory disclosure under Article 17 of the Regulation (EU) 596/2014, provided that its confidentiality can be ensured. Regulation (EU) 596/2014 should therefore be amended accordingly.

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

HAVE ADOPTED THIS REGULATION:

*Article 1*

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

- (1) Article 1 is 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."

(2) Article 2 is replaced by the following:

*"Article 2  
Supervisory powers*

1. For the purposes 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 purposes of ensuring compliance with this Regulation, resolution authorities shall have the powers and shall follow the procedures set out in Directive 2014/59/EU and in this Regulation.
  
3. For the purposes of ensuring compliance with the requirements concerning own funds and eligible liabilities competent authorities and resolution authorities shall cooperate."

(3) Article 4 is amended as follows:

(a) in paragraph 1, 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<sup>10</sup> or an AIF as defined in point (a) of Article 4(1) of Directive 2011/61/EU of the European Parliament and of the Council<sup>11</sup>.”;

(b) in paragraph 1, 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.”;

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<sup>10</sup> 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).

<sup>11</sup> 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).

(c) in paragraph 1, 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 within the meaning of Directive 2007/64/EC of the European Parliament and of the Council<sup>12</sup>, 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;"

(c)(bis) in paragraph 1, 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 such 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";

(c)(ter) in paragraph 1 the following new points (29a), (29b), (29c) and (29d) are added after point (29):

"(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;

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<sup>12</sup> Directive 2007/64/EC of the European Parliament and of the Council of 13 November 2007 on payment services in the internal market amending Directives 97/7/EC, 2002/65/EC, 2005/60/EC and 2006/48/EC and repealing Directive 97/5/EC (OJ L 319, 5.12.2007, p. 1).

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

(d) in point (39) of paragraph 1, the following subparagraph is inserted:

"Two or more natural or legal persons who fulfil the conditions set out in points (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.";

(d)(bis) point (41) of paragraph 1 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;"

(e) in point (71) of paragraph 1, the introductory sentence in point (b) is replaced by the following:

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

(f) in point (72) of paragraph 1, 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 Article 25(4)(a) of Directive 2014/65/EU;"

(g) in paragraph 1, 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, to hedge either positions held with trading intent in accordance with Article 104 ;".



(h) in paragraph 1, 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;”.

(i) in paragraph 1, 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 position or between two trading desks;”.

(i)(bis) in paragraph 1, point (a) of point (127) 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;

(j) in paragraph 1, the following points are added:

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

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

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

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

(133) 'non-EU global systemically important institution' (non-EU G-SII) means global systemically important banking groups or banks (G-SIBs) that are not G-SIIs and that are included in the list of G-SIBs published by the Financial Stability Board, as regularly updated;

(134) '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 leverage exposure measure of the subsidiary is more than 5% of the consolidated leverage exposure measure of its original parent undertaking.

For the purpose of determining the material subsidiary, where Article 21b(1a) 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;

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

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

(137) '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 linked to each other by a relationship as set out in Article 22 of Directive 2013/34/EU of the European Parliament and of the Council<sup>13</sup>;

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

(139) 'systemic investment firm' means an investment firm that has been identified as a G-SII or an O-SII in accordance with Article 131(1), (2) or (3) of Directive 2013/36/EU";

(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 time period needed to liquidate those transactions, or to re-hedge their market risks, 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;

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<sup>13</sup> 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).

(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."

(k) the following paragraph 4 is added:

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

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

Power is conferred on 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."

(4) Article 6 is amended as follows:

(a) Paragraph 1 is replaced by the following:

"Institutions shall comply with the obligations laid down in Parts Two to Five, Seven and Eight on an individual basis.";

(b) The following paragraph 1a is inserted:

"1a. By way of derogation from paragraph 1, only institutions identified as resolution entities, that are also G-SII or 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 of the following conditions:

- (a) they are not resolution entities;
- (b) they do not have subsidiaries;
- (c) they are not the subsidiary of an EU parent institution.";

(c) Paragraph 4 is replaced by the following:

"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 2004/39/EC shall comply with the obligations laid down in Part Six on an individual basis. Institutions which are authorised in accordance with Article 14 of Regulation (EU) No 648/2012 shall not be required to comply with the obligations laid down in Article 413(1). 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 taking into account the nature, scale and complexity of the investment firms' activities.";

(d) Paragraph 5 is replaced by the following:

"5. Investment firms referred to in Article 95(1) and Article 96(1), institutions for which competent authorities have exercised the derogation specified in Article 7(1) or (3), and institutions which are 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 on an individual basis."

(5) [ ]

(6) In Article 8 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, and the funding positions where the NSFR set out in title IV of part Six is waived, of all institutions within the group or sub-group, that are subject to the waiver and ensures a sufficient level of liquidity, and of stable funding where the NSFR set out in title IV of part Six is waived, for all of these institutions;"

(6a) In Article 8 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 LCR as defined in delegated regulation (EU) No 2015/61 is waived and the distribution of amounts and location of available stable funding within the single liquidity sub-group where the NSFR set out in title IV of part Six of this regulation is waived;

(c) the determination of minimum amounts of liquid assets to be held by institutions for which the application of the LCR as defined in delegated regulation (EU) No 2015/61 is waived and the determination of minimum amounts of available stable funding to be held by institutions for which the application of the NSFR set out in title IV of part Six of this regulation is waived;"

(7) Article 11 is replaced by the following:

*"Article 11*  
*General treatment*

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

- (a) financial holding companies and mixed financial holding companies approved in accordance with Article 21a of Directive 2013/36/EU;
- (b) designated institutions controlled by an EU parent financial holding company or EU parent mixed financial holding company where the latter are not subject to approval in accordance with paragraph 3a of Article 21a;
- (c) financial holding companies, mixed financial holding companies or institutions designated pursuant to point (d) of Article 21a(5).

2. Parent institutions in a Member State shall comply, to the extent and in the manner prescribed in Article 18, with the obligations laid down in Parts Two to Four and Part Seven on the basis of their consolidated situation. The parent undertakings and their subsidiaries 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 a proper consolidation.

3. By way of derogation from paragraph 2, only parent institutions identified as resolution entities that are G-SIIs or part of G-SIIs or part of non-EU G-SIIs shall comply with Article 92a on a consolidated basis, to the extent and in the manner prescribed by Article 18.

Only EU parent undertakings that are a material subsidiary of non-EU G-SIIs and are not resolution entities shall comply with Article 92b on a consolidated basis to the extent and in the manner prescribed by Article 18. Where Article 21b(1a) of Directive 2013/36/EU applies, the two intermediate EU parent undertakings jointly identified as a material subsidiary shall each comply with Article 92b on the basis of their consolidated situation.

4. EU parent institutions shall comply with Part Six 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 2004/39/EC. 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 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 paragraphs 1 to 5 of Article 8, 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 on a consolidated basis or on the sub-consolidated basis of the liquidity sub-group.

5. Where Article 10 is applied, the central body referred to in that Article shall comply with the requirements of Parts Two to Eight 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 in paragraphs 1 to 5, 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 the institution to comply with the obligations laid down in Parts Two to Four and Parts Six to Eight of this Regulation and in Title VII of Directive 2013/36/EU on a sub-consolidated basis.



Applying 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. "

(8) Article 12 is replaced by the following:

*"Article 12*

*Consolidated calculation for G-SIIs with multiple resolution entities*

Where more than one 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). That calculation shall be undertaken based on 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 sub-paragraph is lower than the sum of the amounts of own funds and eligible liabilities referred to in Article 92a(1)(a) of all resolution entities belonging to that G-SII, the resolution authorities shall act in accordance with Article 45d(3) and 45h(2) of Directive 2014/59/EU.

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

(9) Article 13 is 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 a G-SII or 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 is applied, 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."

(10) Article 18 is replaced by the following:

*Article 18*

*Methods of prudential consolidation*

1. The 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 7 of this Article shall not apply where Part Six applies 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(3), institutions that are required to comply with the requirements referred to in Articles 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 linked by a relationship 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, the 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. The 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 these institutions; and
- (b) where two or more institutions or financial institutions are placed under single management other than pursuant to a contract or clauses of their memoranda or articles of association.

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

6a. 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 the date of application of this Regulation;
- (b) it would be unduly burdensome to apply the equity method or the equity method does not adequately reflect the risks that such undertaking poses to the institution; and
- (c) the method applied does not result in full or proportional consolidation of the undertaking.

6b. 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 of 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.

7. EBA shall develop draft regulatory technical standards to specify conditions according to which consolidation shall be carried out in the cases referred to in paragraphs 3 to 6 and 6b of this Article.

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

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."

(11) 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 to 91 and Parts Three and Four 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, subsidiary institutions may not apply the requirements laid down in Articles 89 to 91 and Parts Three and Four on the basis of their sub-consolidated situation where the total assets and off-balance sheet items of their subsidiaries in the third countries are less than 10 % of the total amount of the assets and off-balance sheet items of the subsidiary institution."

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

" OWN FUNDS AND ELIGIBLE LIABILITIES".

(12a) 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 capital instruments as Common Equity Tier 1 instruments only after permission is granted by the competent authorities. Competent authorities may waive the requirement for prior permission as referred hereto for subsequent issuances of a form of Common Equity Tier 1 instruments for which the institution has already received that permission, where the provisions governing those instruments are substantially the same. In such case, subsequent issuances shall be notified to the competent authority.

Competent authorities shall consult the 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 setting out the rationale for deviating from the relevant opinion.

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 deems necessary to establish compliance with the criteria set out in Article 28 or, where applicable, Article 29 and for the purposes of maintaining and updating the list referred hereto.

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 or remove them from the 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 paragraph shall not apply to the capital instruments referred to in Article 31.

(12b) In Article 28(1), point (b) is replaced by the following:

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

(12c) The following subparagraph is inserted at the end of Article 28(1):

"For the purposes of point (b) of this paragraph, only the part of a capital instrument that is fully paid shall be eligible to qualify as an own funds instrument."

(13) 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."

(14) In Article 36(1), point (j) is replaced by the following:

"(j) the amount of items required to be deducted from Additional Tier 1 items pursuant to Article 56 that exceeds the Additional Tier 1 items of the institution;"

(15) In Article 37, the following point (c) 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."

(16) In the first subparagraph of Article 39(2), 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 arising from temporary differences, created prior to 23 November 2016, where all the following conditions are met:"



(17) In Article 45, point (i) of point (a) 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 365 days;"

(18) In Article 49, the following subparagraph is added at the end of paragraph 2:

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

(19) 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";

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

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

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

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

(ac) 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;

(ad) 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.

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

"(p) where the issuer is established in a third country and has been designated according to 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 it 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 power referred to in Article 59 of Directive 2014/59/EU, the principal amount of the instruments is to be written down on a permanent basis or the instruments converted into Common Equity Tier 1 instruments. Where the issuer is established in a third country and has not been designated according to article 12 of Directive 2014/59/EU as part of a resolution group the resolution entity of which is established in 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 converted into Common Equity Tier 1 instruments;"

(c) in paragraph 1, the following points (q) and (r) are added:

"(q) where the issuer is established in a third country and has been designated according to 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 it 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 power referred to in Article 59 of Directive 2014/59/EU is effective and enforceable based on 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."

(19a) The following subparagraph is inserted at the end of Article 52(1):

"For the purposes of point (a) of this paragraph, only the part of a capital instrument that is fully paid up shall be eligible to qualify as an own funds instrument."

(19b) The following new point (e) in Article 54(1) is inserted:

"(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 third country law 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".

(20) In Article 56, point (e) is replaced by the following:

"(e) the amount of items required to be deducted from Tier 2 items pursuant to Article 66 that exceeds the Tier 2 items of the institution;"

(21) In Article 59, point (i) of point (a) is replaced by the following:

"(i) the maturity date of the short positions 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 365 days;"

(22) In Article 62, point (a) is replaced by the following:

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

(23) Article 63 is amended as follows:

(a) the introductory phrase of Article 63 is replaced by the following:

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

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

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

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

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

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

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

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

"(d) the claim on the principal amount of the instruments under the provisions governing the instruments or the claim of the principal amount of the subordinated loans under the provisions governing the subordinated loans, as applicable, ranks below any claim from eligible liabilities instruments;"

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

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

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

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

(bc) point (g) is replaced by the following:

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

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

"(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;"

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

"(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;"

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

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

(bg) point (k) is replaced by the following:

"(k) the provisions governing the instruments do not indicate explicitly or implicitly that the instruments would be called, redeemed, repurchased or repaid 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;"

(bh) point (l) is replaced by the following:

"(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 insolvency or liquidation of the institution;"

(bi) point (m) is replaced by the following:

"(m) the level of distributions due on the instruments will not be amended on the basis of the credit standing of the institution or its parent undertaking;"

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

"(n) where the issuer is established in a third country and has been designated according to 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 it 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 power referred to in Article 59 of Directive 2014/59/EU, the principal amount of the instruments is to be written down on a permanent basis or the instruments converted into Common Equity Tier 1 instruments. Where the issuer is established in a third country and has not been designated according to 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 converted into Common Equity Tier 1 instruments;"

(d) the following points (o) and (p) are added:

"(o) where the issuer is established in a third country and has been designated according to 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 it 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 power referred to in Article 59 of Directive 2014/59/EU is effective and enforceable based on 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."

(da) The following subparagraph is inserted at the end of Article 63:

"For the purposes of point (a) of this paragraph, only the part of a capital instrument that is fully paid up shall be eligible to qualify as an own funds instrument."

(24) 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 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 calendar days in that period;
  - (b) the number of remaining calendar days of contractual maturity of the instruments ".

(25) In Article 66, the following point (e) is added:

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

(26) In Article 69, point (i) of point (a) 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 365 days;".

(27) The following Chapter 5a 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, and to the extent specified in Article 72c:
  - (a) eligible liabilities instruments where the conditions laid down in Article 72b are met, to the extent that they do not qualify as Common Equity Tier 1, Additional Tier 1 and 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. By way of derogation from paragraph 1, 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;
  - (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 within 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 according to national law are secured in a way 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 operators of systems designated in accordance with Directive 98/26/EC;
  - (ii) participants in a system designated in accordance with Directive 98/26/EC or arising from the participation in such a system;
  - (iii) third country CCPs recognised in accordance with Article 25 of Regulation (EU) No 648/2012.
- (j) a liability to any one 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), 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 they comply with the conditions laid down in this Article and only to the extent specified in this Article.
2. Liabilities shall qualify as eligible liabilities instruments provided that all of 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). This 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);
  - (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);
  - (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) 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, repurchased prior to their maturity or repaid early by the institution, as applicable, except for the situations referred to in paragraph 3 of Article 72c;
- (h) the liabilities are not redeemable by the holders of the instruments prior to their maturity, except for the situations referred to in Article 72c(2);
- (i) 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 for the situations referred to in point (h);
- (j) the liabilities may only be called, redeemed, repurchased or repaid early where the conditions laid down 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, repurchased or repaid 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 case of the insolvency or liquidation of the resolution entity;

(m) the level of distributions 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;

For the purposes of point (d), 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 the creditor's being or having been a shareholder, being in a control or group relationship, being a member of the management body or related to any of the above mentioned persons, the assessment of subordination shall exclude the claims arising from such excluded liabilities.

For the purposes of point (a) of this paragraph, only the part of a liability that is fully paid up shall be eligible to qualify as an eligible liabilities instrument.

3. In addition to the liabilities referred to in paragraph 2, upon request by an institution, 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 paragraphs 3 and 4 of Article 92, provided that:

(a) all the conditions laid down in paragraph 2 except for the condition in point (d) 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 subordinated to ordinary unsecured claims under national insolvency law referred to in the last subparagraph of paragraph 2; and

(c) the inclusion of these liabilities in eligible liabilities items would not give rise to material risk of 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. Upon request by an institution, 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 laid down in paragraph 2, except for the condition in point (d) of that paragraph, 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 last subparagraph of paragraph 2;
  - (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 material risk of 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. An institution may not receive permission to include liabilities referred to in both paragraphs 3 and 4 in eligible liabilities items.
6. The resolution authority shall consult the competent authority when examining whether the conditions of 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 condition (g) of paragraph 2 of Article 72b and paragraph 3 of Article 72c;

Those draft regulatory technical standards shall be fully aligned with the Commission Delegated Regulation (EU) No 241/2014.

EBA shall submit those draft regulatory technical standards to the Commission by 6 months after the date of entry into force of this Regulation.

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.

#### *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 below 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 liability 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.

#### *Article 72d*

##### *Consequences of the eligibility conditions ceasing to be met*

Where in the case of an eligible liabilities instrument the applicable conditions laid down 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 Article 72b(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 fewer than five working days.

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:

$$h = \sum_i (H_i \cdot \frac{l_i}{L_i})$$

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

l<sub>i</sub> = 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;

$L_i$  = 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 home resolution authority. That adjusted amount must be at least equal to the amount ( $m$ ) calculated as follows:

Proposed new formula:  $m_i = \max\{0; OP_i + LP_i - \max\{0; \beta \cdot [O_i + L_i - r_i \cdot RW A a_i]\}\}$

(deleted:)

Where

$i$  = the index denoting the subsidiary;

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

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

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

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

$\beta$  = percentage of own funds instruments and eligible liabilities items issued by subsidiary  $i$  held by the parent undertaking

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

$RWA_{ai}$  = 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 of Article 12.

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 this 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 to 72i.

*Article 72h*

*Deduction of holdings of eligible liabilities of other GSII entities*

Institutions not making use of the exception set out in Article 72j, they 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, or later than the maturity date of the long position or the residual maturity of the short position is at least 365 days ;
  - (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 (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 liability 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 liability 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 working days or fewer from the amounts referred to in point (a) of paragraph 1 and from the calculation of the factor referred to in 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 liability 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), (ii) and (iii) of paragraph 1 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 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 of 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 deducted in accordance with paragraph 1 the conditions laid down 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."

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

**"General requirements for own funds and eligible liabilities"**

(29) Article 73 is amended as follows:

(a) the title is replaced by the following:

"Distributions on instruments";

(b) paragraphs 1, 2, 3 and 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 capable of qualifying 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 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 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 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 capable of qualifying 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 and eligible liabilities instruments rely."

(30) 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 of the following conditions are met:".

(31) 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 of 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 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 given 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 several 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 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 several of the points of paragraph 2, as applicable."

(32) 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;

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

(b) 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 as applicable, prior to the date of their contractual maturity."

(33) Article 78 is replaced by the following:

*"Article 78*

*Supervisory permission for reducing own funds*

1. The competent authority shall grant permission for an institution to reduce, repurchase, repay, call or redeem 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) earlier than or at the same time as the action referred to in Article 77, the institution replaces the instruments or the related share premium accounts referred to in Article 77 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 in question, exceed the requirements laid down in this Regulation, in Directive 2013/36/EU and in Directive 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 amount of the requirements laid down in this Regulation and in Directive 2013/36/EU, the competent authority may grant that institution a general prior permission to effect any of the actions set out in points (a), (aa), and (b) of Article 77, subject to criteria that ensure that any such future actions will be in accordance with the conditions laid down in points (a) and (b) of this paragraph. This general prior permission shall be granted only for a certain time 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 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 Directive 2013/36/EU and in Directive 2014/59/EU by a margin that the competent authority considers necessary. In case of Additional Tier 1 instruments 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 instruments 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 under point (a) of paragraph 1 the sustainability of the replacement instruments for the income capacity of the institution, 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 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 laid down 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 issue where the conditions laid down in paragraph 1 are met and any of the following conditions:

(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 a lower quality form of own funds, 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 of the CRR;

(d) earlier than or at the same time as the action referred to in Article 77, the institution replaces the instruments or related share premium accounts referred to in Article 77 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 based on 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, and data requirements for an application by an institution for the permission of the competent authority to carry out an action listed in Article 77, 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 [3 months after entry into force].

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."

(33a) The following article is inserted after Article 78:

*"Article 78a*

*Permission to reduce eligible liabilities instruments*

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

(a) earlier than or at the same time as an action referred to in paragraph 2 of Article 77, 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 in question, exceed the requirements for own funds and eligible liabilities laid down in this Regulation, in Directive 2013/36/EU and in Directive 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, in Directive 2013/36/EU and in Directive 2014/59/EU, the resolution authority, after consulting the competent authority, may grant a general prior permission to that institution to effect calls, redemptions, repayments or repurchases of eligible liabilities instruments, subject to criteria that ensure that any such future actions will be in accordance with the conditions laid down in points (a) and (b) of this paragraph. This general prior permission shall be granted only for a certain time period, which shall not exceed one year, after which it may be renewed. The general prior permission shall only 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 under point (a) of paragraph 1 the sustainability of the replacement instruments for the income capacity of the institution, 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 for cooperation between the competent authority and the resolution authority
  - (b) the process, including the time limits and information requirements, for permission in accordance with Article 78a first subparagraph;
  - (c) the process, including the time limits and information requirements, for permission in accordance with Article 78a second subparagraph;
  - (d) the meaning of 'sustainable for the income capacity of the institution'.

For point (d) of this paragraph, the draft regulatory technical standard shall be fully aligned with the Commission Delegated Regulation (EU) No 241/2014.

EBA shall submit those draft regulatory technical standards to the Commission by 1 January 2019.

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

(34) 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 temporarily capital instruments or liabilities that qualify as Common Equity Tier 1, Additional Tier 1, Tier 2 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 save 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."



(34a) The following article is inserted after Article 79:

*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 II of this Regulation. 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.

(35) 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";

(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:".

(36) 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, is owned by persons other than the undertakings included in the consolidation pursuant to Chapter 2 of Title II of Part One."

(37) 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 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."

(38) In Article 83, the introductory phrase of paragraph 1 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:"

(38a) the following article is inserted after Article 88:

*"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 of an institution subject to Article 92a provided that all of the following conditions are met:

- (a) they are issued in accordance with Article 45g(3)(a) 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 power of write-down or convert in accordance with Articles 59 or 62 of Directive 2014/59/EU does not affect the control of the subsidiary by the resolution entity;
- (c) they do not exceed an 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 issued in accordance with Article 45g(3)(b);
  - (ii) the amount required in accordance with Article 45g(1)."

(39) Article 92 is amended as follows:

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

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

(a)(bis) the following new paragraph 1a is inserted after paragraph 1:

" 1a. In addition to the requirement set out in point (d) of Article 92(1), a G-SII shall maintain a leverage ratio buffer requirement equal to 50% of the G-SII buffer as defined in point (3) of Article 128 of Directive 2013/36/EU.

A G-SII shall meet the leverage ratio buffer requirement with Tier 1 capital only. Tier 1 capital 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, it shall be subject to the higher of the capital conservation requirements in accordance with Articles 141 and 141b of Directive 2013/36/EU.";

(b) in paragraph 3, 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 risks as determined in accordance with Title IV of this Part;
- (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 risks as determined in Title IV of this Part for all business activities that generate foreign-exchange or commodity risks;"

(ba) in paragraph 3, the following point is added after point (c):

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

(c) the following paragraph 5 is added:

"5. Institutions referred to in Article 6(5) shall not be subject to the requirement set out in point (d) of paragraph 1."

(40) The following Articles 92a and 92b are inserted:

*"Article 92a*

G-SII Requirement for own funds and eligible liabilities

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 requirement 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 in order to recapitalise the resolution entity without the application of resolution tools.

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

*Article 92b*

*Non-EU G-SII Requirement for own funds and eligible liabilities*

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

For the purposes of compliance with paragraph 1, Additional Tier 1, Tier 2 and eligible liabilities instruments shall only count where they are held by the parent undertaking of the institution in a third country."

(41) 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 of their trading-book business in accordance with paragraph 2 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 paragraph 1 are met, institutions may calculate the own funds requirement of 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 Annex II 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), 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 based on 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 in financial instruments 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;

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

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

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

5. An institution that no longer meets any of the conditions of paragraph 1 shall immediately notify the competent authority thereof.



6. An institution shall cease to determine the own fund requirements of its trading-book business in accordance with paragraph 2 within three months in one of the following cases:

- (a) the size of the institution's on- and off-balance sheet trading book business referred to in paragraph 1 is above the threshold set out in point (a) of paragraph (1) or the threshold set out in point (b) of paragraph 1 for three consecutive months;
- (b) the size of the institution's on- and off-balance sheet trading book business referred to in paragraph 1 is above the threshold set out in point (a) of paragraph (1) or the threshold set out in point (b) of paragraph 1 during more than 6 out of the last 12 months.

7. Where an institution has ceased to calculate the own fund 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.

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

(42) Article 99 is replaced by the following:

*"Article 99*

*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 aggregate data for each national immovable property market as referred to in Article 101(1);
  - (c) liquidity requirements as set out in Article 415;
  - (d) large exposures as set out in Article 394;

- (e) their level of asset encumbrance, including a breakdown by type of asset encumbrance, such as repurchase agreements, securities lending, securitised exposures or loans;
- (f) the requirements subject to a reporting requirement in accordance with Directive 2013/36/EU;
- (g) for institutions that qualify as resolution entities, the requirements laid down in Article 92a and 92b.

Institutions referred to in Article 6(5) shall not be subject to the reporting requirement on the leverage ratio set out in point (a) of the first subparagraph.

2. In addition to the reporting on prudential requirements referred to in paragraph 1, institutions shall report financial information to their competent authorities where they are one of the following:

- (a) an institution 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 Article 5(b) of Regulation (EC) No 1606/2002.

3. 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) of this Regulation to report financial information in accordance with this Article.

4.

5. The reporting on financial information referred to in paragraphs 2 and 3 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. EBA shall develop draft implementing technical standards, taking into account the report referred to in paragraph 7, 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 paragraphs 1 to 3.

EBA shall submit to the Commission draft implementing technical standards on the matters referred to in the first subparagraph as regards the following items:

- (a) the leverage ratio, by [12 months after entry into force];
- (b) liquidity requirements, on the items referred to in Title II and III by 28 July 2013, on the items referred to in Title IV by [12 months after entry into force] and on additional liquidity monitoring metrics referred to in Article 415(3) by 1 January 2014;
- (c) the obligations laid down in Articles 92a and 92b by [12 months after entry into force].

The reporting requirements laid down in this Article shall be applied to institutions in a proportionate manner, having regard to their size, complexity and the nature and level of risk of their activities. In particular, small institutions as defined in Article 430a may use simplified reporting templates on the net stable funding requirement set out in Title IV unless the competent authority requires them to use full reporting templates. For these purposes, the implementing technical standards referred to in the first subparagraph shall provide for a reduced number of maturity buckets and reporting items in the reporting templates and the amount of information that may be collected shall be limited to the necessary minimum having regard to the small institutions' specific funding risk.

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.

The implementing technical standards shall provide for a transitional period of no less than six months from the date of entry into force and the date of application of any new reporting requirements.

7. EBA shall assess the costs and benefits of the reporting requirements laid down in Commission Implementing Regulation (EU) No 680/2014<sup>14</sup> in accordance with this paragraph and report its findings to the Commission by no later than [31 December 2019]. For these purposes, the report shall:

(a) classify institutions into categories based on their size and complexity and the nature and level of risk of their activities. The report shall, in particular, include a category of small institutions as defined in Article 430a;

(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) [ ]

(d) 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; and

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<sup>14</sup> 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).

(e) make recommendations on how to reduce reporting requirements at least for small institutions as defined in Article 430a.

8. The report referred to in paragraph 7 shall be accompanied by draft implementing technical standards amending Commission Implementing Regulation (EU) No 680/2014. EBA shall submit to the Commission these draft implementing technical standards by [31 December 2019].

9. Competent authorities shall consult EBA on whether institutions, other than those referred to in paragraphs 2 and 3, should report on financial information on a consolidated basis in accordance with paragraph 2, provided that all of 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 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 6 as necessary for the purposes set out in paragraph 5, it shall notify EBA and the ESRB of the additional information it deems necessary to include in the implementing technical standards referred to in that paragraph.

11. Competent authorities may waive the reporting requirements referred to in paragraph 6 subject to the following conditions:

(a) the requirements to submit any of the data points set out in the reporting templates where those data points are duplicative. For these purposes, duplicative data points shall refer to any information which is already available to the competent authorities by means other than by collecting those reporting templates, including where those data points can be obtained from the relevant information that is available to the competent authorities in different formats or levels of granularity;

(b) the requirement to submit any data points or reporting templates where those have become outdated. For these purposes, data points or reporting templates shall be outdated where they refer to prudential requirements no longer in force.

(43) Article 100 is deleted.

(44) In Article 101(1), the introductory phrase is replaced by the following:

"1. Institutions shall report to their competent authorities the following aggregate data for each national immovable property market to which they are exposed:".

(45) In Article 101, paragraph 4 is deleted.

(45bis) Article 101a is introduced:

#### *Article 101a*

##### *Specific reporting requirements for market risks*

"1. From the date of application of the delegated act referred to in Article 461a, an institution that do not meet either the conditions set out in Article 94(1) or the conditions set out in Article 325a(1) shall report, for all its trading book positions and all its non-trading book positions subject to foreign exchange or commodity risks, the results of the calculation based on using the alternative standardised approach set out in Part Three, Title IV, Chapter 1a on the same basis as the institution reports the obligations laid down in points (b)(i) and (c) Article 92(3).

2. For the purposes of the reporting requirement in paragraph 1, an institution shall report separately the calculations set out in points (a), (b) and (c) of Article 325d for the portfolio of all trading book positions or non-trading book positions generating foreign-exchange and commodity risks.
3. In addition to the requirement set out in paragraph 1, from the end of a 3 years period following the date of entry into force of the latest regulatory technical standards referred to in Articles 325be(7), 325bf(3), 325bg(9), 325bh(4), an institution may report, for those positions assigned to trading desks for which the institution has been granted a permission by competent authorities to use that approach as set out in Article 325ba, the results of the calculation based on using the alternative internal model approach set out in Part Three, Title IV, Chapter 1b on the same basis as the institution report the obligations laid down in points (b)(i) and (c) Article 92(3).
4. For the purposes of the reporting requirement in paragraph 3, an institution shall report separately the calculations set out in points (a)(i), (a)(ii), (b)(i), (b)(ii) of Article 325bb(1) and for the portfolio of all trading book positions or non-trading book positions generating foreign-exchange and commodity risks trading desks for which the institution has been granted a permission by competent authorities to use that approach as set out in Article 325ba.
5. For the purposes of the reporting requirements set out in this Article, an institution may use in combination the approaches set out in paragraphs 1 and 2 on a permanent basis within a group provided that the calculation under the approach set out in paragraph 1 does not exceed 90% of the total calculation. Otherwise, the institution shall use the approach set out in paragraph 1 for all its trading book positions and all its non-trading book positions generating foreign exchange or commodity risks.

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.

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.

The implementing technical standards shall provide for a transitional period of no less than six months from the date of entry into force and the date of application of any new reporting requirements"



(46) 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 Article 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 purpose of the reporting requirements set out in Article 101a(3), trading book positions shall be attributed to trading desks established in accordance with Article 104b".

(b) The following paragraphs 5 and 6 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".

(47) 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) which activities 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 transfer risk or positions between the non-trading and trading books and the criteria for those transfers 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 of 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) position limits are set and monitored for appropriateness;
  - (iii) dealers have the autonomy to enter into and manage the position within agreed limits and according to the approved strategy;
  - (iv) positions are reported to senior management as an integral part of the institution's risk management process;
  - (v) positions are actively monitored with reference to market information sources and an assessment 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.

3. Institutions that are eligible for the treatment set out in Article 94 shall apply the requirements set out in this Article in a manner that is proportionate to the nature, size and complexity of their trading book positions. "

(48) [ ]

(49) The following Article 104a is inserted:

*"Article 104a*  
*Re-classification of a position*

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

EBA shall monitor the range of supervisory practises and develop guidelines by [five years after the date of application of this Regulation] on the meaning of exceptional circumstances for the purpose paragraph 1. Until EBA develop those guidelines, competent authorities shall notify EBA and provide a rationale for their decision where competent authorities permit an institution to re-classification a position in accordance to paragraph 1.

2. Competent authorities shall grant permission to re-classify a trading book position as a non-trading book position or conversely a non-trading book position as a non-trading book for the purposes of determining their own funds requirements only where the institution has provided the competent authorities with written evidence that its decision to re-classify that position is the result of an exceptional circumstance that is consistent with the policies set out by the institution in accordance with paragraph 1. 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 positions pursuant to Article 104.

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

3. Where the competent authorities have granted their permission in accordance with paragraph 2, the institution shall:

(a) publicly disclose at the earliest reporting date the information that its position has been re-classified;

(b) subject to the treatment set out in paragraph 4, determine as from the earliest reporting date the own funds requirements of the re-classified position in accordance with Article 92;

4. Where, the net change in the amount of the institution's own funds requirements arising from re-classifying the position, equal to the difference in total own funds requirements after the re-classification and before the re-classification at the date of re-classification ceteris paribus, results in a net decrease of own funds requirements, the institution shall hold additional own funds equal to this net change and publicly disclose the amount of those additional own funds at the earliest reporting date. The amount of those additional own funds shall remain constant until the position matures unless, the competent authorities permit the institution to phase this amount out at an earlier date.

5. The re-classification of a position in accordance with this article shall be irrevocable."

(49bis) The following Article 104b is inserted:

*"Article 104b*

*Requirements for trading desk*

1. For the purposes of the reporting requirement set out in Article 101a(3), institutions shall establish trading desks and attribute each of their trading book positions to one of these 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.

2. Institutions' trading desks shall at all times meet all of 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; one dealer in each trading desk shall take a lead role in overseeing the activities and the other dealers of the trading desk;

(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 of the institution on a regular basis;

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

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

3. Institutions shall notify the competent authorities on 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.

4. [ ]."

(50) 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 last subparagraph is replaced by the following:

"For the purposes of point (d), 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 325be;"

(51) Article 106 is amended as follows:

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

2. The requirements of 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, this 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 Article 92(3)(a) 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 sub-paragraph and the credit derivative entered into with the third party shall be included in the trading book for the purposes of calculating the own funds requirements for market risks.";

(b) The following paragraphs 4, 5 and 6 are added:

"4. Where an institution hedges a non-trading book equity risk exposure using an equity derivative booked in its trading book, this 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 Article 92(3)(a) 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 sub-paragraph and the equity 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 risks.

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

(a1) the position has been attributed 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 attribute to this portfolio other interest rate risk positions entered into with third parties, or its own trading book as long as the institution perfectly offset 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;

(a) for the purpose of the reporting requirement set out in Article 101a(3), the position has been attributed 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;

(b) the institution has fully documented how the position mitigates the interest rate risks 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 market risks of all the positions assigned to the separate portfolio referred to in point (a1) of paragraph 5 shall be calculated on a standalone basis and shall be additional to the own funds requirements for the other trading book positions

7. For the purposes of the reporting requirements set out in Article 101a, the calculation of the own funds requirements for market risks of all the positions assigned to the separate portfolio referred to in point (a1) of paragraph 5 or to the trading desk or entered into by the trading desk referred to in point (a) of paragraph 5, where appropriate, shall be calculated on a standalone basis as a separate portfolio and shall be additional to the calculation of own funds requirements for the other trading book positions."

(52) 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."

(52a) In Article 117 paragraph 2, points (o) and (p) are added as follows:

"(o) the International Development Association;(p) the Asian Infrastructure Investment Bank."

(52ab) Point (a) in Article 118 is replaced with the following:

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

(52b) 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 under 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 property shall be assigned the risk weight applicable to the unsecured exposures of the counterparty involved.

The part of an exposure treated as fully secured by immovable property shall not be higher 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 property in question.

1a. Member States shall designate an authority responsible for the application of paragraphs 2, 3 and 4 of this Article. This authority shall be either 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, the competent authority shall ensure that the relevant national bodies and authorities which have a macro-prudential 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 as per paragraph 3 of this Article.

Where the authority designated by the Member State for the application of this Article is different from the competent authority, the Member States shall adopt the necessary provisions to ensure proper coordination and exchange of information between designated and competent authorities for the proper application of this Article. In particular, authorities are required to cooperate closely and share all the information that may be necessary for the adequate performance of the duties imposed upon the designated authority pursuant to this Article. This cooperation shall aim at avoiding any form of duplicative or inconsistent actions between competent and designated authorities, as well as ensuring that the interaction with other measures, in particular 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 101 and on any other relevant indicators, the authority determined in accordance with paragraph 1a 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 its territory and the risk weight of 50 % for exposures secured on commercial immovable property referred to in Article 126 located in one or more parts of its territory are appropriately based on:

- (a) the loss experience of exposures secured by immovable property;
- (b) forward-looking immovable property markets developments.

3. Where, based on the assessment referred to in paragraph 2 of this Article, the authority determined in accordance with paragraph 1a concludes that the risk weights set out in Article 125(2) or Article 126(2) do not adequately reflect the actual risks related to one or more property segments of exposures fully secured by mortgages on residential or commercial immovable property located in one or more parts 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 paragraph 4 or impose stricter criteria than those set out in Article 125(2) or Article 126(2).

The authority determined in accordance with paragraph 1a shall notify the EBA and the ESRB of any adjustments to risk weights and criteria applied pursuant to this paragraph. Within one month of receiving the afore-mentioned notification, the ESRB and the EBA 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 199(1)(a) as implemented by the relevant authority.

4. For the purposes of paragraph 3 the authority determined 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 immovable property;
- (b) 50 % to 150 % for exposures secured by mortgages on commercial immovable property.

4a. Where the authority determined in accordance with paragraph 1a sets higher risk weights or stricter criteria pursuant to paragraph 3, institutions shall have a 6-month transitional period to apply them.

4b. 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 paragraph 2.

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

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.

4c. The ESRB may give by way of recommendations in accordance with Article 16 of Regulation (EU) No 1092/2010, and in close cooperation with the EBA, guidance to authorities designated in accordance to paragraph 1a of this Article on the following:

(a) which factors could "adversely affect current or future financial stability" referred to in paragraph 3 of this Article;

(b) indicative benchmarks that the authority determined in accordance with paragraph 1a shall take into account when determining higher risk-weights.

5. The institutions of one Member State shall apply the risk weights and criteria that have been determined by the authorities of another Member State in accordance with paragraph 3 to all their corresponding exposures secured by mortgages on commercial and residential immovable property located in one or more parts of that Member State.”

(53) 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 these investments are treated under Article 132;

(b) investments in private equity, except where these investments are treated under Article 132;

(c) speculative immovable property financing.”.

(54) 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 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 of 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 Commission delegated act adopted pursuant to 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 (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 of 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), 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 paragraphs 1, 2 and 3 of Article 132a, 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.

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. 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 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, institutions applying 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 (RWi\*) 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 while they would measure the value of the underlying assets of the CIU at fair value if they would apply the look-through approach;
- (b) a change in the market value of the units or shares for which institutions measure the value at historic cost changes neither the amount of own funds of those institutions nor the exposure value associated with those holdings."

(55) The following Article 132a is inserted:

*“Article 132a*

*Approaches for calculating risk weighted exposure amounts of CIUs*

1. Where the conditions of 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 of 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 legislation.

For the purposes of the first subparagraph, institutions shall carry out the calculations under the assumption that the CIU first incurs exposures to the maximum extent allowed under its mandate or relevant legislation 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 legislation.

Institutions shall carry out the calculation referred to in the first subparagraph in accordance with the methods set out in this Chapter, in Chapter 5 of this Title, and in Sections 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 paragraphs 1 or 2 of this Article may calculate the own funds requirement for the credit valuation adjustment risk of derivatives exposures of that CIU as an amount equal to 50% of the own funds requirement for those derivatives 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 derivatives 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 entry into force].

Power is conferred on the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Article 15 of Regulation (EU) No 1093/2010.”.

(56) The following Articles 132b and 132c are inserted:

*“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 must deduct in accordance with Articles 36(1), 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 in the sense of 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*

Institutions shall calculate the risk-weighted exposure amount for their off-balance sheet items with the potential to convert 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 ( $RW_i^*$ ):

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

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

where:

$i$  = the index denoting the CIU;

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

$E_i^*$  = the exposure value of the exposures of CIU  $i$ ;

$A_i$  = the accounting value of the assets of CIU  $i$ ;

$EQ_i$  = the accounting value of the equity of CIU  $i$ .

(b) for all other exposures,  $RW_i^*=1250\%$ ."

(57) 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 of this Article, with the percentage of units or shares held by those institutions.
2. Where the conditions 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 paragraphs 1 or 2 of this Article may calculate the own funds requirement for credit valuation adjustment risk of derivatives exposures of that CIU as an amount equal to 50% of the own funds requirement for those derivatives 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 derivatives 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 and that fulfil 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 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 belonging 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 belonging to the securitisation exposure class, institutions shall apply the ratings based method set out in Article 261;
- (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 of 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 point (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 paragraph 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 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 of 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), 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) paragraph 4, the third party carries out the calculation in accordance with the 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.

8. For the purposes of this Article, the provisions in Article 132(5) and (6, Article 132b and Article 132c shall apply.”.

(57a) 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 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 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 %.

- 4a. Member States shall designate an authority responsible for the application of paragraph 5 of this Article. This authority shall be either 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, the competent authority shall ensure that the relevant national bodies and authorities which have a macro-prudential 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 as per paragraph 5 of this Article.

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

5. Based on the data collected under Article 101 and on any other relevant indicators, and taking into account forward-looking immovable property market developments the authority determined in accordance with paragraph 4a 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 or commercial immovable property located in one or more parts of its territory.

Where, based on the assessment referred to the first subparagraph of this paragraph, the authority determined in accordance with paragraph 4a concludes that the minimum LGD values referred to in paragraph 4 of this Article 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 its territory. These higher minimum values may also be applied at the level of one or more property segments of such exposures.

The authority determined in accordance with paragraph 4a shall notify the EBA and the ESRB before making the decision referred to in this paragraph. Within one month of receiving the aforementioned notification the ESRB and the EBA shall provide their opinion to the Member State concerned. EBA and ESRB shall publish these LGD values.

5a. Where the authority determined in accordance with paragraph 4a sets higher minimum LGD values pursuant to paragraph 5, institutions shall have a 6-month transitional period to apply them.

6a. EBA, in close cooperation with the ESRB, shall develop draft regulatory technical standards to specify the conditions that the authority determined in accordance with paragraph 4a shall take into account when assessing the appropriateness of LGD values as part of the assessment referred to in paragraph 5.

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

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.

6b. The ESRB may give by way of recommendations in accordance with Article 16 of Regulation (EU) No 1092/2010, and in close cooperation with the EBA, guidance to authorities designated in accordance to paragraph 4a of this Article on the following:

(a) what factors could " adversely affect current or future financial stability" referred to in paragraph 5; and

(b) indicative benchmarks that the authority determined in accordance with paragraph 4a shall take into account when determining higher minimum LGD values.

7. The institutions of one Member State shall apply the higher minimum LGD values that have been determined by the authorities of another Member State in accordance with paragraph 5 to all their corresponding exposures secured by mortgages on commercial and residential immovable property located in one or more parts of that Member State.”

(58) In Article 201(1), point (h) is replaced by the following:

"(h) qualifying central counterparties."

(59) The following Article 204a 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."

(60) Article 223 is amended as follows:

(a) In paragraph 3, the last 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 at the end:

"In the case of OTC derivative transactions, institutions using the methods laid down in Sections 3, 4 and 5 of Chapter 6 of this Title shall take into account the risk-mitigating effects of collateral in accordance with the provisions laid down in those Sections, as applicable."

(61) In Article 272, points (6) and (12) are 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 Sections 3 or 4 of this Chapter ;

(12) 'Current Market Value' or 'CMV' means, for the purposes of Section 3 to Section 5 of this Chapter, 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;"

(62) In Article 272, the following points (7a) and (12a) are inserted:

"(7a) 'one way margin agreement' means a margin agreement under which an institution is required to post variation margins to a counterparty but is not entitled to receive variation margin from that counterparty or vice-versa;"

"(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;"

(63) 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 of this Chapter 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 of this Chapter. An institution which does not meet the conditions set out in Article 273a (2) shall not use the method set out in Section 5 of this Chapter.

Institutions may use in combination the methods set out in Sections 3 to 6 of this Chapter on a permanent basis within a group. A single institution shall not use in combination the methods set out in Sections 3 to 6 of this Chapter on a permanent basis."

(b) Paragraphs 6, 7 and 8 are replaced by the following:

"6. Under all methods set out in Sections 3 to 6 of this Chapter, 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 Section 3 to Section 6 of this Chapter to calculate the exposure value of these 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 CVA 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 to 5 of this Chapter, 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 of 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 9 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) as appropriate."

(64) The following Articles 273a and 273b are inserted:

*"Article 273a*

*Conditions for using simplified methods for calculating the exposure value*

1. An institution may calculate the exposure value of 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 each 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 derivative positions in accordance with Section 5, provided that the size of its on- and off-balance sheet derivative business is equal to or less than each 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 based on data as of the last day of each month in accordance with the following requirements:

- (a) all their derivative positions shall be included, except credit derivatives that are recognised as internal hedges against non-trading book credit risk exposures;
- (b) 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 fair value of a position is not available on that date, institutions shall take the most recent market value for that position.
- (c) the absolute value of long derivative positions shall be summed with the absolute value of short derivative positions.

4. By way of derogation from paragraph 1 or 2, as applicable, where the derivative business at consolidated level does not exceed the thresholds set out in that paragraph, an institution which is included in the consolidation and which would have to apply the method set out in Section 3 or 4, as applicable, because it exceeds those thresholds at individual level, may, subject to the approval from competent authorities, instead choose to apply the method that would apply at consolidated level.

5. Institutions shall notify the competent authorities of the methods set out in Sections 4 or 5 of this Chapter that they use, or cease to use, as applicable, to calculate the exposure value of their derivative positions.

6. Institutions shall not enter into, buy or sell a derivative transaction for the only purpose of complying with any of the conditions set out in paragraph 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 any 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 its exposure values in accordance with Article 273a(1) or (2) within three months of one of the following cases occurring:

(a) the size of the institution's on- and off-balance sheet derivative business referred to in Article 273a(1) or (2), as applicable, is above the threshold set out in point (a) of Article 273a(1) or (2), as applicable, or the threshold set out in point (b) of Article 273a(1) or (2), as applicable, for three consecutive months;

(b) the size of the institution's on- and off-balance sheet derivative business referred to in Article 273a(1) or (2), as applicable, is above the threshold set out in point (a) of Article 273a(1) or (2), as applicable, or the threshold set out in point (b) of Article 273a(1) or (2), as applicable, during more than 6 out of the last 12 months.

3. Where an institution has ceased to calculate its exposure values in accordance with Article 273a(1) or (2), it shall only be permitted to calculate its exposure values with the use of the methods set out in Section 4 or 5 of this Chapter, as applicable, 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 full year period."

(65) In Part Three, Title II, Chapter 6, Section 3 is 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 type of contract 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 those conditions 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 Method as follows:

$$\text{Exposure value} = \alpha \cdot (RC + PFE)$$

where:

RC = the replacement cost calculated in accordance with Article 275;

PFE = the potential future exposure calculated in accordance with Article 278;

$\alpha$  = 1,4.

3. The exposure value of a netting set 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 of 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 purpose of calculating the exposure value.

*Article 275*

*Replacement cost*

1. Institutions shall calculate the replacement cost ('RC') for netting sets not subject to a margin agreement, in accordance with the following formula:

$$RC = \max\{CMV - NICA, 0\}$$

2. Institutions shall calculate the replacement cost for single netting sets subject to a margin agreement in accordance with the following formula:

$$RC = \max\{CMV - VM - NICA, TH + MTA - NICA, 0\}$$

where:

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;

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 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:

i = the index that denotes the netting sets subject to the single margin agreement;

CMV<sub>i</sub> = the CMV of netting set 'i';

VM<sub>MA</sub> = the sum of the volatility-adjusted value of collateral received or posted, as applicable, on a regular basis to multiple netting sets to mitigate changes in their CMV;

$NICA_{MA}$  = 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 of 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 to Article 223. For the purpose of this calculation, institutions shall not use the method sets 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, institutions shall replace the formula in Article 223(2) with the following formula:

$$C_{VA} = C \cdot (1 + H_C + H_{fx})$$

where  $H_C$  and  $H_{fx}$  are defined in accordance with Article 223.

3. For the purpose of point (d) of the 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 horizon:

- (a) for the netting sets referred to in Article 275(1), the time horizon shall be one year;
- (b) for the netting sets referred to in Articles 275(2) and (3), the time horizon shall be the margin period of risk determined in accordance with point(b) of Article 279d(1).

*Article 277*

*Mapping of transactions to risk categories*

1. Institutions shall map each transaction of a netting set to one of the following six 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. [ ]

4. Notwithstanding paragraphs 1 and 2, 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 is an inflation variable, institutions shall map the transaction to the interest rate risk category;

(b) where the primary risk driver of a transaction is a climatic conditions variable, institutions shall map the transaction to the commodity risk category.

5. 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 one time that transaction to this risk category based on 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 one time to each risk category for which the transaction has at least one material risk driver, based on the most material of the risk drivers in that risk category.

6. EBA shall develop draft regulatory technical standards to specify in greater detail:

(a) a method for identifying those transactions with only one material risk driver ;

(b) a method for identifying those transactions with more than one material risk driver and for identifying the most material of these risk drivers for the purposes of paragraph 5;

EBA shall submit those draft regulatory technical standards to the Commission by [6 months after the entry into force of this Regulation].

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.

*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 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 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 five hedging sets based on the nature of their primary risk driver:
    - (i) energy;
    - (ii) metals;
    - (iii) agricultural goods;
    - (iv) climatic conditions;
    - (v) other commodities.

(f) transactions mapped to the other risks category shall be assigned to the same hedging set only where their primary risk driver is identical.

For the purpose of point (a), 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 is denominated in the same currency.

2. By the way of derogation from paragraph 1, institutions shall establish separate individual hedging sets in each risk category for the following transactions:

(a) transactions for which the primary risk driver 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 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, institutions shall assign transactions to the same hedging set of the relevant risk category only where their primary risk driver 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 in point (b) is identical and the two risk drivers contained in this pair are positively correlated. Otherwise, institutions shall assign transactions referred to in point (b) 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).



3. The institutions shall make available upon request by the competent authorities the number of hedging sets established in accordance with paragraph 2 for each risk category, with the primary risk driver 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 ('PFE') of a netting set as follows:

$$PFE = multiplier * \sum AddOn^{(a)}$$

where:

a = the index that denotes the risk categories included in the calculation of the potential future exposure of the netting set;

AddOn<sup>(a)</sup> = the add-on for risk category 'a' calculated in accordance with Articles 280a to 280f, as applicable;

multiplier = the multiplier factor calculated in accordance with the formula referred to in paragraph 3.

For the purposes 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 subject to one margin agreement, as referred in Article 275(3), shall be calculated as the sum of the PFEs of all the individual netting sets considered as if they were not subject to any form of margin agreement.

3. For the purpose of paragraph 1, the multiplier shall be calculated as follows:

(deleted)

$$\text{multiplier} = \begin{cases} 1 & \text{if } z \geq 0 \\ \min \left\{ 1, \text{Floor}_m + (1 - \text{Floor}_m) \cdot \exp \left( \frac{z}{y} \right) \right\} & \text{if } z < 0 \end{cases}$$

where:

$$\text{Floor}_m = 5\%;$$

$$y = 2 * (1 - \text{Floor}_m) * \sum_a \text{Addon}^{(a)}$$

(deleted)

$$z = \begin{cases} CMV - NICA & \text{for the netting sets referred to in Article 275(1)} \\ CMV - VM - NICA & \text{for the netting sets referred to in Article 275(2)} \\ CMV_i - NICA_i & \text{for the netting sets referred to in Article 275(3)} \end{cases}$$

$NICA_i$  = 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 risk position*

For the purposes 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:

$\delta$  = 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;

MF = the maturity factor of the transaction calculated in accordance with the formula laid down in Article 279c;

*Article 279a*  
*Supervisory delta*

1. Institution shall calculate the supervisory delta ( $\delta$ ) 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 date in the future, except where those options are mapped to the interest rate risk category, institutions shall use the following formula:

$$\delta = \text{sign} \cdot N \left( \text{type} \cdot \frac{\ln \left( \frac{P}{K} \right) + 0.5 \cdot \sigma^2 \cdot T}{\sigma \cdot \sqrt{T}} \right)$$

where:

=  $\begin{cases} -1 & \text{where the transaction is a put option} \\ +1 & \text{where the transaction is a call option} \end{cases}$

sign =  $\begin{cases} -1 & \text{where the transaction is a sold call option or a bought put option} \\ +1 & \text{where the transaction is a bought call option or a sold put option} \end{cases}$

(deleted)

type =  $\begin{cases} -1 & \text{where the transaction is a put option} \\ +1 & \text{where the transaction is a call option} \end{cases}$

$N(x)$  = 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;

K = the strike price of the option;

T = the expiry date of the option which is the only future date at which the option may be exercised. The expiry date shall be expressed in years using the relevant business day convention.

$\sigma$  = 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, 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;

D = the detachment point of the tranche.

(c) for transactions not referred to in points (a) or (b), institutions shall use the following supervisory delta:

$$\delta = \begin{cases} +1 & \text{where the transaction is a long position in the primary risk driver} \\ -1 & \text{where the transaction is a short position in the primary risk driver} \end{cases}$$

2. For the purposes of this Section, a long position in the primary risk driver means that the market value of the transaction increases when the value of the primary risk driver increases and a short position in the primary risk driver means that the market value of the transaction decreases when the value of the primary risk driver increases.

For transactions referred to in Article 277(3), a long position is a transaction for which the sign of the sensitivity of the primary risk driver is positive and a short position is a transaction for which the sign of the sensitivity of the primary risk driver is negative. For transactions other than the ones referred to in Article 277(3), institutions shall determine whether those transactions are long or short positions in the primary risk driver.

3. Institutions shall determine whether a transaction with more than one material risk driver is a long position or a short position in each of the material risk drivers in accordance with the approach used under paragraph 2 for the primary risk driver.

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

(a) in line 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) a method for determining whether a transaction that is not referred to in Article 277(2) is a long or short position in a material risk driver.

EBA shall submit those draft regulatory technical standards to the Commission by [6 months after the entry into force of this Regulation].

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.

*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:

$$\text{supervisory duration factor} = \frac{\exp(-R \cdot S) - \exp(-R \cdot E)}{R}$$

Where:

R = the supervisory discount rate; R = 5%;

S = the start date shall be expressed in years using the relevant business day convention. the start date of a transaction which 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 a contractual payment under the transaction, has already been fixed or exchanged at the reporting date, the start date shall be equal to 0. The start date shall be expressed in years using the relevant business day convention

Where a transaction contains one or multiple contractual future dates at which the institution or the counterparty may decide to terminate the transaction earlier than its contractual maturity, the start date 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 the transaction shall be determined based on the earliest date at which the underlying instrument starts fixing or making payments.



E = the end date which is the latest date at which a contractual payment under the transaction, to or from the institution, is or may be exchanged. The end date shall be expressed in years using the relevant business day convention.

Where a transaction has a financial instrument as underlying instrument that may give rise to contractual obligations additional to those of the transaction, the end date of the transaction shall be determined based on the last contractual payment of the underlying instrument of the 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 another currency 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.

(d) for transactions mapped to the other risks category, institutions shall calculate the adjusted notional amount based on the most appropriate method among the methods set out in paragraphs (a) to (c), depending on the nature and characteristics of the underlying 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 non-deterministic 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 binary and digital options, the notional amount shall be the largest value of the possible states of the option payoff at the expiry of the option.

Without prejudice to the first subparagraph, if a possible state of the option payoff is non-deterministic, institution shall use the method set out in point (ii) of point (a) to determine the value of the notional amount;

- (c) 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;
- (d) for contracts that provide for a multiplication of the cash flow payments or a multiplication of the underlying of the 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 ('MF') as follows:
- (a) for transactions included in netting sets as referred to in Article 275(1), institution shall use the following formula:

$$MF = \sqrt{\min\{\max\{M, 10/OneBusinessYear\}, 1\}}$$

where:

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.

"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:

$$MF = \frac{3}{2} \sqrt{\frac{MPOR}{OneBusinessYear}}$$

where:

MPOR = the margin period of risk of the netting set determined in accordance with Article 285(2) to (5).

When determining the margin period of risks 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 5 business days.

2. For the purpose 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 purposes 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:

(deleted)

$$\epsilon = \begin{cases} 1 & \text{for the hedging sets established in accordance with Article 277a(1)} \\ 5 & \text{for the hedging sets established in accordance with Article 277a(2)(a)} \\ 0.5 & \text{for the hedging sets established in accordance with Article 277a(2)(b)} \end{cases}$$

*Article 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:

$$AddOn^{IR} = \sum_j AddOn_j^{IR}$$

where:

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;

AddOn<sup>IR</sup><sub>j</sub> = the add-on of hedging set 'j' of the interest rate risk category calculated in accordance with paragraph 2.

2. The add-on of hedging set 'j' of the interest rate risk category shall be calculated as follows:

$$AddOn_j^{IR} = \epsilon_j * SF^{IR} * EffNot_j^{IR}$$

where:

$\epsilon_j$  = 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%;

$EffNot_j^{IR}$  = 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 allocate 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 of hedging set 'j' in accordance with the following formula:

$$EffNot_j^{IR} = \sqrt{[(D_{j,1})^2 + (D_{j,2})^2 + (D_{j,3})^2 + 1.4 \cdot D_{j,1} \cdot D_{j,2} + 1.4 \cdot D_{j,2} \cdot D_{j,3} + 0.6 \cdot D_{j,1} \cdot D_{j,3}]}$$

where:

$D_{j,k}$  = the effective notional amount of bucket 'k' of hedging set 'j' calculated as follows:

where:

$l$  = the index that denotes the risk position;

$$D_{j,k} = \sum_{l \in \text{Bucket } k} \text{RiskPosition}_l$$

*Article 280b*

*Foreign Exchange risk category add-on*

1. For the purposes of Article 278 the foreign exchange risk category add-on for a given netting set shall be calculated as follows:

$$\text{AddOn}^{FX} = \sum_j \text{AddOn}_j^{FX}$$

where:

$j$  = the index that denotes the foreign exchange risk hedging sets established in accordance with Article 277a(1)(b) and with Article 277a(2) for the netting set;

$\text{AddOn}_j^{FX}$  = the add-on of hedging set 'j' of the foreign risk category calculated in accordance with paragraph 2.

2. The add-on of hedging set 'j' of the foreign exchange risk category shall be calculated as follows:

$$AddOn_j^{FX} = \epsilon_j \cdot SF^{FX} \cdot |EffNot_j^{FX}|$$

where:

$\epsilon_j$  = the hedging set supervisory factor coefficient of hedging set 'j' calculated in accordance with Article 280;

$SF^{FX}$  = the supervisory factor for the foreign exchange risk category with a value equal to 4%;

$EffNot_j^{IR}$  = the effective notional 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 has the same constituents.

2. For the purposes of Article 278, institution shall calculate the add-on for the credit risk category for a given netting set as follows:

$$AddOn^{Credit} = \sum_j AddOn_j^{Credit}$$

where:

$j$  = 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;

$AddOn_j^{Credit}$  = 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 of hedging set 'j' as follows:

(deleted)

$$AddOn_j^{Credit} = \epsilon_j * \sqrt{\left( \sum_k \rho_k^{Credit} * AddOn(Entity_k) \right)^2 + \sum_k \left( 1 - (\rho_k^{Credit})^2 \right) * (AddOn(Entity_k))^2}$$

where:

$k$  = the index that denotes the credit reference entities of the netting set established in accordance with paragraph 1;

$\epsilon_j$  = the hedging set supervisory factor coefficient of hedging set 'j' determined in accordance with Article 280;

$AddOn(Entropy_k)$  = the add-on for credit reference entity 'k' determined in accordance with paragraph 4;

$\rho_k^{Credit}$  = the correlation factor of entity 'k'. Where the credit reference entity 'j' has been established in accordance with paragraph 1(a),  $\rho_k^{Credit} = 50\%$ . Where the credit reference entity 'k' has been established in accordance with paragraph 1(b),  $\rho_k^{Credit} = 80\%$

4. Institutions shall calculate the add-on for credit reference entity 'k' as follows:

(deleted)

$$AddOn(Entropy_k) = EffNot_k^{Credit}$$

where:

$EffNot_k^{Credit}$  = the effective notional of credit reference entity 'k' calculated as follows:

(deleted)

$$EffNot_k^{Credit} = \sum_{l \in \text{Credit reference entity } k} SF_{k,l}^{Credit} * RiskPosition_l$$

where :

$l$  = the index that denotes the risk position;

$SF_{k,l}^{Credit}$  = the supervisory factor applicable to credit reference entity 'k' determined in accordance with paragraph 5.

5. For the purposes of paragraph 4, institutions shall calculate the supervisory factor applicable to credit reference entity 'k' as follows:

(a) For credit reference entity 'k' established in accordance with point (a) of paragraph 1,  $SF_{k,l}^{\text{Credit}}$  shall be mapped to one of the six supervisory factors set out in Table 3 of this Article based on 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 of Title II shall map the internal rating of the individual issuer to one of the external credit assessment;
- (ii) an institution using the approach referred to in Chapter 2 of Title II shall assign  $SF_{k,l}^{\text{Credit}} = 0,54 \%$  to this credit reference entity. However, where an institution applies Article 128 to risk weight counterparty credit risk exposures to this individual issuer,  $SF_{k,l}^{\text{Credit}} = 1,6 \%$  shall be assigned;

(b) For credit reference entities 'k' established in accordance with point (b) of paragraph 1:

- (i) where a position 'l' assigned to credit reference entity 'k' is a credit index listed on a recognised exchange,  $SF_{k,l}^{\text{Credit}}$  shall be mapped to one of the two supervisory factors set out in Table 4 of this Article based on the credit quality of the majority of its individual constituents;
- (ii) where a position 'l' assigned to credit reference entity 'k' is not referred to in point (i) of this point,  $SF_{k,l}^{\text{Credit}}$  shall be the weighted average of the supervisory factors mapped to each constituent in accordance with the method set out in point (a) of this paragraph, 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%

*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 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, as applicable, of those transactions has the same constituents.

2. For the purposes of Article 278, for a given netting set, institution shall calculate the equity risk category add-on as follows:

$$AddOn^{Equity} = \sum_j AddOn_j^{Equity}$$

where:

$j$  = the index that denotes all the credit risk hedging sets established in accordance with point (d) of Article 277a(1) and with Article 277a(2) for the netting set;

$AddOn^{Equity}_j$  = add-on of hedging set 'j' of the credit risk category determined in accordance with paragraph 3.

3. Institutions shall calculate the equity risk category add-on for hedging set 'j' as follows:

(deleted)

$$AddOn_j^{Equity} = \epsilon_j * \sqrt{\left(\sum_k \rho_k^{Equity} * AddOn(Entity_k)\right)^2 + \sum_k \left(1 - (\rho_k^{Equity})^2\right) * (AddOn(Entity_k))^2}$$

where:

k = the index that denotes the equity reference entities of the netting set established in accordance with paragraph 1;

$\epsilon_j$  = hedging set supervisory factor coefficient of hedging set 'j' determined in accordance with Article 280;

AddOn(Entity<sub>k</sub>) = the add-on for equity reference entity 'k' determined in accordance with paragraph 4;

$\rho_k^{Equity}$  = the correlation factor of entity 'k'. Where the equity reference entity 'k' has been established in accordance with paragraph 1(a),  $\rho_k^{Equity} = 50\%$ . Where the equity reference entity 'k' has been established in accordance with paragraph 1(b),  $\rho_k^{Equity} = 80\%$ .

4. Institutions shall calculate the add-on of equity reference entity 'k' as follows:

(deleted)

$$AddOn(Entity_k) = SF_k^{Equity} * EffNot_k^{Equity}$$

where:

$SF_k^{Equity}$  = the supervisory factor applicable to equity reference entity 'k'. When the equity reference entity 'k' has been established in accordance with paragraph 1(a),  $SF_k^{Equity} = 32\%$ ; when the equity reference entity 'k' has been established in accordance with paragraph 1(b),  $SF_k^{Equity} = 20\%$ ;

$\text{EffNot}^{\text{Equity}}_k$  = the effective notional of equity reference entity 'k' calculated as follows:

(deleted)

$$\text{EffNot}_k^{\text{Equity}} = \sum_{l \in \text{Equity reference entity } k} \text{RiskPosition}_l$$

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:

$$\text{AddOn}^{\text{Com}} = \sum_j \text{AddOn}_j^{\text{Com}}$$

$j$  = 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;

$\text{AddOn}^{\text{Com}}_j$  = the commodity risk category add-on for hedging set 'j' determined in accordance with paragraph 4.

2. For the purpose of calculating the add-on of 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 same commodity reference type only where the underlying commodity instrument of those transactions has the same nature, irrespective of the 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 this situation, commodity derivative transactions shall be assigned to 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:

$$AddOn_j^{Com} = \epsilon_j * \sqrt{\left(\rho^{Com} \cdot \sum_k AddOn(Type_k^j)\right)^2 + (1 - (\rho^{Com})^2) \cdot \sum_k (AddOn(Type_k^j))^2}$$

where:

k = the index that denotes the commodity reference types of the netting set established in accordance with paragraph 2;

$\epsilon_j$  = the hedging set supervisory factor coefficient of hedging set 'j' calculated in accordance with Article 280;

AddOn(Type<sup>k</sup>) = the add-on of commodity reference type 'k' calculated in accordance with paragraph 5;

$\rho^{Com}$  = the correlation factor of the commodity risk category with a value equal to 40%.

5. Institution shall calculate the add-on for commodity reference type 'k' as follows:

$$AddOn(Type_k^j) = SF_k^{Com} * EffNot_k^{Com}$$



where:

$SF_k^{Com}$  = the supervisory factor applicable to commodity reference type 'k'.

When the commodity reference type 'k' corresponds to transactions allocated to the hedging set referred to in point(i) of point(e) of Article 277a(1),  $SF_k^{Com} = 40\%$ ; otherwise,  $SF_k^{Com} = 18\%$ .

$EffNot_k^{Com}$  = the effective notional amount of commodity reference type 'k' calculated as follows:

$$EffNot_k^{Com} = \sum_{l \in \text{Commodity reference type } k} RiskPosition_l$$

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 risk category add-on for a given netting set as follows:

$$AddOn^{Other} = \sum_j AddOn_j^{Other}$$

where:

$j$  = the index that denotes the other risk hedging sets established in accordance with point(f) of Article 277a(1) and with Article 277a(2) for the netting set;

$AddOn_j^{Other}$  = the other risks category add-on for hedging set 'j' determined in accordance with paragraph 2.

2. Institutions shall calculate the other risks category add-on for hedging set 'j' as follows:

$$AddOn_j^{Other} = \epsilon_j * SF^{Other} * |EffNot_j^{Other}|$$

where:

$\epsilon_j$  = the hedging set supervisory factor coefficient of hedging set 'j' calculated in accordance with Article 280;

$SF^{Other}$  = the supervisory factor for the other risk category with a value equal to 8%;

$EffNot_j^{Other}$  = the effective notional amount of hedging set 'j' calculated as follows:

$$EffNot_j^{Other} = \sum_{l \in \text{Hedging set } j} RiskPosition_l$$

where:

$l$  = the index that denotes the risk position;"

(66) In Part Three, Title II, Chapter 6, Section 4 is replaced by the following:

#### "SECTION 4

#### SIMPLIFIED STANDARDISED APPROACH FOR COUNTERPARTY CREDIT RISK

##### *Article 281*

##### *Calculation of the exposure value*

1. Institution shall calculate a single exposure value at netting set level in accordance with Section 3 of this Chapter, subject to paragraph 2.

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), institutions shall apply the following:

For netting sets not referred to in Article 275(2), institutions shall calculate the replacement cost in accordance with the following formula:

$$RC = \max\{CMV, 0\} ,$$

(c) by way of derogation from Article 275(2), institutions shall apply the following:

For netting sets of transactions that are traded on a recognised exchange, netting sets of transactions that are centrally cleared by a central counterparty authorised in accordance with Article 14 of Regulation (EU) 648/2012 or recognised in accordance Article 25 of with Regulation (EU) 648/2012 or netting sets of transactions for which collateral is exchanged bilaterally with the counterparty in accordance with Article 11 of Regulation (EU) 648/2012, institutions shall calculate the replacement cost in accordance with the following formula:

$$RC = TH + MTA$$

where:

TH = the margin threshold applicable to the netting set under the margin agreement below which the institution cannot call for collateral;

MTA = the minimum transfer amount applicable to the netting set under the margin agreement;

- (d) by way of derogation from Article 275(3), institutions shall apply the following:

For netting sets subject to a margin agreement, where the margin agreement applies to multiple netting sets, 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 used to calculate the potential future exposure in Article 278(1), as follows:

$$PFE = \sum_a Addon^{(a)} ;$$

- (g) By way of derogation from Article 279a(1), institutions shall apply the following:

For all transactions, institutions shall calculate the supervisory delta as follows:

$$\delta = \begin{cases} +1 & \text{where the transaction is a long position in the primary risk driver} \\ -1 & \text{where the transaction is a short position in the primary risk driver} \end{cases} ;$$

- (h) The formula used to compute the supervisory duration factor in point (a) of Article 279b(1) shall read as follows:

$$\text{supervisory duration factor} = E - S ;$$

- (i) The maturity factor referred to in Article 279c(1) shall be calculated as follows:

- (a) for transactions included in netting sets referred to in Article 275(1), MF = 1;

- (b) for transactions included in netting sets referred to in Article 275(2) and (3), MF = 0,42;

(j) The formula used to calculate the effective notional of hedging set 'j' in Article 280a(3) shall read as follows:

$$EffNot_j^{IR} = |D_{j,1}| + |D_{j,2}| + |D_{j,3}|$$

(k) The formula used to calculate the credit risk category add-on for hedging set 'j' of the credit risk category in Article 280c(3) shall read as follows:

*(deleted)*

$$AddOn_j^{Credit} = \sum_k |AddOn(Entity_k)|$$

(l) The formula used to calculate the equity risk category add-on for hedging set 'j' of the equity risk category in Article 280d(3) shall read as follows:

*(deleted)*

$$AddOn_j^{Equity} = \sum_k |AddOn(Entity_k)|$$

(m) The formula used to calculate the commodity risk category add-on for hedging set 'j' of the commodity risk category in Article 280e(3) shall read as follows:

*(deleted)*

$$AddOn_j^{Com} = \sum_k |AddOn(Type_k^j)|"$$

(67) In Part Three, Title II, Chapter 6, Section 5 is replaced by the following:

## "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 treated as its own netting set.
2. The exposure value of a netting set or 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 determined as follows:
  - (a) for netting sets of transactions that are traded on a recognised exchange, or netting sets of transactions that are centrally cleared by a central counterparty authorised in accordance with Article 14 of Regulation (EU) 648/2012 or recognised in accordance with Article 25 of Regulation (EU) 648/2012 or netting sets of transactions for which collateral is exchanged bilaterally with the counterparty in accordance with Article 11 of Regulation (EU) 648/2012, institutions shall calculate the current replacement cost referred to in paragraph 2 as follows:

$$RC = TH + MTA$$

where:

TH = the margin threshold applicable to the netting set under the margin agreement below which the institution cannot call for collateral;

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 calculate the current replacement cost referred to in paragraph 2 as follows:

$$RC = \max\{CMV, 0\}$$

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, as 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 derivative contracts concerning interest-rates
    - (ii) the product of 6% and the residual maturity of the transaction expressed in years for derivative contracts concerning credit instruments;
    - (iii) 4% for derivative contracts concerning foreign-exchange rates;
    - (iv) 18% for derivative contracts concerning commodities other than electricity and gold;
    - (v) 40% for derivative contracts concerning electricity;
    - (vi) 32% for derivative contracts concerning equities.
  - (c) the notional amount referred to in point (b) of this paragraph shall be determined in accordance with points (b) and (c) of Article 279b(1) for the transactions referred to in points (iii) to (vi) of point (b) of this paragraph and with Article 279b(2) and (3) for all transactions, as applicable;
  - (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 derivative contracts concerning interest-rates and credit instruments in accordance with points (i) and (ii) of point (b), an institution may choose to use the original maturity instead of the residual maturity of the contracts."

- (68) 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."

(69) Article 298 is replaced by the following:

*"Article 298  
Effects of recognition of netting as risk-reducing*

Netting for the purposes of Section 3 to 6 shall be recognised as set out in those Sections."

(70) In Article 299, point (a) of paragraph 2 is deleted.

(71) 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 shall apply:”;

(b) the following points (5) to (11) are added:

“(5) ‘cash transactions’ means transactions in cash, debt instruments and equities as well as spot foreign exchange and spot commodities transactions; repurchase transactions and securities or commodities lending and securities or commodities borrowing transactions are not cash transactions;

(6) ‘indirect clearing arrangement’ means an arrangement that meets the conditions laid down in the second subparagraph of Article 4(3) of Regulation (EU) No 648/2012;

(7) ‘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;



(8) ‘higher-level client’ means the entity providing clearing services to a lower-level client;

(9) ‘lower-level client’ means the entity accessing the services of a CCP through a higher-level client;

(10) ‘unfunded contribution to a default fund’ means a contribution that an institution acting 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.”;

(72) 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 contracts listed in Annex II and credit derivatives;
- (b) SFTs and fully guaranteed deposit lending or borrowing transactions;
- (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 of this Part 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 in addition to cash transactions.

2. For the purposes of this Section, the following shall apply:

(a) initial margin shall not include contributions to a CCP for mutualised loss sharing arrangements;

(b) 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 initial margin to mutualise losses among its clearing members, institutions acting as clearing members shall treat that initial margin as a default fund contribution.”.

(73) 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.”.

(74) 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.”.

(75) Article 304 is amended as follows:

(a) paragraph 1 is replaced by the following:

“1. An institution acting as a clearing member and, in that capacity, acting as a financial intermediary between a client and a CCP, shall calculate the own funds requirements for its CCP-related transactions with the client in accordance with Sections 1 to 8 of this Chapter, with Section 4 of Chapter 4 of this Title and with Title VI of this Part, as applicable.”;

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

“3. Where an institution acting 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 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 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 between one year and the remaining maturity of the transaction, with a floor of 10 business days.

4. By way of derogation from point (h) of Article 281(2), where an institution acting as a clearing member uses the method set out in Section 4 of this Chapter to calculate the own fund requirement for its exposures to a client, the institution may use a maturity factor equal to 0,21 for its calculation.

5. By way of derogation from point (d) of Article 282(4), where an institution acting as a clearing member uses the method set out in Section 5 of this Chapter to calculate the own fund requirement for its exposures to a client, it may use a maturity factor equal to 0,21 in that calculation.”;

(c) the following paragraphs 6 and 7 are added:

“6. An institution acting as a clearing member may use the reduced exposure at default resulting from the calculations 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 acting 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 case of a multi-level client structure the treatment set out in the first subparagraph may be applied at each level of that structure.”.

(76) 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 of this Part, as applicable.”;

(b) in paragraph 2, 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 in point (b) is met are legal, valid, binding and enforceable under the relevant laws of the relevant jurisdiction or jurisdictions;”;

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

“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 this practice, when the institution assesses its compliance with the condition in point (b) of the first subparagraph.”;

(d) 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 the case that the clearing member and another client of the clearing member jointly default, but all the other conditions set out in point (a) of that paragraph and in the other points 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 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 in those paragraphs are met at every level of that structure.”.

(77) Article 306 is amended as follows:

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

“(c) where the institution is acting 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, it may set the exposure value of the trade exposure with the CCP that corresponds to that CCP-related transaction to zero;”;

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

“(d) where an institution is acting 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, it 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.”;

(c) 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 of this Title, as applicable.”.

(78) Article 307 is replaced by the following:

*“Article 307*

*Own funds requirements for contributions to the default fund of a CCP*

An institution acting 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.”.

(79) 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 ( $K_i$ ) to cover the exposure arising from its pre-funded contribution ( $DF_i$ ) as follows:

$$K_i = \max \left\{ K_{CCP} \cdot \frac{DF_i}{DF_{CCP} + DF_{CM}}, 8\% \cdot 2\% \cdot DF_i \right\}$$

where:

$i$  = 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;

$DF_{CM}$  = 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;

$DF_{CCP}$  = 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.

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 ( $K_{CM_i}$ ), determined in accordance with paragraph 2, multiplied by 12,5.”;

(b) paragraphs 4 and 5 are deleted.

(80) Article 309 is 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 (K) for the exposures arising from its pre-funded contributions to the default fund of a non-qualifying CCP (DF) and from unfunded contributions (UC) to such CCP:

$$K = DF + UC.$$

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 (K), determined in accordance with paragraph 1, multiplied by 12,5.”.

(81) Article 310 is replaced by the following:

*“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.”.

(82) Article 311 is replaced by the following:



*“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 in paragraph 1 is met, institutions shall, within three months of the circumstance set out in that paragraph arising, or earlier where the competent authorities of those institution require it, 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 in Chapter 2 of this Title.”.

(82a) In Article 316, the following second subparagraph is added in paragraph 1:

“By way of derogation from the first subparagraph, 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 purposes of calculating the relevant indicator, and may instead:

(a) include interest income from financial and operating leases and profits from leased assets into 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 into the category referred to in point 2 of Table 1.”

(83) In Part Three, Title IV, Chapter 1 is replaced by the following:

## "Chapter 1 General Provisions

### *Article 325*

#### *Approaches for calculating the own funds requirements for market risks*

1. An institution shall calculate the own funds requirements for market risks of all trading book positions and non-trading book positions subject to foreign exchange risk or commodity risk in accordance with the following approaches:

- (a)
- (b)
- (c) the standardised approach referred to in paragraph 2;
- (d) the internal model approach set out in Chapter 5 of this Title for those risk categories for which the institution has been granted the permission in accordance with Article 363 to use that approach.

2. The own funds requirements for markets risks calculated in accordance with the standardised approach referred to in point (c) of paragraph 1 shall mean the sum of the following own funds requirements, as applicable:

- (a) the own funds requirements for position risks referred to in Chapter 2 of this Title;
- (b) the own funds requirements for foreign exchange risks referred to in Chapter 3 of this Title;
- (c) the own funds requirements for commodity risks referred to in Chapter 4 of this Title;

3. An institution that is not exempted from the reporting requirements set out in Article 101a in accordance with Article 325a shall report the calculation in accordance with Article 101a for all trading book positions and non-trading book positions 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 (c) and (d) of paragraph 1 on a permanent basis within a group in accordance with Article 363.

5. [ ]

6. Institutions shall not use the approach set out in point (b) of paragraph 3 for instruments in the trading book that are securitisation positions or positions included in the CTP as defined in paragraphs 7 to 7b .

7. Securitisation positions and n-th-to-default credit derivatives that meet all of the following criteria shall be assigned to the CTP:

- (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 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.

7a. Positions with any of the following underlying instruments shall not be included in the CTP:

(a) underlying instruments that belong to the exposure classes referred to in points (h) or (i) of Article 112;

(b) a claim on a special purpose entity, collateralised, directly or indirectly, by a position that, according to paragraph 6, would itself not be eligible for inclusion in the CTP.

7b. Institutions may include in the CTP positions that are neither securitisation positions nor n-th-to-default credit derivatives but that hedge other positions of that portfolio, provided that a liquid two-way market as described in the last subparagraph of paragraph 6 exists for the instrument or its underlying instruments.

8. EBA shall develop draft regulatory technical standards to specify in more detail how institutions shall determine the own funds requirements for market risks for non-trading book positions subject to foreign exchange risk or commodity risk in accordance with the approaches set out in points (a) and (b) of paragraph 1.

EBA shall submit those draft regulatory technical standards to the Commission by [three years after the entry into force of this Regulation].

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

#### *Article 325a*

##### *Exemptions from specific reporting requirements for market risks*

1. An institution shall be exempted from the reporting requirement set out in Article 101a provided that the size of the institution's on- and off-balance sheet business subject to market risks is equal to or less than each 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 500 million.
2. Institutions shall calculate the size of their on- and off-balance sheet business subject to market risks based on 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;
  - (b) all non-trading book positions in financial instruments generating foreign-exchange and commodity risks shall be included;
  - (c) all positions included in the calculation in accordance to points (a) and (b) shall be valued at their market prices on that date, except for positions referred to in point (b). If the market price 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 of a position is not available on that date, institutions shall take the most recent market value for that position;
  - (d) all the trading and non-trading book positions generating foreign-exchange risks shall be considered as an overall net foreign exchange position and valued in accordance with Article 352;
  - (e) all the trading and non-trading book positions generating commodity risks shall be valued using the provisions set out in Articles 357 to 358;
  - (f) the absolute value of long positions shall be summed with the absolute value of short positions.
3. Institutions shall notify the competent authorities when they calculate, or cease to calculate, their own fund requirements for market risks in accordance with this Article.
4. An institution that no longer meets any of the conditions of paragraph 1 shall immediately notify the competent authority thereof.

5. The exemption from the reporting requirements laid down in Article 101a shall cease to apply within three months of one of the following cases:

(a) the size of institution's on- and off- balance sheet business subject to market risks referred to in paragraph 1 is above the threshold set out in point (a) of paragraph (1) or the threshold set out in point (b) of paragraph 1 for three consecutive months;

(b) the size of institution's on- and off- balance sheet business subject to market risks referred to in paragraph 1 is above the threshold set out in point (a) of paragraph (1) or the threshold set out in point (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 101a in accordance with paragraph 5, it shall only be permitted to be exempt from those reporting requirements 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.

7. Institutions shall not enter into, buy or sell a position for the only 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 101a.

#### *Article 325b*

##### *Allowances 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 subject to the permission of the competent authorities, which shall be granted if all of 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 is such as to guarantee mutual financial support within the group.

3. Where there are undertakings located in third countries all of the following conditions shall be met in addition to those 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) such undertakings comply, on an individual basis, 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.

*Article 325c*

*Structural hedges of foreign exchange risk*

[ ]

(84) In Part 3, Title IV, the following Chapters 1a and 1b are added:

"Chapter 1a

The alternative standardised approach

SECTION 1

GENERAL PROVISIONS

*Article 325d*

*Scope and structure of the alternative standardised approach*

An institution shall calculate the own funds requirements for market risk with the alternative standardised approach for the purposes of Article 101a(1) for a portfolio of trading book positions or non-trading book positions generating foreign-exchange and commodity risks as the sum of the following three components:

(a) the own funds requirement under the sensitivities based method set out in Section 2 of this Chapter;

- (b) the default risk own funds requirement set out in Section 5 of this Chapter which is only applicable to the trading book positions referred to in that Section;
- (c) the own funds requirements for residual risks set out in Section 4 of this Chapter which is only applicable to the trading book positions referred to in that Section.

## SECTION 2

### SENSITIVITIES-BASED METHOD OWN FUNDS REQUIREMENT

#### *Article 325e*

##### *Definitions*

For the purposes of this Chapter, the following definitions shall apply:

- (1) 'risk class' means one of the following seven categories: (i) general interest rate risk; (ii) non-securitisation credit spread risk; (iii) securitisation credit spread risk (non-CTP); (iv) securitisation credit spread risk (CTP); (v) equity risk; (vi) commodity risk; and (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 this section.
- (3) 'bucket' means a sub-category of positions within one risk class with a similar risk profile to which a risk-weight is assigned as defined in subsection 1 of Section 3 of this Chapter.

#### *Article 325f*

##### *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 fund requirements in accordance with Article 325i:

- (a) own fund requirements for delta risk which captures the risk of changes in the value of an instrument due to movements in its non-volatility related risk factors ;



(b) own fund requirements for vega risk which captures the risk of changes in the value of an instrument due to movements in its volatility-related risk factors;

(c) own fund requirements for curvature risk which captures 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 purposes of the calculation referred to in paragraph 1,

(a) all the positions of instruments with optionality shall be subject to the own fund 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 fund requirements referred to in points (a) of paragraph 1. In particular, instruments whose cash flows can be written as a linear function of the underlying's notional value shall be considered to be instruments without optionality.

(c) For the purposes of this Chapter, instruments with optionality include, amongst others: calls, puts, caps, floors, swaptions, barrier options and exotic options. Embedded options, such as prepayment or behavioural options, shall be considered to be standalone positions in options for the purpose of calculating the own funds requirements for market risks.

(d) By the way of derogation from point (b) of this paragraph, an instrument without optionality shall be subject to the own funds requirements referred to in points (a), (b) and (c) of paragraph 1 where its replicating portfolio is composed of hedging instruments with optionality so that the instrument has non- zero vega and curvature risk sensitivities.

For the purposes of this Chapter, instruments whose cash flows can be written as a linear function of the underlying's notional value shall be considered to be instruments without optionality.

*Article 325g*

*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 of this Chapter to calculate the own fund 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 of this Chapter. 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 ( $s_k$ ) within each bucket shall be multiplied by the corresponding risk weights ( $RW_k$ ) prescribed in Section 6, giving rise to weighted sensitivities ( $WS_k$ ) to each risk factor within that bucket in accordance with the following formula:

$$WS_k = RW_k \cdot s_k$$

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 ( $K_b$ ). The corresponding correlations for weighted sensitivities within the same bucket ( $\rho_{kl}$ ), laid down in Section 6, shall be used.

$$K_b = \sqrt{\sum_k WS_k^2 + \sum_k \sum_{k \neq l} \rho_{kl} WS_k WS_l}$$

8. The bucket-specific sensitivity ( $K_b$ ) shall be calculated for each bucket within a risk class in accordance with paragraphs 5 to 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  $\gamma_{bc}$  for weighted sensitivities in different buckets laid down in Section 6, giving rise to the risk-class specific delta or vega own funds requirement:

$$\text{Risk - class specific delta or vega own fund requirement} = \sqrt{\sum_b K_b^2 + \sum_b \sum_{c \neq b} \gamma_{bc} S_b S_c}$$

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 delta or vega own funds requirements 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 delta or vega risk own fund requirements shall be calculated for each risk class in accordance with paragraphs (1) to (8).

*Article 325h*

*Own funds requirements for curvature risk*

[ ]

*[Formula deleted]*

*[Formula deleted]*

*[Formula deleted]*

*Article 325i*

*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 the delta, vega and curvature risks in accordance with the process set out in paragraphs 2 to 5.
2. The process to calculate delta, vega and curvature risk-class specific own funds requirements described in Articles 325g and 325h shall be performed three times per risk-class, each time using a different set of correlation parameters  $\rho_{kl}$  (correlation between risk factors within a bucket) and  $\gamma_{bc}$  (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  $\rho_{kl}$  and  $\gamma_{bc}$  remain unchanged from those specified in Section 6.
  - (b) the 'high correlations' scenario, whereby the correlation parameters  $\rho_{kl}$  and  $\gamma_{bc}$  that are specified in Section 6 shall be uniformly multiplied by 1,25, with  $\rho_{kl}$  and  $\gamma_{bc}$  subject to a cap at 100%.
  - (c) the 'low correlations' scenario shall be specified in accordance with the delegated act referred to in Article 461a.

3. Institutions shall sum the delta, vega and curvature risk-class specific own funds requirements for each scenario to determine three scenario-specific own funds requirements.
4. The sensitivities-based method own fund requirement shall be the largest of the three scenario-specific own funds requirements.
5.

*Article 325j*

*Treatment of index instruments and multi-underlying options*

1. The treatment of index instruments and multi-underlying options shall be specified in accordance with the delegated act referred to in Article 461a.
2. .

*Article 325k*

*Treatment of collective investment undertakings*

1. An institution shall calculate the own funds requirements for market risk of a position in a collective investment undertaking ('CIU') using one of the following approaches:
  - (a) Where the institution is able to obtain sufficient information about the individual underlying exposures of the CIU in accordance with point (a) of Article 104(10) the own funds requirements for market risk for this position shall be calculated in accordance with the approach set out in Article 325j(1);
  - (b) Where daily prices for the CIU can be obtained and the institution is aware of the mandate of the CIU, that institution shall consider the CIU position as an equity instrument for the purposes of the sensitivities based-method;

(c) Where daily prices for the CIU can be obtained and the institution is not aware of the mandate of the CIU, that institution shall consider the CIU position as an equity instrument for the purposes of the sensitivities based-method and assign that CIU position the risk weight of the equity risk bucket “other sector”.

For the purposes of this Article, an institution is aware of the mandate of a CIU where the institution can demonstrate to the competent authorities that:

- (i) the vast majority of investments in the CIU is made of equity and bond instruments;
- (ii) the proportion of equity and bond instruments invested in the CIU can be broken down in accordance with, respectively, the equity buckets set out in Table 8 of Article 325aq and the credit spread risk (non-securitisation) buckets set out in Table 4 of Article 325ai.

2. Institutions may rely on the following third parties to calculate and report their own funds requirements for market risk for positions in CIUs, in accordance with the methods set out in this Chapter:

- (a) the depository of the CIU provided that the CIU invests exclusively in securities and deposits all those securities at that depository;
- (b) for other CIUs, the CIU management company, provided that the CIU management company meets the criteria set out in point (a) of Article 132(3).

3. EBA shall develop draft regulatory technical standards to specify in more detail which risk weights shall be assigned to positions in the CIU referred to in point (b) of paragraph 1

EBA shall submit those draft regulatory technical standards to the Commission by [two years after the entry into force of this Regulation].

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

*Article 325l*

*Underwriting positions*

1. Institutions may use the process set out in this Article for calculating the own funds requirements for market risks 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 risks in accordance with the approach set out in this Chapter on the basis of the adjusted net sensitivities.

Table 1

working day 0	0%
working day 1	10%
working days 2 to 3	25%
working day 4	50%
working day 5	75%
after working day 5	100%

For the purpose of this Article, 'working day 0' means the working 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 325m*

###### *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 risks 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 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 credit spread risk own funds requirements. In those cases, where it is not possible to disentangle the risk-free rate from the credit spread component, the sensitivity to this 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 pricing model of the institution 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 the number of components of each vector. Institutions shall offset all sensitivities to inflation within a bucket, calculated as described above, 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 EUR. Institutions shall compute cross currency bases that do not relate to either basis over USD or basis over EUR either on 'basis over US dollar' or 'basis over EUR'.

Each cross-currency basis risk factor shall consist of one vector of cross-currency basis of different maturities per currency. For each instrument, the vector shall contain as many components as there are cross-currency basis used as variables by the pricing model of the institution for that instrument. Each currency shall constitute a different bucket.

Institutions shall calculate the sensitivity of the instrument to this 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 EUR and basis over USD, 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 paragraph 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 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 in accordance with 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 in accordance with the maturity of the option;
  - (ii) the second risk factor shall be mapped in accordance with 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 pricing model of the institution for that instrument.

9. Institutions shall calculate the sensitivity of the instrument to each risk factor used in the curvature risk formula  $s_{ik}$  in accordance with Article 325h. 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 325n*

##### *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 their issuer credit spread rates, 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 debts instruments or credit default swaps. The buckets shall be sectorial 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 specific issuer credit spread curve. For each instrument, the vector shall contain as many components as there are different maturities of credit spread rates used as variables in the pricing model of the institution 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  $s_{ik}$  in accordance with Article 325h. 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 as long as those vectors correspond to the same issuer.

#### *Article 325o*

##### *Credit spread risk factors for securitisation*

1. Institutions shall apply the CTP securitisations credit spread risk factors referred to in paragraph 3 to securitisation positions that belong to the CTP, as referred to in Article 104(7) to (9),

Institutions shall apply the securitisations non-CTP credit spread risk factors referred to in paragraph 5 to securitisation positions that do not belong to the CTP, as referred to in Article 104(7) to (9).

2. The buckets applicable to the credit spread risk of securitisations that belong to the CTP shall be the same as the buckets applicable to the credit spread risk of non-securitisations, as referred to in Section 6.

The buckets applicable to the credit spread risk of securitisations that do not belong to the CTP shall be specific to this risk-class category, as referred to in Section 6.

3. The credit spread risk factors to be applied by institutions to securitisation positions that belong to the CTP 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 belong to the CTP 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 pricing model of the institution for that instrument.

4. Institutions shall calculate the sensitivity of the securitisation position to each risk factor used in the curvature risk formula  $s_{ik}$  as specified in Article 325h. 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 as long as those vectors correspond to the same issuer.

5. The credit spread risk factors to be applied by institutions to securitisation positions that do not belong to the CTP 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 do not belong to the CTP 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 325p*

*Equity risk-factors*

1. The buckets for all equity risk factors shall be the sectorial 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 pricing model of the institution for that instrument.

Institutions shall calculate the sensitivity of the instrument to this 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 fund 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 325q*

*Commodities risk-factors*

1. The buckets for all commodity risk factors shall be the sectorial 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 grade. Institutions shall only consider two commodity prices on the same type of commodity, with the same maturity and with the same type of contract grade 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 maturity steps 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 pricing model of the institution for that instrument. Institutions shall not differentiate between commodity prices by grade or by delivery location.

The sensitivity of the instrument to each risk factor used in the curvature risk formula  $s_{ik}$  shall be calculated as specified in Article 325h. For the purpose 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 325r*

##### *Foreign exchange risk 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 a 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 325s*  
*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:

$$s_{r_{kt}} = \frac{V_i(r_{kt} + 0.0001, x, y \dots) - V_i(r_{kt}, x, y \dots)}{0.0001}$$

where:

$r_{kt}$  = the rate of a risk-free curve k a with maturity t;

$V_i(.)$  = the pricing function of instrument i;

x,y = other risk factors than  $r_{kt}$  in the pricing function  $V_i$ .

- (b) the sensitivities to risk factors consisting of inflation risk and cross-currency basis ( $s_{x_j}$ ) shall be calculated as follows:

$$s_{x_j} = \frac{V_i(\bar{x}_{ji} + 0.0001 \bar{I}_m, y, z \dots) - V_i(\bar{x}_{ji}, y, z \dots)}{0.0001}$$

where:

$\bar{x}_{ji}$  = 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  $i$ ;

$\bar{I}_m$  = the unity matrix of dimension  $(1 \times m)$ ;

$V_i(.)$  = the pricing function of the instrument  $i$ ;

$y, z$  = other variables in the pricing model

2. Institutions shall calculate the delta credit spread risk sensitivities for all securitisation and non-securitisation positions ( $s_{cs_{kt}}$ ) as follows:

$$s_{cs_{kt}} = \frac{V_i(cs_{kt} + 0.0001, x, y, \dots) - V_i(cs_{kt}, x, y, \dots)}{0.0001}$$

where:

$cs_{kt}$  = the value of the credit spread rate of an issuer  $j$  at maturity  $t$ ;

$V_i(.)$  = the pricing function of instrument  $i$ ;

$x, y$  = other risk factors 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  $k$  ( $s_k$ ) 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:

k is a specific equity security;

EQ<sub>k</sub> is the value of the spot price of that equity security; and

V<sub>i</sub> (.) is the pricing function of instrument i.

x,y = other risk factors than EQ<sub>k</sub> in the pricing function V<sub>i</sub>.

- (b) the sensitivities to risk factors consisting of equity repos rates shall be calculated as follows:

$$s_{x_k} = \frac{V_i(\bar{x}_{ki} + 0.0001 \bar{I}_m, y, z \dots) - V_i(\bar{x}_{ji}, y, z \dots)}{0.0001}$$

where:

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;

$\bar{I}_m$  = the unity matrix of dimension (1 x m);

V<sub>i</sub> (.) = the pricing function of the instrument i;

y, z = other risk factors than  $\bar{x}_{ki}$  in the pricing model of instrument i.

4. Institutions shall calculate the delta commodity risk sensitivities to each risk factor k (s<sub>k</sub>) as follows:

*(deleted)*

$$s_k = \frac{V_i(1.01 CTY_k, y, z \dots) - V_i(CTY_k, y, z \dots)}{0.01}$$

where:

$k$  = 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  $k$ .

$y, z$  = other risk factors 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  $k$  ( $s_k$ ) as follows:

*(deleted)*

$$s_k = \frac{V_i(1.01 FX_k, y, z \dots) - V_i(FX_k y, z \dots)}{0.01}$$

where:

$k$  = 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  $k$ .

$y, z$  = other risk factors than  $FX_k$  in the pricing model of instrument  $i$ .

Article 325t

Vega risk sensitivities

1. Institutions shall calculate the vega risk sensitivity of an option to a given risk factor  $k$  ( $s_k$ ) as follows:

*(deleted)*

$$s_k = \frac{V_i(1.01 * vol_k, x, y) - V_i(vol_k, x, y)}{0.01}$$

where:

$k$  = 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;

$x, y$  = other risk factors 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 strike 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 CTP referred to in Article 104(7) to (9) that do not have an implied volatility. Own funds requirements for delta and curvature risk shall be computed for those securitisation tranches.

*Article 325u*

*Requirements on sensitivity computations*

1. Institutions shall derive sensitivities using the formulas set out in this sub-section from the institution's pricing models that serve as a basis for reporting profit and loss to senior management .

By way of derogation from the first sub-paragraph, competent authorities may require an institution that has been granted the permission to use the internal model approach set out in Chapter 1b of this Title to use the pricing models of the risk-measurement model of the internal model approach in the calculation of the sensitivities under this Chapter for the calculation and reporting of the own fund requirements for market risks as required in point (b) of Article 325ba(2).

2. When calculating delta risk sensitivities of instruments with optionality or referred to in point(d) of Article 325f, institutions may assume that the implied volatility risk factors remains constant.

3. When calculating vega risk sensitivities of instruments with optionality or referred to in point (d) of Article 325f, the following provisions 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 follow either a lognormal or a normal distribution in the pricing models used for the 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 follow a lognormal distribution in the pricing models used for the instruments. ...

4. Institutions shall calculate all sensitivities excluding sensitivities to credit valuation adjustments.

5. By way of derogation from paragraph 1, an institution may, subject to the approval from competent authorities, use alternative definitions of delta risk sensitivities in the calculation of the own fund requirements of a trading book position under this chapter where the institution meets all the following conditions:

- (a) these alternative definitions are used for internal risk management purposes and to report profit and loss to senior management by an independent risk control unit within the institution;
- (b) the institution shall demonstrate that these alternative definitions are more appropriate to capture the relevant sensitivities for the position than 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, an institution may, subject to the approval from competent authorities, calculate vega sensitivities based on a linear transformation of alternative definitions of sensitivities in the calculation of the own fund requirements of a trading book position under this chapter where the institution meets all the following conditions:

- (a) these alternative definitions are used for internal risk management purposes and to report profit and loss to senior management by an independent risk control unit within the institution;
- (b) the institution shall demonstrate that these alternative definitions are more appropriate to capture the sensitivities for the position than the formulas set out in this subsection and the linear transformation referred to in the first sub-paragraph reflect a vega risk sensitivity.

SECTION 4  
THE RESIDUAL RISK ADD-ON

*Article 325v*

*Own fund requirements for Residual Risks*

1. In addition to the own funds requirements for market risk set out in Section 2 of this Chapter, institutions shall apply additional own fund requirements in accordance with this Article to instruments exposed to residual risks.
2. Instruments are exposed to residual risks where they meet any of the following conditions:
  - (a) the instrument references an exotic underlying;
  - (b) the instrument bears other residual risks.
3. Institutions shall calculate the additional own fund 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 the way of derogation from paragraph 1, institution shall not apply the own fund 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) 648/2012;
  - (c) the instrument perfectly offsets the market risks of another position of the trading book, in which case the two perfectly matching trading book positions shall be exempted from the own fund requirement for residual risks.



5. EBA shall develop draft regulatory technical standards to specify in more details what is an exotic underlying and which instruments are exposed to other residual risks for the purpose of paragraph 2.

When developing those draft regulatory technical standards, EBA shall take the following elements into account:

(a) Exotic underlying shall include exposures that are not in the scope of the delta, vega or curvature risk treatments under the sensitivities-based method laid down in Section 2 or the default risk own funds requirements laid down in Section 5. EBA shall at least examine whether longevity risk, weather, natural disasters and future realised volatility should be considered as exotic underlying exposures.

(b) When defining which instruments are exposed to other residual risks, EBA shall at least examine instruments that meet any of the following criteria:

- (i) An instrument is subject to vega and curvature risk own funds requirements in the sensitivities based method laid down in Section 2 and generates pay-offs that cannot be replicated as a finite linear combination of plain-vanilla options;
- (ii) An instrument is a securitisation position that belongs to the CTP, as referred to in Article 104(7) to (9). Non-securitisation hedges that belong to the CTP shall not be considered.

EBA shall submit those draft regulatory technical standards to the Commission by [two years after the entry into force of this Regulation]

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

## SECTION 5

### THE DEFAULT RISK OWN FUNDS REQUIREMENTS

#### *Article 325w*

#### *Definitions and general provisions*

1. Default risk own funds requirements shall apply to debt and equity instruments, to derivative instruments having the former instruments as underlyings and to derivatives whose pay-offs or fair values are affected by the event of default of an obligor other than the counterparty to the derivative instrument itself. Institutions shall calculate the default risk requirements separately for each of the following types of instruments: non-securitisations, securitisations that do not belong to the-CTP and securitisations that belong to the CTP. The final default risk own funds requirements for an institution shall be the summation of these three components.
2. For the purposes of this Section, the following definitions shall 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 (JTD) amount means the estimated size of the loss or gain that the default of the obligor would produce on a specific exposure.
  - (d) net jump to default (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 among gross JTD amounts has taken place.

(e) LGD is the loss given default of the obligor on an instrument issued by this obligor expressed as a share of the notional of the instrument.

(f) default risk weights mean the percentage representing the estimated probabilities of default of each obligor, according to the creditworthiness of that obligor.

#### SUBSECTION 1

#### DEFAULT RISK OWN FUNDS REQUIREMENTS FOR NON-SECURITISATIONS

##### *Article 325x*

##### *Gross jump to default amounts*

1. Institutions shall calculate the gross JTD amounts for each long exposure to debt instruments as follows :

*(deleted)*

$$JTD_{long} = \max \{LGD \cdot V_{notional} + P\&L_{long} + Adjustment_{long}; 0\}$$

where:

$V_{notional}$  = the notional value of the instrument;

$P\&L_{long}$  = 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.

$Adjustment_{long}$  = 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  $Adjustment_{long}$  term with a positive sign and decreases with a negative sign.

2. Institutions shall calculate gross JTD amounts for each short exposure to debt instruments as follows:

*(deleted)*

$$JTD_{short} = \min\{LGD \cdot V_{notional} + P\&L_{short} + Adjustment_{short}; 0\}$$

where:

$V_{notional}$  = the notional value 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 with a negative sign.

$Adjustment_{short}$  = 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 with a negative sign.

3. The LGD for debt instruments to be applied by institutions for the purposes of the calculation set out in paragraphs 1 and 2 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 purpose of the calculations set out in paragraph 1 and 2, notional values are determined as follows:

- (a) in the case of debt instruments, the notional value shall be the face value of the debt instrument;
- (b) in the case of derivative instruments on an underlying debt security, the notional value shall be the notional value of the derivative instrument .
- (c) for all cases not included in points (i) and (ii) of this paragraph, EBA will specify the method for determining notional values

5. For exposures to equity instruments, institutions shall calculate the gross JTD amounts as follows, instead of those referred to in paragraph 1 and 2:

(deleted)

$$JTD_{long} = \max \{LGD \cdot V + P\&L_{long} + Adjustment_{long}; 0\}$$

$$JTD_{short} = \min \{LGD \cdot V + P\&L_{short} + Adjustment_{short}; 0\}$$

where

V = the fair value of the equity or, in case of derivative instruments on equities, the fair value of the underlying equity of the derivative instrument.

- 6. Institutions shall assign an LGD of 100% to equity instruments for the purpose of the calculation set out in paragraph 5.
- 7. In the case of exposures to default risk arising from derivative instruments whose payoffs in the event of default of the obligor are not related to the notional value of a specific instrument issued by this obligor or to the LGD of the obligor or an instrument issued by this obligor, institutions shall use alternative methodologies to estimate the Gross JTD amounts, which shall meet the definition of Gross JTD in paragraph 2(c) of of article 325w.
- 8. EBA shall develop draft regulatory technical standards to specify in more detail:

- (a) how institutions shall calculate JTD amounts for different types of instruments in accordance with this Article, including the determination of notional values;
- (b) which alternative methodologies institutions shall use for the purpose of the estimation of Gross JTD amounts referred to in paragraph 7.

EBA shall submit those draft regulatory technical standards to the Commission by [two years after the entry into force of this Regulation].

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

*Article 325y*

*Net jump to default amounts*

1. Institutions shall calculate net jump to default amounts by offsetting the gross JTD amounts of short and long exposures. Offsetting shall only be possible among exposures to the same obligor where short exposures have the same or lower seniority than 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 scaled down 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 scaled down to calculate net JTD amounts.

The scaling factor for those exposures shall be the ratio of the exposure's maturity relative to one year, with a floor of 3 months.

4. For the purposes of paragraphs 2 and 3, the maturities of the derivative contracts, and not those of their underlyings, shall be considered. Cash equity exposures shall be assigned a maturity of either one year or three months, at the institution's discretion.

*Article 325z*

*Calculation of default risk own funds requirement*

1. Net JTD amounts, irrespective of the type of counterparty, shall be multiplied by the corresponding default risk weights in accordance with 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 Part III, Title II, Chapter 2 shall receive a 0% default risk weight for the default risk own fund requirements.
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:

*(deleted)*

$$DRC_b = \max \left[ \left( \sum_{i \in \text{Long}} RW_i \cdot \text{net JTD}_i \right) - WtS \cdot \left( \sum_{i \in \text{Short}} RW_i \cdot |\text{net JTD}_i| \right); 0 \right]$$

where

$i$  = to the index that denotes an instrument belonging to bucket  $b$ ;

$DRC_b$  = default risk own fund requirement for bucket  $b$ ;

$WtS$  = a ratio recognising a benefit for hedging relationships within a bucket, which shall be calculated as follows:

$$WtS = \frac{\sum \text{net JTD}_{long}}{\sum \text{net JTD}_{long} + \sum |\text{net JTD}_{short}|}$$

The summation of long and short positions for the purposes of the  $DRC_b$  and the  $WtS$  shall be made for all positions within a bucket regardless of the credit quality step to which those positions are allocated, resulting in the bucket-specific default risk own fund requirements.



5. The final default risk own fund requirement for non-securitisations shall be calculated as a simple sum of the bucket-level own fund requirements.

## SUBSECTION 2

### DEFAULT RISK OWN FUNDS REQUIREMENTS FOR SECURITISATIONS (NON-CTP)

#### *Article 325aa*

#### *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 according to IFRS or national GAAP, as applicable .
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 among 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, the exposures resulting from the decomposition or combination may be used instead of the original ones 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 decomposition or combination may be used for the purposes of offsetting. Where underlying names are used in this way, they shall be removed from the non-securitisation default risk treatment.
5. Article 325y shall apply to both original and replicated securitisation exposures. The relevant maturities shall be those of the securitisation tranches.

*Article 325ab*

*Calculation of default risk own funds requirement 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 Title II, Chapter 5, Section 3, 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 the region.
  - (b) 44 different buckets corresponding to 1 bucket per region for each of the eleven asset classes defined. The eleven asset classes are ABCP, Auto Loans/Leases, RMBS, Credit Cards, CMBS, Collateralised Loan Obligations, CDO-squared, Small and Medium Enterprises, Student loans, Other retail, Other wholesale. The 4 regions are Asia, Europe, North America, and other regions.
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 above. Any securitisation exposure that an institution cannot assign to a type or region of underlying shall be assigned to the categories 'other retail', 'other wholesale' or 'other regions' respectively.
6. Weighted net JTD amounts shall be aggregated within each bucket in the same way as for default risk of non-securitisation exposures, using the formula in Article 325z(4), resulting in the default risk own fund requirement for each bucket.

7. The final default risk own fund requirement for non-CTP securitisations shall be calculated as a simple sum of the bucket-level own funds requirements.

### SUBSECTION 3

#### DEFAULT RISK OWN FUNDS REQUIREMENTS FOR SECURITISATIONS (CTP)

##### *Article 325ac*

##### *Scope*

1. For the CTP, the own funds requirements shall include the default risk for securitisation exposures and for non-securitisation hedges. These hedges shall be removed from the default risk non-securitisation calculations. There shall be no diversification benefit between the default risk own funds requirements for non-securitisations, default risk own funds requirements for securitisations (non-CTP) and default risk own funds requirements for the securitisation CTP.
2. For traded non-securitisation credit and equity derivatives, JTD amounts by individual constituent issuer legal entity shall be determined by applying a look-through approach.

##### *Article 325ad*

##### *Jump to default amounts for the CTP*

1. Gross jump to default amounts for securitisation exposures and non-securitisation exposures in the CTP shall be their market value or, if its market value is not available, its fair value according to IFRS or national GAAP, as applicable .
2. Nth-to-default products shall be treated as tranching products with the following attachment and detachment points:
  - (a) attachment point =  $(N - 1) / \text{Total Names}$
  - (b) detachment point =  $N / \text{Total Names}$

where “Total Names” shall be the total number of names in the underlying basket or pool.

3. Net jump to default amounts shall be determined by offsetting long and short gross jump to default amounts. Offsetting shall only be possible among exposures that are otherwise identical except for maturity. Offsetting shall only be possible in the following cases:

(a) for indices, index tranches and bespoke tranches, offsetting shall be possible across maturities among the same index family, series and tranche, subject to the specifications for exposures of less than one year laid down in Article 325y. Long and short gross jump to default amounts that are perfect replications may be offset through decomposition into single name equivalent exposures using a valuation model. For the purposes of this Article, 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 a LGD of 100%. In such cases, the sum of gross jump to default amounts of single name equivalent exposures obtained through decomposition shall be equal to the gross jump to default amount of the undecomposed exposure.

(b) Offsetting through decomposition as set out in point (a) shall not be allowed for re-securitisations or derivatives on securitisations.

(c) For indices and index tranches, offsetting shall be possible across maturities among the same index family, series and tranche by replication or decomposition. For the purposes of this Article:

- (i) 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 untranching position in the index series.
- (ii) 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.

Where the long and short exposures are otherwise equivalent except for one residual component, offsetting shall be allowed and the net Jump to default 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 offset.

*Article 325ae*

*Calculation of default risk own funds requirement for the CTP*

1. Net JTD amounts shall be multiplied by:
  - (a) for tranchéd products, the default risk weights corresponding to their credit quality as specified in Article 325ab(1) ;
  - (b) for non-tranchéd products, by the default risk weights referred to in Article 325z(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:

$$DRC_b = \max \left\{ \left( \sum_{i \in Long} RW_i \cdot net JTD_i \right) - WtS_{CTP} \cdot \left( \sum_{i \in Short} RW_i \cdot |net JTD_i| \right); 0 \right\}$$

where

$i$  = an instrument belonging to bucket  $b$ ;

$DRC_b$  = the default risk own fund requirement for bucket  $b$ ;

$WtS_{ctp}$  = 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 325z(4), but using long and short positions across the entire CTP and not just the positions in the particular bucket.

4. Institutions shall calculate the default risk own fund requirements of the CTP ( $DRC_{CTP}$ ) by using the following formula:

$$DRC_{CTP} = \max \left\{ \sum_b (\max\{DRC_b, 0\} + 0.5 \cdot \min\{DRC_b, 0\}), 0 \right\}$$

## SECTION 6

### RISK WEIGHTS AND CORRELATIONS

#### SUBSECTION 1

#### DELTA RISK WEIGHTS AND CORRELATIONS

##### *Article 325af*

##### *Risk weights for general interest rate risk*

1. For currencies not included in the most liquid currency subcategory as referred to in point (b) of Article 325be(5), the risk weights of the sensitivities to the risk-free rate risk factors for each bucket in Table 3 shall be specified in accordance with the delegated act referred to in Article 461

Table 3

Bucket	Maturity
1	0.25 year
2	0.5 year
3	1 year
4	2 year
5	3 year
6	5 year
7	10 year
8	15 year
9	20 year
10	30 year

2. A common risk weight both for all the sensitivities to inflation and cross currency basis risk factors specified in accordance with the delegated act referred to in Article 461a.

3. For the currencies included in the most liquid currency subcategory as referred to in point (b) of 325be(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 of this Article divided by  $\sqrt{2}$ .

*Article 325ag*

*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  $\rho_{kl}$  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  $\rho_{kl}$  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  $WS_i$ , 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 325ah*

##### *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  $y_{bc} = 80\%$  shall be used to aggregate risk factors belonging to the relevant buckets of 325aw(2a).



Article 325ai

Risk weights for credit spread risk (non-securitisations)

1. Risk weights for the sensitivities to credit spread (non-securitisations) risk factors shall be the same for all the 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%
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) and 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%
10		Covered bonds issued by credit institutions in third countries	4.0%
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) and 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 industry sector. Institutions shall assign each issuer to only one of the sector buckets in the table under paragraph 1. Risk exposures from any issuer that an institution cannot assign to a sector in this fashion shall be assigned to bucket 18.

*Article 325aj*

*Intra bucket correlations for credit spread risk (non-securitisations)*

1. Between two sensitivities  $WS_k$  and  $WS_l$  within the same bucket, the correlation parameter  $\rho_{kl}$  shall be set as follows:

$$\rho_{kl} = \rho_{kl}^{(\text{name})} \cdot \rho_{kl}^{(\text{tenor})} \cdot \rho_{kl}^{(\text{basis})}$$

where:

$\rho_{kl}^{(\text{name})}$  shall be equal to 1 where the two names of sensitivities  $k$  and  $l$  are identical, and 35% otherwise;

$\rho_{kl}^{(\text{tenor})}$  shall be equal to 1 where the two vertices of the sensitivities  $k$  and  $l$  are identical, and to 65% otherwise;

$\rho_{kl}^{(\text{basis})}$  shall be equal to 1 where the two sensitivities are related to same curves, and 99,90% otherwise.

2. The correlations above do not apply to the bucket 18 referred to in Article 325ai(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 bucket 18:

$$K_{b(\text{bucket 18})} = \sum_k |WS_k|$$

#### *Article 325ak*

##### *Correlations across buckets for credit spread risk (non-securitisations)*

1. The correlation parameter  $\gamma_{bc}$  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:

$\gamma_{bc}^{(\text{rating})}$  is 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), and 50% otherwise. For the purposes of this calculation, bucket 1 shall be considered as having the same credit quality category as buckets that have credit quality step 1 to 3;

$\gamma_{bc}^{(\text{sector})}$  shall be equal to 1 where the two buckets have the same sector, and to the following percentages otherwise:

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 and 10
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 and 10								

2. The capital requirement for bucket 18 shall be added to the overall risk class level capital, with no diversification or hedging effects recognised with any other bucket.

*Article 325al*

*Risk weights for credit spread risk securitisations (CTP)*

Risk weights for the sensitivities to credit spread securitisations (CTP) risk factors shall be the same for all maturities (0,5 year, 1 year, 3 years, 5 years, 10 years) within each bucket and shall be specified for each bucket in Table 6 in accordance with 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 of the Union
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) and 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 established in Member States of the Union
10		Covered bonds issued by credit institutions in third countries

11		Central government, including central banks, of a third country, multilateral development banks and international organisations referred to in Article 117(2) and 118
12	Credit quality step 4 to 6	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 325am*

*Correlations for credit spread risk securitisations (CTP)*

1. The delta risk correlation  $\rho_{kl}$  shall be derived in accordance with Article 325aj, except that, for the purposes of this paragraph,  $\rho_{kl}^{(\text{basis})}$  shall be equal to 1 where the two sensitivities are related to same curves, and 99,00% otherwise.
2. The correlation  $\gamma_{bc}$  shall be derived in accordance with Article 325ak.

*Article 325an*

*Risk weights for credit spread risk securitisations (non-CTP)*

1. Risk weights for the sensitivities to credit spread securitisation (non-CTP) risk factors shall be the same for all the maturities (0,5 year, 1 year, 3 years, 5 years, 10 years) within each bucket in Table 7 and shall be specified for each bucket in Table 7 in accordance with the delegated act referred to in Article 461a.

Table 7

Bucket number	Credit quality	Sector
1	Senior & Credit quality step 1 to 3	RMBS - Prime
2		RMBS - Mid-Prime
3		RMBS - Sub-Prime
4		CMBS
5		ABS - Student loans
6		ABS - Credit cards
7		ABS - Auto

8		CLO non-CTP
9	Non-senior & 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-CTP
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-CTP
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 industry sector. Institutions shall assign each tranche to one of the sector buckets in the table under paragraph 1. Risk exposures from any tranche that an institution cannot assign to a sector in this fashion shall be assigned to bucket 25.

*Article 325ao*

*Intra bucket correlations for credit spread risk securitisations (non-CTP)*

1. Between two sensitivities  $WS_k$  and  $WS_l$  within the same bucket, the correlation parameter  $\rho_{kl}$  shall be set as follows:

$$\rho_{kl} = \rho_{kl}^{(\text{tranche})} \cdot \rho_{kl}^{(\text{tenor})} \cdot \rho_{kl}^{(\text{basis})}$$

where:

$\rho_{kl}^{(\text{tranche})}$  shall be equal to 1 where the two names of sensitivities  $k$  and  $l$  are within the same bucket and related to the same securitisation tranche (more than 80% overlap in notional terms), and to 40% otherwise;

$\rho_{kl}^{(\text{tenor})}$  shall be equal to 1 where the two vertices of the sensitivities  $k$  and  $l$  are identical, and to 80% otherwise;

$\rho_{kl}^{(\text{basis})}$  shall be equal to 1 where the two sensitivities are related to same curves, and to 99,90% otherwise.

2. The correlations above shall not apply to bucket 25. The capital 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:

$$K_{\text{b(bucket 25)}} = \sum_k |WS_k|$$

*Article 325ap*

*Correlations across buckets for credit spread risk securitisations (non-CTP)*

1. The correlation parameter  $\gamma_{bc}$  shall apply to the aggregation of sensitivities between different buckets and shall be set at 0%.
2. The capital 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 325aq*

*Risk weights for equity risk*

1. Risk weights for the sensitivities to equity and equity repo rates risk factors shall be specified for each bucket in Table 8 in accordance with 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
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
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 by EBA in accordance with Article 325be.

3. EBA shall develop draft regulatory technical standards to specify what constitutes emerging market and advanced economies for the purpose of this Article.

EBA shall submit those draft regulatory technical standards to the Commission by [two years after the entry into force of this Regulation]

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.

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 industry sector. Institutions shall assign each issuer to one of the sector buckets in the table under paragraph 1 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 this fashion shall be assigned to bucket 11. Multinational or multi-sector equity issuers shall be allocated to a particular bucket on the basis of the most material region and sector in which the equity issuer operates.

*Article 325ar*

*Intra bucket correlations for equity risk*

1. The delta risk correlation parameter  $\rho_{kl}$  shall be set at 99,90% 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, 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  $\rho_{kl}$  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 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 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 small market capitalisation, emerging market economy (bucket number 9).

(d) 12,5% between two sensitivities within the same bucket that fall under small market capitalisation, advanced economy (bucket number 10).

3. The correlation parameter  $\rho_{kl}$  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  $\rho_{kl}$  shall be set at the correlations specified in paragraph 2 multiplied by 99,90%.

5. The correlations above 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 325as*

*Correlations across buckets for equity risk*

1. The correlation parameter  $\gamma_{bc}$  shall apply to the aggregation of sensitivities between different buckets. It is set at 15% where the two buckets fall within buckets 1 to 10.

2. This capital requirement for bucket 11 shall be added to the overall risk class level capital, with no diversification or hedging effects recognised with any other bucket.

*Article 325at*

*Risk weights for commodity risk*

Risk weights for the sensitivities to commodity risk factors shall be specified for each bucket in Table 9 in accordance with 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 & oilseed
9	Livestock & dairy
10	Softs and other agriculturals
11	Other commodity

*Article 325au*

*Intra bucket correlations for commodity risk*

1. For the purpose of this article, any two commodities shall be considered distinct commodities where there exists in the market two contracts differentiated only by the underlying commodity to be delivered against each contract.
2. Between two sensitivities  $WS_k$  and  $WS_l$  within the same bucket, the correlation parameter  $\rho_{kl}$  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, and to the intra-bucket correlations in the table in paragraph 3 otherwise;

$\rho_{kl}^{(tenor)}$  shall be equal to 1 where the two vertices of the sensitivities  $k$  and  $l$  are identical, and to 99% otherwise;

$\rho_{kl}^{(basis)}$  shall be equal to 1 where the two sensitivities are identical in both (i) contract grade of the commodity and (ii) delivery location of a commodity, and 99,90% otherwise.

3. The intra-bucket correlations  $\rho_{kl}^{(\text{commodity})}$  are:

Table 10

Bucket number	Bucket name	Correlation ( $\rho_{\text{commodity}}$ )
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 & oilseed	45%
9	Livestock & dairy	15%
10	Softs and other agriculturals	40%
11	Other commodity	15%



4. Notwithstanding paragraph 1, the following provisions apply:
- (a) two risk factors allocated to bucket 3 of Table 10 and concerning electricity but which is generated in different regions or is delivered at different time period as per the contractual agreement shall be considered distinct commodity risk factors;
  - (b) two risk factors allocated to bucket 4 of Table 10 and concerning freight but which freight route or week of delivery differ shall be considered distinct commodity risk factors.

*Article 325av*

*Correlations across buckets for commodity risk*

The correlation parameter  $\gamma_{bc}$  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 any of the two buckets is bucket number 11.

*Article 325aw*

*Risk weights for foreign exchange risk*

1. Risk weight for all sensitivities to foreign exchange risk factors shall be specified in accordance with the delegated act referred to in Article 461a.
2. The risk weight of the foreign exchange risk factors concerning currency pairs which are composed by the Euro and the currency of a Member State participating in the second stage of the economic and monetary union 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 narrower than the fluctuation band defined under the second stage of the economic and monetary union (ERM II).

2a. 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 fluctuation within this narrower band.

3. The risk weight of the foreign exchange risk factors included in the most liquid currency pairs subcategory as referred to in point (c) of 325be(7) shall be the risk weight referred to in paragraph 1 divided by  $\sqrt{2}$ .

4. Where the daily exchange-rate data for the preceding three years show that a currency pair composed of EUR and a non-EUR currency of a Member State is constant and that the institution always can face a zero bid/ask spread on the respective trades related to this currency pair, the institution may, upon explicit permission by its competent authority, apply the risk weight referred to in paragraph 1 divided by 2.

#### *Article 325ax*

#### *Correlations for foreign exchange risk*

A uniform correlation parameter  $\gamma_{bc}$  equal to 60% shall apply to the aggregation of sensitivities to foreign exchange.

### SUBSECTION 2

#### VEGA AND CURVATURE RISK WEIGHTS AND CORRELATIONS

#### *Article 325ay*

#### *Vega and curvature risk weights*

1. The delta buckets referred to in subsection 1 shall be applied to vega risk factors.
2. The risk weight for a given vega risk factor  $k$  ( $RW_k$ ) shall be determined as a share of the current value of that risk factor  $k$ , which represents the implicit 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:

$$RW_k = (\text{Value of risk factor } k) \times \min \left[ RW_\sigma \cdot \frac{\sqrt{LH_{risk\ class}}}{\sqrt{10}}; 100\% \right]$$

where:

$RW_\sigma$  shall be set at 55%;

$LH_{risk\ class}$  is the regulatory liquidity horizon to be prescribed in the determination of each vega risk factor  $k$ .  $LH_{risk\ class}$  shall be set in accordance with the following table:

Table 11

Risk class	$LH_{risk\ class}$
GIRR	60
CSR non-securitisations	120
CSR securitisations (CTP)	120
CSR securitisations (non-CTP)	120
Equity (large cap)	20
Equity (small cap)	60
Commodity	120
FX	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 based on the highest prescribed delta risk weight in subsection 1 of this section for the relevant risk class.

*Article 325az*

*Vega and curvature risk correlations*

1. Between vega risk sensitivities within the same bucket of the GIRR risk class, the correlation parameter  $\rho_{kl}$  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  $\alpha$  shall be set at 1%,  $T_k$  and  $T_l$  shall be the maturities of the options for which the vega sensitivities are derived, expressed as a number of years;

$\rho_{kl}^{(\text{underlying maturity})}$  is equal to  $e^{-\alpha \cdot \frac{|T_k^U - T_l^U|}{\min\{T_k^U; T_l^U\}}}$ , where  $\alpha$  is set at 1%,  $T_k^U$  and  $T_l^U$  are 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  $\rho_{kl}$  shall be set as follows:

$$\rho_{kl} = \min\left[\rho_{kl}^{(DELTA)} \cdot \rho_{kl}^{(option\ maturity)}; 1\right]$$

where:

$\rho_{kl}^{(DELTA)}$  shall be equal to the delta intra bucket correlation corresponding to the bucket to which vega risk factors k and l would be allocated to.

$\rho_{kl}^{(option\ maturity)}$  shall be defined as in paragraph 1.

3. With regard to vega risk sensitivities between buckets within a risk class (GIRR and non-GIRR), the same correlation parameters for  $\gamma_{bc}$ , 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 and delta risk factors. Vega and delta risk charges shall be aggregated by simple summation.

5. The curvature risk correlations shall be the square of corresponding delta risk correlations  $\rho_{kl}$  and  $\gamma_{bc}$  referred to in subsection 1.

## Chapter 1b

### The alternative internal model approach

#### SECTION 1

#### PERMISSION AND OWN FUNDS REQUIREMENTS

*Article 325ba*

*Permission to use internal models*

1. After having verified institutions' compliance with the requirements set out in Articles 325bi to 325bk, competent authorities shall grant permission to institutions to calculate their own funds requirements by using their internal models in accordance with Article 325bb for the purposes of Article 101a(3) for the portfolio of all positions attributed to trading desks that fulfil the all following requirements:

- (a) the trading desks have been established in accordance with Article 104b;
- (b) the trading desks have met the profit & loss attribution ('P&L attribution') requirement set out in Article 325bh ;
- (c) the trading desks have met the back-testing requirements referred to in Article 325bg(1) for the immediately preceding 250 business days;
- (d) for trading desks that have been assigned at least one of those trading book positions referred to in Article 325bm, the trading desks fulfil the requirements set out in Article 325bn for the internal default risk model;
- (e) No securitisation or resecuritisation positions have been assigned to the trading desks.

2. Institutions shall report to the competent authorities in accordance with Article 101a(3)

3. An institution that has been granted the permission referred to in paragraph 1 shall immediately notify its competent authorities that one of its trading desks no longer meets at least one of the requirements set out in paragraph 1. That institution shall no longer be permitted to apply this Chapter for the purposes of the reporting requirement of Article 101a to any of the positions attributed to that trading desk and shall calculate the own funds requirements for market risks in accordance with the approach set out Chapter 1a for all the positions attributed to that trading desk for the purposes of the reporting requirement of Article 101a(3) at 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 1.

4 By way of derogation from paragraph 3, competent authorities may, in extraordinary circumstances, permit an institution to continue using its internal models for the purpose of calculating the own fund requirements for market risks of a trading desk that no longer meets the conditions referred to in points (b) or (c) of paragraph 1 for the purposes of the reporting requirements of Article 101a(3). When competent authorities exercise that discretion, they shall notify EBA and substantiate their decision.

5. For positions attributed to trading desks for which an institution has not been granted the permission referred to in paragraph 1, the own funds requirements for market risk shall be calculated by that institution for the purposes of the reporting requirements of Article 101a(3) in accordance with Chapter 1a of this Title. For the purpose of that calculation, all those positions shall be considered on a standalone basis as a separate portfolio.

6. For a given trading desk, the unconstrained expected shortfall measure referred to in point (a) of paragraph 2 shall mean the unconstrained expected shortfall measure calculated in accordance with Article 325bc for all the positions assigned to that trading desk considered on a standalone basis as a separate portfolio. By way of derogation from Article 325bd, institutions shall fulfil the following requirements when calculating that unconstrained expected shortfall measure for each trading desk:

(a) the stress period used in the calculation of the partial expected shortfall number  $PES_t^{RS}$  for a given trading desk shall be the stress period identified in accordance with point (c) of Article 325bd(1) for the purpose of determining  $PES_t^{RS}$  for all the trading desks for which institutions have been granted the permission referred to in paragraph 1;

(b) when calculating the partial expected shortfall numbers  $PES_t^{RS}$  and  $PES_t^{RC}$  for a given trading desk, the scenarios of future shocks shall only be applied to the modellable risk factors of positions assigned to the trading desk which are included in the subset of modellable risk factors chosen by the institution in accordance with point (a) of Article 325bd(2) for the purpose of determining  $PES_t^{RS}$  for all the trading desks for which institutions have been granted the permission referred to in paragraph 1.

7. Material changes to the use of internal models that an institution has received permission to use, the extension of the use of internal models that the institution has received permission to use and material changes to the institution's choice of the subset of modellable risk factors referred to in Article 325bd(2) shall require a separate permission by its competent authorities.

Institutions shall notify the competent authorities of all other extensions and changes to the use of the internal models for which the institution has received permission to use.

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

- (a) the conditions for assessing materiality of extensions and changes to the use of internal models and changes to the subset of modellable risk factors referred to in Article 325bd;
- (b) the assessment methodology under which competent authorities verify an institution's compliance with the requirements set out in Article 325bi to 325bj and Articles 325bo to 325 bq.

EBA shall submit those draft regulatory technical standards to the Commission by [three years after the entry into force of this Regulation]

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. EBA shall develop draft regulatory technical standards to specify in greater detail the extraordinary circumstances under which competent authorities may permit an institution to continue using its internal models for the purpose of calculating the own fund requirements for market risks of a trading desk that no longer meets the conditions referred to in points (b) or (c) of paragraph 1.

EBA shall submit those draft regulatory technical standards to the Commission by [five years after the entry into force of this Regulation].

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.



*Article 325bb*

*Own funds requirements when using internal models*

1. An institution using an internal model shall calculate the own funds requirements for the portfolio of all positions attributed to trading desks for which the institution has been granted the permission referred to in Article 325ba(1) 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 325bc ( $ES_{t-1}$ );
- (ii) the institution's previous day's stress scenario risk measure calculated in accordance Section 5 of this Title ( $SS_{t-1}$ ).

(b) the sum of the following values:

- (i) an average of the institution's daily expected shortfall risk measure calculated in accordance with Article 325bc for each of the preceding sixty business days ( $ES^{avg}$ ), multiplied by the multiplication factor ( $m_c$ ).
- (ii) an average of the institution's daily stress scenario risk measure calculated in accordance with Section 5 of this Title 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 attributed to 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 325bc*

#### *Expected shortfall risk measure*

1. Institutions shall calculate the expected shortfall risk measure 'ES<sub>t</sub>' referred to in point(a) of Article 325bb(1) for any given date 't' and for any given portfolio of trading book positions as follows:

$$ES_t = \rho * (UES_t) + (1 - \rho) * \sum_i UES_t^i$$

where:

i = the index that denotes the five broad risk factor categories listed in the first column of Table 2 of Article 325be;

UES<sub>t</sub> = the unconstrained expected shortfall measure calculated as follows:

$$UES_t = PES_t^{RS} * \max\left(\frac{PES_t^{FC}}{PES_t^{RC}}, 1\right)$$

UES<sub>t</sub><sup>i</sup> = the unconstrained expected shortfall measure for broad risk factor category 'i' and calculated as follows:

$$UES_t^i = PES_t^{RS,i} * \max\left(\frac{PES_t^{FC,i}}{PES_t^{RC,i}}, 1\right)$$

$\rho$  = the supervisory correlation factor across broad risk categories;  $\rho = 50\%$ ;

$PES_t^{RS}$  = the partial expected shortfall number that shall be calculated for all the positions in the portfolio in accordance with Article 325bd(2);

$PES_t^{RC}$  = the partial expected shortfall number that shall be calculated for all the positions in the portfolio in accordance with Article 325bd(3);

$PES_t^{FC}$  = the partial expected shortfall number that shall be calculated for all the positions in the portfolio in accordance with Article 325bd(4);

$PES_t^{RS,i}$  = the partial expected shortfall number for broad risk factor category 'i' that shall be calculated for all the positions in the portfolio in accordance with Article 325bd(2);

$PES_t^{RC,i}$  = the partial expected shortfall number for broad risk factor category 'i' that shall be calculated for all the positions in the portfolio in accordance with Article 325bd(3);

$PES_t^{FC,i}$  = the partial expected shortfall number for broad risk factor category 'i' that shall be calculated for all the positions in the portfolio in accordance with of Article 325bd(4).

2. Institutions shall only apply scenarios of future shocks to the specific set of modellable risk factors applicable to each partial expected shortfall number as set out in Article 325bd when determining each partial expected shortfall number 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 category 'i' in accordance with Article 325be, institutions shall calculate the unconstrained expected shortfall measure for broad risk factor category 'i' and include it in the formula of the expected shortfall risk measure referred to in paragraph 2.

4. By way of derogation from paragraph 1, an institution may reduce, subject to the approval of the competent authorities, the frequency of calculation the unconstrained expected shortfall measures  $UES_{ti}$  for all broad risk factor categories 'i' from daily to weekly where the institution can demonstrate to the competent authorities that calculating the unconstrained expected shortfall measures  $UES_{ti}$  do not underestimate the market risks of the relevant trading book positions.

*Article 325bd*

*Partial expected shortfall calculations*

1. Institutions shall calculate all the partial expected shortfall numbers referred to in Article 325bc(1) as follows:

- (a) daily calculations of the partial expected shortfall numbers;
- (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 number  $ES_t$  at time 't' accordance with the following formula:

$$PES_t = \sqrt{(PES_t(T))^2 + \sum_{j \geq 2} \left( PES_t(T, j) * \sqrt{\frac{(LH_j - LH_{j-1})}{10}} \right)^2}$$

j = index that denotes the five liquidity horizons listed in the first column of Table 1;

LH<sub>j</sub> = the length of liquidity horizons *j* as expressed in days in Table 1;

T = the base time horizon, where T= 10 days;

PES<sub>t</sub>(T) = the partial expected shortfall number that is determined by applying scenarios of future shocks with a 10-days' 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 number referred to in Article 325bc(2).

$PES_t(T, j)$  = the partial expected shortfall number that is determined by applying scenarios of future shocks with a 10-days' 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 number referred to in Article 325bc(2) and of which the effective liquidity horizon, as determined in accordance with Article 325be(2), is equal or longer than  $LH_j$ .

Table 1

Liquidity horizon <i>j</i>	Length of liquidity horizon <i>j</i> (in days)
1	10
2	20
3	40
4	60
5	120

2. For the purposes of calculating the partial expected shortfall numbers  $PES_t^{RS}$  and  $PES_t^{RS,i}$  referred to in Article 325bc(1), institutions shall, in addition to the requirements set out in paragraph 1, meet the following requirements:

(a) in calculating  $PES_t^{RS}$ , institutions shall only apply scenarios of future shocks to a subset of modellable risk factors of positions in the portfolio which has been chosen by the institution, to the satisfaction of competent authorities, so that the following condition is met on a daily basis, with the sum taken over the preceding 60 business days:

$$\frac{1}{60} * \sum_{k=0}^{59} \frac{PES_{t-k}^{RC}}{PES_{t-k}^{FC}} \geq 75\%$$

An institution that no longer meets the requirement referred to in the first subparagraph of this point shall immediately notify the competent authorities thereof and update the subset of modellable risk factors within two weeks in order to meet that requirement. Where, after two weeks, that institution has failed to meet that requirement, it shall revert to the approach set out in Chapter 1a to calculate the own fund requirements for market risks for some trading desks, until that institution can 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 modellable risk factors of positions in the portfolio chosen by the institution for the purposes of point (a) and which have been mapped to the broad risk factor category  $i$  in accordance with Article 325be;

(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  $PES_t^{RS}$ . Institutions shall review the identification of this stress period at least on a monthly basis and shall notify the outcome of that review to the competent authorities. 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.

(d) the model 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 numbers  $PES_t^{RC}$  and  $PES_t^{RC,i}$  referred to in Article 325bc(2), institutions shall, in addition to the requirements set out in paragraph 1, meet the following requirements:

(a) in calculating  $PES_t^{RC}$ , institutions shall only apply scenarios of future shocks to the subset of modellable risk factors of 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 modellable risk factors of 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) shall be calibrated in accordance with the historical data referred to in point (c) of paragraph 4 . Those data shall be updated at least on a monthly basis.

4. For the purpose of calculating the partial expected shortfall numbers  $PES_t^{FC}$  and  $PES_t^{FC,i}$  referred to in Article 325bc(2), institutions shall, in addition to the requirements set out in paragraph 1, meet the following requirements:

(a) in calculating  $PES_t^{FC}$ , institutions shall apply scenarios of future shocks to all the modellable risk factors of 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 positions in the portfolio which have been mapped to the broad risk factor category  $i$  in accordance with Article 325be;

(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-months period. Those data shall be updated at least on a monthly basis. 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 risk factors referred to in point (a) of paragraph 2, competent authorities may require an institution to use historical data from a period shorter than the preceding 12-months, but such shorter period shall not be shorter than the preceding 6-months period. Competent authorities shall notify EBA of any decision requiring an institution to use historical data from a shorter period than 12 months and substantiate it.

5. In calculating a given partial expected shortfall number referred to in Article 325bc(1 ), institutions shall maintain the values of the modellable risks factors for which they have not been required in paragraphs 2, 3 and 4 to apply scenarios of future shocks for this partial expected shortfall number.

6. By way of derogation from point (a) of paragraph 1, institutions may decide to calculate the partial expected shortfall numbers  $PES_t^{RS,i}$ ,  $PES_t^{RC,i}$  and  $PES_t^{FC,i}$  on a weekly basis.

*Article 325be*  
*Liquidity horizons*

1. Institutions shall map each risk factor of positions attributed to trading desks for which they have been granted the permission referred to in Article 325ba(1) or are in the process of being granted that permission to one of the broad risk factor categories listed in Table 2, as well as to one of the broad risk factor subcategories 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 risk factor subcategory it has been mapped to.

3. By way of derogation from paragraph 1, an institution may decide, for a given trading desk, to replace the liquidity horizon of a broad risk subcategory listed in Table 2 with one of the longer liquidity horizons listed in Table 1. Where an institution takes this decision, the longer liquidity horizon shall apply to all the modellable risk factors of the positions attributed to this trading desk and mapped to this broad risk subcategory for the purpose of calculating the partial expected shortfall numbers in accordance with point (c) of Article 325bd(1).

An institution shall notify the competent authorities of the trading desks and the broad risk subcategories for which it decides to apply the treatment referred to in the first subparagraph.

4. For calculating the partial expected shortfall numbers in accordance with point (c) of Article 325bd(1), the effective liquidity horizon 'EffectiveLH' of a given modellable risk factor of a given trading book position shall be calculated as follows:

*(deleted)*

$$\text{EffectiveLH} = \begin{cases} \text{SubCatLH} & \text{if Mat} > \text{LH}_5 \\ \min \left( \text{SubCatLH}, \min_j (\text{LH}_j | \text{LH}_j \geq \text{Mat}) \right) & \text{if } \text{LH}_1 \leq \text{Mat} \leq \text{LH}_5 \\ \text{LH}_1 & \text{if Mat} < \text{LH}_1 \end{cases}$$



where:

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;

$\min_j \{LH_j \mid LH_j \geq \text{Mat}\}$  = the length of one of the liquidity horizons listed in Table 1 of Article 325bd(1) which is the nearest above the maturity of the trading book position.

5. Currency pairs that are composed by the EUR and a currency other than EUR of a Member State participating in the second stage of the economic and monetary union shall be included in the most liquid currency pairs subcategory in the foreign exchange broad risk factor category of Table 2.
6. An institution shall verify the appropriateness of the mapping referred to in paragraph 1 at least on a monthly basis.
7. EBA shall develop draft regulatory technical standards to specify in greater detail:
  - (a) how institutions shall map risk factors of positions referred to in paragraph 1 to broad risk factors categories and broad risk factor subcategories for the purpose of paragraph 1;
  - (b) the currencies that constitute the most liquid currencies subcategory in the interest rate broad risk factor category of Table 2;
  - (c) the currency pairs that constitute the most liquid currency pairs subcategory in the foreign exchange broad risk factor category of Table 2;
  - (d) the definition of a small and large capitalisation for the equity price and volatility subcategory in the equity broad risk factor category of Table 2;

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

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.

Table 2

Broad risk factor categories	Broad risk factor subcategories	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 of the Union	2	20

	Covered bonds issued by credit institutions established in Member States of the Union (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 capitalisation)	1	10
	Equity price (Small capitalisation)	2	20
	Volatility (Large capitalisation)	2	20
	Volatility (Small capitalisation)	4	60
	Other types	4	60
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 325bf*  
*Assessment of the modellability of risk factors*

1. Institutions shall assess, on a monthly basis, the modellability of all the risk factors of the positions attributed to trading desks for which they have been granted the permission referred to in Article 325ba(1) or are in the process of being granted that permission.

2.

3.

4.

5.

6.

7.

8. As part of this assessment, institutions shall calculate the own funds requirements for market risk in accordance with Article 325bl for those risk factors that are non-modellable.

9. EBA shall develop draft regulatory technical standards to further specify the criteria to assess how risk factors are modellable in accordance with paragraph 1.

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

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

10.

*Article 325bg*  
*Regulatory back-testing requirements and multiplication factors*

1. For any given date, an institution's trading desk meets the backtesting requirements referred to in Article 325ba(1) where the number of overshootings as referred to in paragraph 2 for that trading desk that occurred over the most recent 250 business days do not exceed any of the following:

- (a) 12 overshootings for the value-at-risk number, calculated at a 99<sup>th</sup> percentile one tailed-confidence interval on the basis of back-testing hypothetical changes in the portfolio's value;
- (b) 12 overshootings for the value-at-risk number, calculated at a 99<sup>th</sup> percentile one tailed-confidence interval on the basis of back-testing actual changes in the portfolio's value;
- (c) 30 overshootings for the value-at-risk number, calculated at a 97,5<sup>th</sup> percentile one tailed-confidence interval on the basis of back-testing hypothetical changes in the portfolio's value;
- (d) 30 overshootings for the value-at-risk number, calculated at a 97,5<sup>th</sup> percentile one tailed-confidence interval on the basis of back-testing actual changes in the portfolio's value;

2. For the purpose of paragraph 1, institutions shall count daily overshootings on the basis of back-testing hypothetical and actual changes in the portfolio's value composed of all the positions attributed to the trading desk. An overshooting shall mean a one-day change in that portfolio's value that exceeds the related value-at-risk number calculated by the institution's internal model in accordance with the following requirements:

- (a) 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 325bh(3) and which are considered modellable in accordance with Article 325bf;
- (c) data inputs used to determine the scenarios of future shocks applied to the modellable risk factors shall be calibrated in accordance with the historical data referred to in point (c) of Article 325bd(4) . These data shall be updated at least on a monthly basis;

(d) 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 325bb(1).

3. Institutions shall count the daily overshootings referred to in paragraph 2 in accordance with the following:

(a) back-testing hypothetical changes in the portfolio's value shall be based on a comparison between the portfolio's end-of-day value and, assuming unchanged positions, its value at the end of the subsequent day;

(b) back-testing actual changes in the portfolio's value shall be based on a comparison between the portfolio's end-of-day value and its actual value at the end of the subsequent day excluding fees and commissions;

(c) an overshooting shall be counted each business day the institution is not able to assess the portfolio's value or is not able to calculate the value-at-risk number referred to in paragraph 1;

4. An institution shall calculate, in accordance with paragraphs 5 and 6, the multiplication factor ( $m_c$ ) referred to in Article 325bb for the portfolio of all the positions attributed to trading desks for which it has been granted the permission referred to in Article 325ba(1). That calculation shall be updated on at least a monthly basis.

5. 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 4, this add-on shall be calculated by 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 paragraph in accordance with the following:

- (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 99<sup>th</sup> 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 325bh(3) and which are considered modellable in accordance with Article 325bf;
  - (iv) data inputs used to determine the scenarios of future shocks applied to the modellable risk factors shall be calibrated in accordance with the historical data referred to in point (c) of Article 325bd(4) . Those data shall be updated on at least a monthly basis;
  - (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 325bb(1);
- (b) the number of overshootings shall be equal to the higher of the number of overshootings under hypothetical and actual changes in the value of the portfolio;
- (c) in counting daily overshootings, institutions shall apply the provisions set out in paragraph 3.



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

6. 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 4 and a trading desk's compliance with the backtesting requirements referred to in paragraph 1. Institutions shall notify promptly, and in any case no later than within five working days after the occurrence of an overshooting, the competent authorities of overshootings that result from their back-testing programme and provide an explanation for those overshootings.

8. By way of derogation from paragraphs 2 and 5, competent authorities may permit an institution not to count an overshooting where a one-day change in its portfolio's value 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 substantiate to the competent authorities that the stress scenario risk measure calculated in accordance with Article 325bl for this non-modellable risk factor is higher than the positive difference between the institution's portfolio's value and the related value-at-risk number.

9. EBA shall develop draft regulatory technical standards to further specify the technical elements that shall be included in the actual and hypothetical changes the portfolio's value of an institution for the purpose of this Article.

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

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.

#### *Article 325bh*

##### *Profit and loss attribution requirement*

1. An institution's trading desk meets the profit and loss (P&L) attribution requirements for the purpose of Article 325ba(1) 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 a trading desk portfolio's value, based on the institution's risk-measurement model, are sufficiently close to the hypothetical changes in the trading desk portfolio's value, based on the institution's pricing model.

3. An institution's compliance with the P&L attribution requirement shall lead, for each position in a given trading desk, to the identification of a precise list of risk factors that are deemed appropriate for verifying the institution's compliance with the backtesting requirement set out in Article 325bg.

4. EBA shall develop draft regulatory technical standards to further specify:
- (a) in light of international regulatory developments, the criteria that shall ensure that the theoretical changes in a trading desk portfolio's value is sufficiently close to the hypothetical changes in the trading desk portfolio's value for the purposes of paragraph 2;
  - (b) the consequences for an institution where the theoretical changes in a trading desk portfolio's value is not sufficiently close to the hypothetical changes in the trading desk portfolio's value for the purposes of paragraph 2;
  - (c) the frequency at which the P&L attribution has to be performed by an institution;
  - (d) the technical elements that shall be included in the theoretical and hypothetical changes in a trading desk portfolio's value for the purpose of this Article.

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

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.

#### *Article 325bi*

##### *Requirements on risk measurement*

1. Institutions using an internal risk-measurement model used to calculate the own funds requirements for market risks as referred to in Article 325bb shall ensure that that model meets all of 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 as referred to in Article 325bh. 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 corresponding 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. 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, where 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 of this Title;
- (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 for at least 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 with the individual risk factors for each equity markets;

(f) the internal risk-measurement model shall use a separate risk factor for at least 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 a separate risk factor for each broad commodity type will be acceptable. For material exposures to commodity markets, the model shall capture the risk of less than perfectly correlated movements between similar, but not identical, commodities, the exposure to changes in forward prices arising from maturity mismatches and the convenience yield between derivative and cash positions;

(g) proxies used shall show a good track record for the actual position held, shall be appropriately conservative and shall be used only where available data are insufficient, including during the period of stress referred to in point (c) of Article 325bd(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 risk factor categories and, for the purposes of calculating the unconstrained expected shortfall measure  $UES_t$  as referred to in Article 325bc(1), across broad risk factor categories only where the institution's approach for measuring those correlations is sound, consistent with the applicable liquidity horizons, and implemented with integrity.

3. By [three years after entry into force], EBA shall issue guidelines specifying criteria for the use of data inputs in the risk measurement model.

Those guidelines shall be adopted in accordance with Article 16 of Regulation (EU) No 1093/2010.

*Article 325bj*

*Qualitative requirements*

1. Any internal risk-measurement model used for the purposes of this Chapter shall be conceptually sound, calculated correctly and implemented with integrity and shall comply with all of the following qualitative requirements:
  - (a) any internal risk-measurement model used to calculate capital requirements for market risks shall be closely integrated into the daily risk-management process of the institution and 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 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 risks, and on the appropriateness of measures to be taken in terms of trading limits;
  - (c) the institution's 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 by a level of management with sufficient authority to enforce reductions of positions taken by individual traders and reductions in the institution's overall risk exposure;
  - (d) the institution shall have a sufficient number of staff skilled to a level appropriate to the sophistication of any internal risk-measurement models, and being skilled 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 any internal risk-measurement models;

(f) any internal risk-measurement model, including pricing models, shall have a proven track record of reasonable accuracy in measuring risks and shall not differ significantly from the models that the institution use for its internal risk management;

(g) the institution shall frequently conduct a rigorous programme of stress testing, including reverse stress tests, which shall encompass any internal risk-measurement model. The results of these stress tests shall be reviewed by senior management on at least a monthly basis and comply with the policies and limits approved by the institution's 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 any internal risk-measurement models, either as part of its regular internal auditing process, or by mandating a third-party undertaking to conduct that review, to the satisfaction of competent authorities.

For the purpose of point (h), a third-party undertaking means an undertaking that provides auditing or consulting services to institutions and that has staff that is sufficiently skilled in the area of market risks 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 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 the institution employs to evaluate the consistency, timeliness and reliability of data sources used to run any of its internal risk-measurement models, including the independence of those data sources;
- (g) the verification process the institution employs to evaluate back-testing requirements and P&L attribution requirements that are conducted in order to assess the internal risk-measurement models' accuracy;
- (h) where the review is performed by a third-party undertaking in accordance to point (h) of paragraph 1, the verification that the internal validation process set out in Article 325bk 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 in line with the evolution of new techniques and best practices that develop in respect of those internal risk-measurement models.



*Article 325bk*  
*Internal Validation*

1. Institutions shall have processes in place to ensure that any internal risk-measurement model used for purposes of this Chapter has been adequately validated by suitably qualified parties independent of the development process 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 especially 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 any internal risk-measurement model of an institution shall not be limited to back-testing and P&L attribution requirements, but shall, as 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.

Calculation of stress scenario risk measure

1. At each calculation date  $t$ , an institution shall calculate the stress scenario risk measure for all the non-modellable risk factors of the trading book positions in a given portfolio as follows:

(deleted)

$$SS_t = \sqrt{\sum_m (ICSS_t^m(t))^2} + \sum_l SS_t^l(t)$$

Where:

$m$  = the index that denotes all the non-modellable risk factors of the positions in the portfolio which represent an idiosyncratic risk which has been mapped to the credit spread broad risk factor category in accordance with Article 325be(1) and for which the institution has demonstrated, to the satisfaction of the competent authorities, that those risk factors are uncorrelated;

$l$  = the index that denotes all the non-modellable risk factors of the positions in the portfolio other than those denoted by the index 'm';

$ICSS_t^m$  = the stress scenario risk measure for an idiosyncratic credit spread risk factor, as determined in accordance with paragraphs 2 and 3, of the non-modellable risk factor 'm';

$SS_t^l$  = the stress scenario risk measure, as determined in accordance with paragraphs 2 and 3, of the non-modellable risk factor 'l';

2. The stress scenario risk measure of a given non-modellable risk factor means the loss that is incurred in all the trading book positions of the portfolio which includes that non-modellable risk factor where an extreme scenario of future shock is applied to that risk factor.
3. Institutions shall determine to the satisfaction of competent authorities appropriate extreme scenarios of future shock for all the non-modellable risk-factors.
4. EBA shall develop draft regulatory technical standards to specify in greater details:
  - (a) how institutions shall determine the extreme scenario of future shock applicable to non-modellable risk factors and how they shall apply that extreme scenario of future shock to those risk factors;
  - (b) a regulatory extreme scenario of future shock for each broad risk factor subcategory listed in Table 2 of Article 325be which institutions may use when they cannot determine an extreme scenario of future shock in accordance with point (a), or which competent authorities may require the institution to apply when those authorities are not satisfied with the extreme scenario of future shock determined by the institution.

In developing those draft regulatory technical standards, EBA shall take into consideration 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 risks that would be calculated under this Chapter were this risk factor modellable.

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

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.

SECTION 3  
INTERNAL DEFAULT RISK MODEL

*Article 325bm*

*Scope of the internal default risk model*

1. All the institution's positions that have been attributed to trading desks for which the institution has been granted the permission referred to in Article 325ba(1) shall be subject to an own funds requirement for default risk where the positions contain at least one risk factor mapped to the broad risk categories 'equity' or 'credit spread' in accordance with Article 325be(1). That own funds requirement, which is incremental to the risks captured by the own funds requirements referred to in Article 325bb(1), shall be calculated with the institution's internal default risk 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 325bn*

*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 325bb(2) for all the trading book positions referred to in Article 325bm that are assigned to a trading desk for which the internal default risk model complies with the requirements set out in Articles 325bo, 325bp, 325bq, Articles 325bj and 325bk .
2.
3. Where an institution's trading desk, for which at least one of the trading book positions referred to in Article 325bm has been assigned to, do not meet the requirements set out in paragraph 1, the own funds requirements for market risks of all the positions in this trading desk shall be calculated in accordance with the approach set out in Chapter 1a.

*Article 325bo*

*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 the positions referred to in Article 325bm 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 time horizon of one year;
  - (b) the potential loss referred to in point (a) means a direct or indirect loss in the market value of a position 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 issuers' equity prices dropping to zero;
  - (c) institutions shall determine default correlations between different issuers based on a conceptually sound methodology and using objective historical data of market credit spreads or equity prices covering at least a 10 year time period including the stress period identified by the institution in accordance with Article 325bd(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 time horizon of one year by a time horizon of sixty days for the purpose of calculating the default risk of, where appropriate, some or all of the equity positions, in which 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 time horizon of one year.

*Article 325bp*

*Recognition of hedges in an internal default risk model*

1. Institutions may incorporate hedges in their internal default risk model and they may net positions where the long and short positions refer to the same financial instrument.
2. Institutions may in their internal default risk model 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. Institutions shall capture in their internal default risk model material risks between a hedge and the hedged instrument that could occur during the interval between the hedge's maturity and the one year time horizon as well as the potential for significant basis risks in hedging strategies arising from differences in product type, seniority in the capital structure, internal or external rating, maturity, vintage and other differences . Institutions shall recognise a hedge only to the extent that it can be maintained even as the obligor approaches a credit or other event.

*Article 325bq*

*Particular requirements for an internal default risk model*

1. The internal default risk model referred to in Article 325bn(1) shall be capable of modelling the default of individual issuers as well as the simultaneous default of multiple issuers and take into account the impact of those defaults in the market values of the positions included in the scope of that model. For that purpose, the default of each individual issuer shall be modelled using at least two type of systematic risk factors and two types of systematic risk factors .
2. The internal default risk model shall reflect the economic cycle, including the dependence 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) default probabilities shall be measured using, solely or in combination with current market prices, data observed during a historical time 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 the permission to estimate default probabilities in accordance with Section 1, Chapter 3, Title II, Part 3 shall use the methodology set out in Section 1, Chapter 3, Title II, Part 3 to calculate default probabilities;
  - (e) an institution that has not been granted the permission to estimate default probabilities in accordance with Section 1, Chapter 3, Title II, Part 3 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 the permission to estimate loss given default in accordance with Section 1, Chapter 3, Title II, Part 3 shall use the methodology set out in Section 1, Chapter 3, Title II, Part 3 to calculate loss given default estimates;
- (d) an institution that has not been granted the permission to estimate loss given default in accordance with Section 1, Chapter 3, Title II, Part 3 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 their internal models used for the purposes of this Chapter, including for the risk measurement system, institutions shall do all of the following:

- (a) verify that their modelling approach for correlations and price changes is appropriate for their portfolio, including the choice and weights of the systematic risk factors of the model;
- (b) perform a variety of stress tests, including sensitivity analysis and scenario analysis, to assess the qualitative and quantitative reasonableness of the internal default risk model, in particular with regard to the treatment of concentrations. Those tests shall not be limited to the range of past events experienced;
- (c) apply appropriate quantitative validation including relevant internal modelling benchmarks.

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 correlation assumptions between different issuers in accordance with Article 325bo(2) and the preferred choice of methods to estimate the default probabilities in point (e) of paragraph 5 and the loss given defaults in point (d) of paragraph 6.

11. Institutions shall document their internal models so that their correlation and other modelling assumptions are transparent for the competent authorities.

12. EBA shall develop draft regulatory technical standards to specify the requirements that have to be fulfilled by an institution's internal methodology or external sources for estimating default probabilities and loss 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 entry into force of this Regulation].

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."

(85)

(86)

(87)

(88)

(89) The introductory part in Article 384(1) is replaced by the following:

" 1. An institution which does not calculate the own funds requirements for CVA risk for its counterparties in accordance with Article 383 shall calculate a portfolio own funds requirements for CVA risk for each counterparty in accordance with the following formula, taking into account CVA hedges that are eligible in accordance with Article 386:"

(90) The definition of  $EAD_i^{\text{total}}$  in Article 384(1) is replaced by the following:

"  $EAD_i^{\text{total}}$  = 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 Title II, Chapter 6 as applicable to the calculation of the own funds requirements for counterparty credit risk for that counterparty."

(90a) Article 385 is amended as follows:

"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 own funds requirements for CVA risk."

(91) Article 390 is replaced by the following:

(a) paragraphs 1 to 7 are 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 the exposures to individual clients in that group.
2. The overall exposures to individual clients shall be calculated by adding the exposures of the trading book and those of 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 Part Three, Title IV, Chapter 2;

(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 the underlying instruments are of the same seniority.

For the purposes of point (a) and (b), securities may be allocated into buckets based on different degrees of seniority in order to determine the relative seniority of positions.

4. Institutions shall calculate the exposure values of contracts referred to in Annex II and credit derivatives directly entered into with a client in accordance with one of the methods set out in Part Three, Title II, Chapter 6, Section 3 to Section 5, as applicable. Exposures due to the transactions referred to in Articles 378 to 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 which are allocated to the trading book, institutions shall also comply with the principles set out in Article 299.

By derogation from the first sub-paragraph, institutions with a permission to use the methods referred to in Part Three, Title II, Chapter 4, Section 4, and Chapter 6, Section 6, may use these 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 contracts referred to in Annex II and credit derivatives not directly entered into with that client but underlying a debt or equity instrument 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 working 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 working 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 CET 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.

(b) paragraph 9 is replaced by the following:

9. EBA shall develop draft regulatory technical standards to specify, for the purpose of paragraph 5, how to determine the exposures arising from contracts referred to in Annex II and credit derivatives not directly entered into with a client but underlying a debt or equity instrument 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 [9 months after entry into force].

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."

(92) In Article 391 the following paragraph is added:

"For the purposes of the first paragraph, the Commission may adopt, by way of implementing acts, a decision as to whether a third country applies prudential supervisory and regulatory requirements at least equivalent to those applied in the Union. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 464(2)."

(93) Article 392 is replaced by the following:

*"Article 392  
Definition of large exposure*

An institution's exposure to a client or a group of connected clients shall be considered a large exposure where its value is equal to or exceeds 10 % of its Tier 1 capital."

(94) Article 394 is replaced by the following:

*"Article 394  
Reporting requirements*

1. Institutions shall report to their competent authorities the following information 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 subject to Part Three, Title II, Chapter 3 shall report to their competent authorities their 20 largest exposures on a consolidated basis, excluding the exposures exempted from the application of Article 395(1).

Institutions shall also report, on a consolidated basis, exposures of a value larger than or equal to EUR 300 million but less than 10 % of the institution's Tier 1 capital to their competent authorities.

2. In addition to the information referred to in paragraph 1, institutions shall report the following information to their competent authorities in relation to their 10 largest exposures on a consolidated basis to institutions, as well as its 10 largest exposures on a consolidated basis to shadow banking entities which carry out banking activities outside the regulated framework, 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 at least on a semi-annual basis.

4.

5. EBA shall develop guidelines to specify the criteria for the identification of shadow banking entities for the purposes of paragraph 2.

In developing those guidelines, EBA shall consider whether:

(a) the relation with an individual 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 (EU) 2013/36/EU should be entirely or partially excluded from the obligation to be reported referred to in paragraph 2 on shadow banking entities.

(95) 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 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, 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, 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 and shall inform EBA and the Commission thereof.

By way of derogation from the first subparagraph, an institution identified as G-SII in accordance with Article 131 of Directive 2013/36/EU shall not incur an exposure to another institution identified as 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. An institution shall comply with such limit no later than 12 months from the date it is identified as G-SII."

(b) Paragraph 2 is deleted.

(c) 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 where the all of 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 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.

Every time the limit has been exceeded, the institution shall report without delay to the competent authorities the amount of the excess and the name of the client concerned and, where applicable, the name of the group of connected clients concerned".

(96) 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 on a case-by-case basis the 100 % limit in terms of the institution's Tier 1 capital to be exceeded."

(ii) the following subparagraph is added:

"Where a competent authority, in the exceptional cases referred to in the first and second subparagraph, allows an institution to exceed the limit set out in Article 395(1) for a period longer than 3 months, the institution shall present to the satisfaction of the competent authority a plan for a timely return to compliance with that limit and carry out that plan within the time period agreed with the competent authority. Competent authorities shall monitor the implementation of the plan and shall require a speedier return to compliance if appropriate."

(b) the following paragraph 3 is added:

"3. For the purposes of paragraph 1, EBA shall issue guidelines specifying how the competent authorities may determine:

- (a) the exceptional cases referred to in paragraph 1;
- (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.

Those guidelines shall be adopted in accordance with Article 16 of Regulation (EU) No 1093/2010."

(97) In Article 397, Column 1 of Table 1, the term 'eligible capital' is replaced by the term 'Tier 1 capital'.

(98) 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 this technique to calculate capital requirements for credit risk in accordance with Part Three, Title II and provided it 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 Part Three, Title II, Chapter 4 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 eligible to reduce exposure values for large exposure purposes, except for exposures secured by immovable properties in accordance with Article 402.".

(99) Article 400 is amended as follows:

(a) the first subparagraph of paragraph 1 is amended as follows:

(i) points (j) and (k) are replaced by the following:

"(j) clearing members' trade exposures and default fund contributions to qualified central counterparties;

(k) clients' trade exposures as defined by Article 305(2) or 305(3)".

(ii) the following point (l) is added:

"(l) Holdings by resolution entities or their subsidiaries that are not resolution entities themselves, of own funds instruments and eligible liabilities referred to in paragraph 3 of Article 45g of Directive 2014/59/EU issued by any of the following entities:

(a) in respect of resolution entities, other entities belonging to the same resolution group;

(b) in respect of subsidiaries of a resolution entity that are not resolution entities themselves, the relevant subsidiary's subsidiaries belonging to the same resolution group".

(b) in paragraph 2, points (c) and (k) are replaced by the following and new point (l) is added after point (k):

"(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 these criteria, whether or not exempted from Article 395(1), shall be treated as exposures to a third party;

(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

(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 or not 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 4 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."

(100) 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 Part Three, Title II, Chapter 4, taking into account the credit risk mitigation, volatility adjustments and any maturity mismatch referred to in Part Three, Title II, Chapter 4.

2. With the exception of institutions using the Financial Collateral Simple Method, for the purposes of the first subparagraph, institutions shall use the Financial Collateral Comprehensive Method, regardless of the method used for calculating own funds requirements for credit risk.

By derogation from paragraph one, institutions with a permission to use the methods referred to in Part Three, Title II, Chapter 4, Section 4, and Chapter 6, Section 6, may use these 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.

These 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 and in particular from large indirect credit exposures, for example to a single issuer of securities taken as collateral.

4. Where an institution reduces an exposure to a client due to an eligible credit risk mitigation technique in accordance with Article 399(1), it shall, in the manner set out in Article 403, treat the part of the exposure by which the exposure to the client has been reduced as having been incurred to the protection provider rather than to the client."

(100a) Article 402 is amended as follows:

(a) paragraph 1 is 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 fully secured by real estate property in accordance with Article 125(1) by the pledged amount of the market or mortgage lending value of the property concerned but not more than 50 % of the market 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, if all of the following conditions are met:

(a) the competent authorities of the Member States have not set a higher risk weight than 35 % for exposures or parts of exposures secured by residential real estate 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 option to purchase;

(c) the requirements in Articles 208 and 229(1) are met.”

(b) paragraph 2 is replaced by the following:

“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 fully secured by real estate property in accordance with Article 126(1) by the pledged amount of the market or mortgage lending value of the property concerned but not more than 50 % of the market 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, if all of the following conditions are met:

- (a) the competent authorities of the Member States have not set a higher risk weight than 50 % for exposures or parts of exposures secured by commercial real estate 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 Articles 126(2)(a), 208 and 229(1) are met;
- (d) the commercial property is fully constructed.

(101) 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 secured by collateral issued by a third party, an institution shall:
  - (a) treat the portion of the exposure which is guaranteed as having been incurred to the guarantor rather than to the client provided that the unsecured exposure to the guarantor would be assigned an equal or lower risk weight than a risk weight of the unsecured exposure to the client under Part Three, Title II, Chapter 2;
  - (b) treat the portion of the exposure collateralised by the market value of recognised collateral as having been incurred to the third party rather than to the client, if the exposure is secured by collateral and provided that the collateralised portion of the exposure would be assigned an equal or lower risk weight than a risk weight of the unsecured exposure to the client under Part Three, Title II, Chapter 2.

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 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:

(a) where the guarantee is denominated in a currency different from that in which the exposure is denominated the amount of the exposure deemed to be covered shall be calculated in accordance with the provisions on the treatment of currency mismatch for unfunded credit protection set out in Part Three, Title II, Chapter 4;

(b) a mismatch between the maturity of the exposure and the maturity of the protection shall be treated in accordance with the provisions on the treatment of maturity mismatch set out in Part Three, Title II, Chapter 4;

(c) partial coverage may be recognised in accordance with the treatment set out in Part Three, Title II, Chapter 4.

3. For the purposes of the application of point (b) of paragraph 1, an institution may replace the amount in point (a) of this paragraph with the amount in point (b), provided that the conditions in point (c), (d) and (e) are met:

(a) the institution's total exposure amount to a collateral issuer due to tri-party repurchase agreements facilitated by a tri-party agent;

(b) the full amount of the limit 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 limit 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) 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, in accordance with Article 16 of Regulation (EU) No 1093/2010, issue guidelines specifying conditions for the application of the treatment referred to in paragraph 3, including the conditions and frequency for determining, monitoring and revising the limits referred to in point (b). EBA shall publish the guidelines by 31 December [2019]."

(102) In Part Six, the heading of Title I is replaced by the following:

" DEFINITIONS AND LIQUIDITY REQUIREMENTS".

(103) Article 411 is replaced by the following:

*"Article 411*

*Definitions*

For the purposes of this Part, the following definitions shall apply:

- (1) 'financial customer' means a customer, including financial customers belonging to non-financial corporate groups, that performs one or more of the activities listed in Annex I to Directive 2013/36/EU as its main business or 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;
- (2) 'retail deposit' means a liability to a natural person or to a small or medium-sized enterprise ('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 the basis of a group of connected clients do not exceed EUR 1 million;
- (3) 'personal investment company' ('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 was set up with the sole purpose of managing the wealth of the owners and which does not carry out any other commercial, industrial or professional activity. The purpose of the PIC may include other 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 those 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 over-collateralisation' 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 over-collateralisation 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 derivatives 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 calendar 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 in accordance with Chapter 2 of Title II of Delegated Regulation (EU) 2015/61;
- (13) 'liquidity buffer' means the amount of Level 1 and Level 2 assets that an institution holds in accordance with Title II and Annex I of Delegated Regulation (EU) 2015/61;
- (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) 'committed' credit or liquidity facility means a credit or liquidity facility that is irrevocable or conditionally revocable."

(104) 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. 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 new paragraph 4a is inserted:

"4a. The delegated act referred to in Article 460 shall apply to credit institutions and investment firms referred to in Article 6(4) of this Regulation."

(105) Article 413 is replaced by the following:

*"Article 413*  
*Stable funding requirement*

1. Institutions shall ensure that long term obligations are adequately met with a diversity of stable funding instruments 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 Article 415 for the net stable funding ratio set out in Title IV have been specified and introduced in the Union.
3. The provisions set out in Title IV shall apply for the purpose of specifying the stable funding requirement set out in paragraph 1 and reporting obligations set out in Article 415 for institutions.
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."

(106) Article 414 is replaced by the following:

*"Article 414*  
*Compliance with liquidity requirements*

An institution that does not meet, or expects not 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 without undue delay to the competent authorities 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, Title IV, in Article 415(3) or in the delegated act as 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 those authorisations based on the individual situation of an institution and taking into account the scale and complexity of the institution's activities. Competent authorities shall monitor the implementation of the restoration plan and shall require a speedier restoration where appropriate."

(107) In Article 415, paragraphs 1, 2 and 3 are replaced by the following:

"1. Institutions shall report to the competent authorities the items referred to in paragraph 3 of this Article, in Title IV and in the delegated act referred to in Article 460(1) in the reporting currency, regardless of the actual denomination of those items. Until the reporting obligation and the reporting format for the net stable funding ratio set out in Title IV have been specified and introduced in the Union, 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 on a monthly basis for items referred to in the delegated act referred to in Article 460(1) and at least on a quarterly basis for items referred to in Titles III and IV.

2. An institution shall report separately to the competent authorities the items referred to in paragraph 3 of this Article, in Title III until the reporting obligation and the reporting format for the net stable funding ratio set out in Title IV have been specified and introduced in the Union, in Title IV and in the delegated act referred to in Article 460(1) as appropriate in accordance with the following:

(a) where the 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 regulatory capital and off-balance sheet items, the reporting shall be made in the currency of denomination;

(b) where the 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 this host Member State uses another currency than the reporting currency, the reporting shall be made in the currency of the Member State in which the significant branch is located;

(c) where the 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 regulatory capital and off-balance sheet items, the reporting shall be made in the reporting currency.

3. Additional liquidity monitoring metrics required to allow competent authorities to obtain a comprehensive view of an institution's liquidity risk profile shall be proportionate to the nature, scale and complexity of its activities."

(108) 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) they 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) they are not issued by the institution itself or its parent or subsidiary institutions or another subsidiary of its parent institution or parent financial holding company;

(c) their price is generally agreed upon by market participants and can easily be observed in the market or their price can be determined by a formula that is easy to calculate based on publicly available inputs and does not depend on strong assumptions as is typically the case for structured or exotic products;

(d) they are listed on a recognised exchange or they are tradable on an active 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 equivalent amount in domestic currency) in the portfolio of liquid assets of each institution provided that the requirements in Article 132(3) are met and that the CIU, apart from derivatives to mitigate interest rate or credit or currency risk, only invests in liquid assets as referred to in paragraph 1 of this Article.

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. 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 the first sentence of Article 418(4), shares or units in that CIU shall not be treated as liquid assets.

6. Where a liquid asset ceases to be eligible in the stock of liquid assets, an institution may nevertheless continue to consider it a liquid asset for an additional period of 30 calendar 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.

(109) 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 are exceeding 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 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 Article 17 of Delegated Regulation (EU) 2015/61 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 entry into force of the amending Regulation].

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."

(110) 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 dependency. 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 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 to identify an established operational relationship for which they have evidence that the client is unable to withdraw amounts legally due over a 30-day horizon without compromising its operational functioning and shall report those criteria to the competent authorities. Competent authorities may, in the absence of a uniform definition, provide general guidance that institutions shall 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 on a case-by-case basis, to the liabilities referred to in paragraph 7, when all of the following conditions are fulfilled:

(a) the counterparty is:

- (i) a parent or subsidiary institution of the institution or another subsidiary of the same parent institution;
- (ii) linked to the institution by a relationship within the meaning of Article 12(1) of Directive 83/349/EEC;
- (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 Article 400 (2)(d);

(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."

(111) In Article 423, paragraphs 2 and 3 are replaced by the following:

"2. An institution shall notify to the competent authorities all contracts entered into of which the contractual conditions lead, within 30 days following a material deterioration of its credit quality, to liquidity outflows or additional collateral needs. Where the competent authorities consider those contracts 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 this 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 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 specifying under which conditions 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."

(112) 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 % to the extent 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."

(113) 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;"

(114) In Part Six, the following new Title IV 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 shall apply:

(a) assets and off-balance sheet items in a subsidiary having its head office situated in a third country which are subject to higher required stable funding factors than those specified in Chapter 4 of this Title under the national law of that third country setting out the net stable funding requirement shall be subject to consolidation in accordance with the higher factors specified in the national law of that third country;

(b) liabilities and regulatory capital in a subsidiary having its head office situated in a third country which are subject to lower available stable funding factors than those specified in Chapter 3 of this Title under the national law of that third country setting out the net stable funding requirement 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 Title II of Delegated Regulation (EU) 2015/61 and which are held by a subsidiary having its head office situated in a third country shall not be recognised as liquid assets for consolidated purposes where they do not qualify as liquid assets under the national law of that third country setting out the liquidity coverage requirement;

(d) investment firms not subject to this Title within the group shall be subject to Article 428b on a consolidated basis and to Article 413 for both individual and consolidated purposes. Except than as specified in this point, investment firms not subject to this Title shall remain subject to the detailed net stable funding requirement for investment firms as laid down in the national law of Member States.

#### *Article 428b*

##### *The net stable funding ratio*

1. The detailed net stable funding requirement laid down in Article 413(1) shall be equal to the ratio of an institution's available stable funding as referred to in Chapter 3 of this Title to the institution's required stable funding as referred to in Chapter 4 of this Title and shall be expressed as a percentage. Institutions shall calculate their net stable funding ratio in accordance with the following formula:

$$\frac{\textit{Available Stable Funding}}{\textit{Required Stable Funding}} = \textit{Net Stable Funding Ratio (\%)}$$

2. Institutions shall maintain a net stable funding ratio of at least 100% 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 or can be reasonably expected to fall below 100%, the requirement laid down in Article 414 shall apply. The institution shall aim at restoring its net stable funding ratio to the level referred to in paragraph 2. Competent authorities shall assess the reasons for non-compliance with the level referred to in paragraph 2 before taking, where appropriate, 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 subject to separate reporting in accordance with Article 415(2).
5. Institutions shall ensure that the distribution by currency denomination of their funding profile is generally consistent with regard to the distribution by currency of their assets. Where appropriate, competent authorities may require institutions to restrict currency mismatch 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 mismatch 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 to swap currencies and raise funds in foreign currency markets during 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 in place.

Any restriction on currency mismatch 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 of calculation of the net stable funding ratio

#### *Article 428c*

##### *Calculation of the net stable funding ratio*

1. Unless specified otherwise 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 of this Title to the accounting value of their assets, liabilities and off-balance sheet items, unless specified otherwise in this Title.
3. Institutions shall not double count required stable funding and available stable funding. Where an item can be counted in more than one required stable funding category, it shall be counted in the required stable funding category that produces the greatest contractual required stable funding for that item.

#### *Article 428d*

##### *Derivatives contracts*

1. Institutions shall apply the provisions of this Article to calculate the amount of required stable funding for derivatives contracts as referred to in Chapters 3 and 4 of this Title.
2. By way of derogation from Article 428c(1), institutions shall take into account the accounting 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 accounting value of derivative positions on a gross basis and they shall treat those derivatives positions as their own netting set for the purposes of Chapter 4 of this Title.
3. For the purpose of this Title, the 'market value of a netting set' means the sum of the market values of all the transactions included in a netting set.

4. All derivative contracts referred to in points (a) to (e) of paragraph 2 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 a 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 of this Title applies.

6. Competent authorities may decide, with the approval of the relevant central bank, to waive the impact of derivatives contracts on the calculation of the net stable funding ratio, including through the determination of required stable funding factors and of provisions and losses, where all of the following conditions are fulfilled:

- (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 derivatives 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*

By way of derogation from Article 428c(1), assets and liabilities resulting from secured lending transactions and capital market-driven transactions as defined in Article 192(2) and (3) with a single counterparty shall be calculated on a net basis, provided that those assets and liabilities respect the netting conditions set out in Article 429b(4).

*Article 428f*

*Interdependent assets and liabilities*

1. Subject to prior approval of competent authorities, an institution may consider that an asset and a liability are interdependent, provided that all of the following conditions are fulfilled:
  - (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 is 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 directly linked to the following products or services shall be considered to meet the conditions of paragraph 1 and be considered as interdependent:

- (a) centralised regulated savings, where 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, 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 Article 31(9) of Delegated Regulation (EU) 2015/61 for institutions acting as simple intermediaries that do not incur any funding risk;
- (c) covered bonds that meet all of the following conditions:
  - (i) they are 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);
  - (ii) the underlying loans are fully matched funded with the covered bonds issued or there exist non-discretionary extendable maturity triggers on the covered bonds 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) derivatives client clearing activities, provided that the institution does not guarantee the performance of the CCP to its clients and, as a result, does not incur any funding risk.

*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 are considered as liquid assets for the depositing institution in accordance with Article 16 of Regulation (EU) 2015/61 shall be subject to the following requirements:

- (a) the appropriate required stable funding factor to be applied under Section 2 of Chapter 4 of this Title for the depositing institution, depending on the treatment of those sight deposits as Level 1, Level 2A or Level 2B assets in accordance with Article 16 of Delegated Regulation (EU) 2015/61 and on the relevant haircut applied to those sight deposits for the calculation of the liquidity coverage ratio;
- (b) a symmetric available stable funding factor for the central institution receiving the deposit.

*Article 428h*

*Preferential treatment within a group or an institutional protection scheme*

1. By way of derogation from Chapters 3 and 4 of this Title, and where Article 428g does not apply, competent authorities may on a case-by-case basis authorise institutions to apply a higher available stable funding factor or a lower required stable funding factor to assets, liabilities and committed credit or liquidity facilities where all of the following conditions are fulfilled:

- (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) linked to the institution by a relationship within the meaning of Article 12(1) of Directive 83/349/EEC;
  - (iv) a member of the same institutional protection scheme referred to in Article 113(7) of this Regulation as the institution;
  - (v) the central institution or an affiliate 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 constitutes a more stable source of funding or that the asset or committed credit or liquidity facility granted requires less stable funding within the one-year horizon of the net stable funding ratio than the same liability, asset or committed credit or liquidity facility with other counterparties;

(c) the counterparty applies a higher required stable funding factor equal to or higher than the higher available stable funding factor or a lower available stable funding factor 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 where, in addition to the criteria set out in paragraph 1, the following criteria are fulfilled:

(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 funding receiver 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*

1. Unless specified otherwise 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 regulatory capital by the appropriate 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 regulatory capital.
2. Bonds and other debt securities sold exclusively in the retail market and held in a retail account can be treated as the appropriate retail deposit category. Limitations shall be placed such that those instruments cannot be bought and held by parties other than retail customers.

###### *Article 428j*

###### *Residual maturity of a liability or regulatory capital*

1. Unless specified otherwise in this Chapter, institutions shall take into account the residual contractual maturity of their liabilities and regulatory capital to determine the appropriate available stable funding factors to be applied under Section 2 of this Chapter.
2. Institutions shall take into account existing options to determine the residual maturity of a liability or of regulatory capital. They shall do so on the assumption that the counterparty will redeem a call option 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 the institution's ability not to exercise the option, considering in particular market expectations that institutions should redeem certain liabilities before their maturity.

3. Institutions shall treat deposits with a fixed notice period according to their notice period and term deposits according to their residual maturity. By way of derogation from paragraph 2, institutions shall disregard options for early withdrawals, where the depositor has to pay a penalty for early withdrawals within one year, such penalty as laid down under Article 25(4)(b) of Delegated Regulation (EU) 2015/61, to determine the residual maturity of term retail deposits.

4. To determine the available stable funding factors to be applied under Section 2 of this Chapter, institutions shall treat any portion of liabilities having a residual maturity of one year or more that matures in less than six months or 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.

Deferred tax liabilities and minority interests shall be subject to one of the following factors:

- (i) 0%, where the effective residual maturity of the deferred tax liability or minority interest is less than six months;

- (ii) 50%, where the effective residual maturity of the deferred tax liability or minority interest is a minimum of six months and less than one year;
- (iii) 100%, where the effective residual maturity of the deferred tax liability or minority interest is one year or more.

2. The following liabilities shall be subject to a 0% available stable funding factor:

- (a) trade date payables arising from purchases of financial instruments, foreign currencies and 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, but are still expected to, settle;
- (b) liabilities that are categorised as 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.

3. Institutions shall apply a 0% available stable funding factor to the absolute value of the difference, if negative, between the sum of market values across all netting sets with positive market value and the sum of market values across all netting sets with negative market value calculated in accordance with Article 428d of this Regulation.

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 market value of a netting set with positive market value where the collateral received as variation margin qualifies as Level 1 assets under Title II of Delegated Regulation (EU) 2015/61, excluding extremely high quality covered bonds referred to in point (f) of Article 10(1) of Delegated Regulation (EU) 2015/61, and that institutions are legally entitled and operationally able to reuse;

(b) all variation margin posted by institutions to their counterparties shall be deducted from the market value of a netting set with negative market value.

*Article 428l*

*50% available stable funding factor*

By way of derogation from Article 428k, 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 Article 27 of Delegated Regulation (EU) 2015/61;

(b) liabilities with a residual maturity of less than one year provided by:

(i) the central government of a Member State or a third country;

(ii) regional governments or local authorities of a Member State or a third country;

(iii) public sector entities in a Member State or 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);



(c) liabilities with a residual contractual maturity of a minimum of six months and 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 with a residual maturity of a minimum of six months and less than one year not referred to in Articles 428m to 428o.

*Article 428m*

*90% available stable funding factor*

By way of derogation from Article 428k, sight retail deposits, retail deposits with a fixed notice period and term retail deposits having a residual maturity of less than one year that fulfil the criteria set out in Article 25 of Delegated Regulation (EU) 2015/61 shall be subject to a 90% available stable funding factor.

*Article 428n*

*95% available stable funding factor*

By way of derogation from Article 428k, sight retail deposits, retail deposits with a fixed notice period and term retail deposits having a residual maturity of less than one year that fulfil the criteria set out in Article 24 of Delegated Regulation (EU) 2015/61 shall be subject to a 95% available stable funding factor.

*Article 428o*

*100% available stable funding factor*

By way of derogation from Article 428k, 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 expected 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 specified otherwise 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 appropriate 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 secured lending transactions and capital market-driven transactions as defined in Article 192(2) and (3), 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 secured lending transactions and capital market-driven transactions as defined in Article 192(2) and (3), that are not accounted for in their balance sheet but on which they have beneficial ownership shall be subject to the appropriate required stable funding factors to be applied under Section 2 of this Chapter.
3. Assets that institutions have lent, including in secured lending transactions and capital market driven transactions as defined in Article 192(2) and (3), over which they retain beneficial ownership, even if 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 appropriate required stable funding factors to be applied under Section 2 of this Chapter. Otherwise, these assets shall be excluded from the calculation of the amount of required stable funding.
  - 3a. An asset encumbered for a residual maturity of six months or longer shall be assigned the required stable funding factor to be applied under Section 2 of this Chapter either to the asset if it were held unencumbered or to the encumbered asset, whichever is higher. The same shall apply where the residual maturity of the encumbered asset 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 of this Chapter to the same assets if they were held unencumbered.

3b. Where an institution re-uses or re-pledges an asset that was borrowed, including in secured lending transactions and capital market-driven transactions as defined in Article 192(2) and (3), 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 this transaction cannot mature without the institution returning the asset borrowed.

4. 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. Those assets shall include assets placed by a credit institution with the 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 set out in Chapter 2 of Delegated Regulation (EU) 2015/61, 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.

4a. In the case of non-standard, temporary operations conducted by the ECB or the central bank of a Member State or of a third country in order to achieve its mandate in a period of market-wide financial stress or exceptional macroeconomic challenges, the following assets may receive a reduced required stable funding factor:

(a) assets encumbered for a residual maturity of six months or more for the operations referred to in the first subparagraph, by way of a derogation from point (f) of Article 428ac and from point (a) of Article 428ag(1);

(b) monies due of a residual maturity of six months or more resulting from the operations referred to in the first subparagraph, by way of a derogation from letters (i) and (ii) of point (d) of Article 428ac, from point (b) of Article 428ae and from point (c) of Article 428af.

Competent authorities shall determine, with the approval of the central bank that is the counterparty to the transaction, the appropriate required stable funding factor to be applied to the assets referred to in point (a) and (b) of the preceding subparagraph. For encumbered assets referred to in point (a), the required stable funding factor to be applied shall not be lower than the required stable funding factor that would apply to those assets if they were held unencumbered under Section 2.

When applying a reduced required stable funding factor in accordance with the preceding subparagraph, competent authorities shall closely monitor the impact of this reduced factor on institutions' stable funding positions and take appropriate supervisory measures if necessary.

5. Institutions shall exclude assets associated with collateral recognised as variation margin posted in accordance with point (b) of Articles 428k(3) and 428ag(3) or as initial margin posted or as contribution to the default fund of a CCP in accordance with points (a) and (b) of Article 428af from other parts of calculation of the amount of required stable funding in accordance with this Chapter in order to avoid any double-counting.

6. 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 in the institutions' balance sheet and that these transactions will be reflected in the institutions' balance sheet when settled.

7. Competent authorities may determine 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 within the one-year horizon of the net stable funding ratio. To determine those factors, competent authorities shall in particular take into account material reputational damage for 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 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 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 appropriate required stable funding factors to be applied to their assets and off-balance sheet items under Section 2 of this Chapter.

2.

3.

4. Institutions shall treat assets that have been segregated in accordance with Article 11(3) of Regulation (EU) No 648/2012 in accordance with their underlying exposure. Institutions shall however subject those assets to higher required stable funding factors depending on the term of encumbrance to be determined by competent authorities, who shall consider whether the institution can freely dispose or exchange such assets and the term of the liabilities to the institutions' customers that generate this segregation requirement.

5. 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 maturity. For options 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 considering markets' and clients' expectations that the institution should extend certain assets at their maturity date.

6. For amortising loans with a residual contractual maturity of one year or more, the portion that matures 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 to determine the appropriate required stable funding factors to be applied in accordance with Section 2 of this Chapter.

## 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 eligible as Level 1 high quality liquid assets in accordance with Article 10 of Delegated Regulation (EU) 2015/61, excluding extremely high quality covered bonds referred to in point (f) of Article 10(1) of that Delegated Regulation, regardless of their compliance with the operational requirements as set out in Article 8 of that Delegated Regulation;
  - (b) unencumbered shares or units in CIUs eligible for a 0% haircut for the calculation of the liquidity coverage ratio in accordance with point (a) of Article 15(2) of Delegated Regulation (EU) 2015/61, regardless of their compliance with the operational requirements and with the requirements on the composition of the liquidity buffer as set out in Articles 8 and 17 of that Delegated Regulation respectively;
  - (c) all central bank reserves, held in the ECB or in the central bank of a Member State or of a third country, including required reserves and excess reserves;
  - (d) all claims on the ECB, the central bank of a Member State or of a third country with a residual maturity of less than six months;

(e) trade date receivables arising from sales of financial instruments, foreign currencies and 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, but are still expected to settle;

(f) assets that are categorised as interdependent with liabilities in accordance with Article 428f.

2. By way of derogation from point (c) of paragraph 1 of this Article, competent authorities may decide, with the agreement of the relevant central bank, to apply a higher required stable funding factor to required reserves, considering in particular the extent to which reserve requirements exist on a one-year horizon and therefore require associated stable funding.

For subsidiaries having their head office situated in a third country, where the required central bank reserves are subject to a higher required stable funding factor under the national law of that third country setting out the net stable funding requirement, this 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 eligible for a 5% haircut for the calculation of the liquidity coverage ratio in accordance with point (b) of Article 15(2) of Delegated Regulation (EU) 2015/61, regardless of their compliance with the operational requirements and with the requirements on the composition of the liquidity buffer as set out in Articles 8 and 17 of that Delegated Regulation ;

(b) monies due that have a residual maturity of less than six months resulting from secured lending transactions and capital market-driven transactions as defined in Article 192(2) and (3) with financial customers, where those monies due are collateralised by assets that qualify as Level 1 assets under Title II of Delegated Regulation (EU) 2015/61, excluding extremely high quality covered bonds referred to in point (f) of Article 10(1) of that Delegated Regulation, and where the institution would be legally entitled and operationally able to reuse those assets for the life of the transaction. Institutions shall take those monies due into account on a net basis where Article 428e of this Regulation applies;

(c) the undrawn portion of committed credit and liquidity facilities as referred to in Article 31(1) of Delegated Regulation (EU) 2015/61;

(d) trade finance off-balance sheet related products as referred to in Article 111(1) of this Regulation with a residual maturity of less than six months.

2. For all netting sets of derivative contracts, institutions shall apply a 5% required stable funding factor to the absolute market value of those netting sets of derivative contracts, gross of any collateral posted, where those netting sets have a negative market value.

*Article 428t*

*7% required stable funding factor*

Unencumbered assets eligible as Level 1 extremely high quality covered bonds in accordance with point (f) of Article 10(1) of Delegated Regulation (EU) 2015/61 shall be subject to a 7% required stable funding factor, regardless of their compliance with the operational requirements and with the requirements on the composition of the liquidity buffer as set out in Articles 8 and 17 of that Delegated Regulation.

*Article 428u*

*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 that have a residual maturity of less than six months resulting from secured lending transactions and capital market-driven transactions as defined in Article 192(2) and (3) with financial customers, other than those referred to in point (b) of Article 428s. Those monies due shall be taken into account on a net basis where Article 428e applies;
- (b) monies due that have a residual maturity of less than six months resulting from transactions with financial customers other than those referred to in point (b) of Article 428s and in point (a) of this Article;
- (c) trade finance on-balance sheet related products with a residual maturity of less than six months;
- (d) trade finance off-balance sheet related products as referred to in Article 111(1) with a residual maturity of minimum six months and less than one year.

*Article 428v*

*12% required stable funding factor*

Unencumbered shares or units in CIUs eligible for a 12% haircut for the calculation of the liquidity coverage ratio in accordance with point (c) of Article 15(2) of Delegated Regulation (EU) 2015/61 shall be subject to a 12% required stable funding factor, regardless of their compliance with the operational requirements and with the requirements on the composition of the liquidity buffer as set out in Articles 8 and 17 of that Delegated Regulation.

*Article 428w*

*15% required stable funding factor*

The following assets and off-balance sheet items shall be subject to a 15% required stable funding factor:

- (a) unencumbered assets eligible as Level 2A assets in accordance Article 11 of Delegated Regulation (EU) 2015/61, regardless of their compliance with the operational requirements and with the requirements on the composition of the liquidity buffer as set out in Articles 8 and 17 of that Delegated Regulation;
- (b) trade finance off-balance sheet related products as referred to in Article 111(1) with a residual maturity of one year or more.

*Article 428x*

*20% required stable funding factor*

Unencumbered shares or units in CIUs eligible for a 20% haircut for the calculation of the liquidity coverage ratio in accordance with point (d) of Article 15(2) of Delegated Regulation (EU) 2015/61 shall be subject to a 20% required stable funding factor, regardless of their compliance with the operational requirements and with the requirements on the composition of the liquidity buffer as set out in Articles 8 and 17 of that Delegated Regulation.

*Article 428y*

*25% required stable funding factor*

Unencumbered Level 2B securitisations referred to in point (a) of Article 13(14) of Delegated Regulation (EU) 2015/61 shall be subject to a 25% required stable funding factor, regardless of their compliance with the operational requirements and with the requirements on the composition of the liquidity buffer as set out in Articles 8 and 17 of that Delegated Regulation.

*Article 428z*

*30% required stable funding factor*

The following assets shall be subject to a 30% required stable funding factor:

- (a) unencumbered high quality covered bonds referred to in point (e) of Article 12(1) of Delegated Regulation (EU) 2015/61, regardless of their compliance with the operational requirements and with the requirements on the composition of the liquidity buffer as set out in Articles 8 and 17 of that Delegated Regulation;
- (b) unencumbered shares or units in CIUs eligible for a 30% haircut for the calculation of the liquidity coverage ratio in accordance with point (e) of Article 15(2) of Delegated Regulation (EU) 2015/61, regardless of their compliance with the operational requirements and with the requirements on the composition of the liquidity buffer as set out in Articles 8 and 17 of that Delegated Regulation.

*Article 428aa*

*35% required stable funding factor*

The following assets shall be subject to a 35% required stable funding factor:

- (a) unencumbered Level 2B securitisations referred to in point (b) of Article 13(14) of Delegated Regulation (EU) 2015/61, regardless of their compliance with the operational requirements and with the requirements on the composition of the liquidity buffer as set out in Articles 8 and 17 of that Delegated Regulation;

(b) unencumbered shares or units in CIUs eligible for a 35% haircut for the calculation of the liquidity coverage ratio in application of point (f) of Article 15(2) of Delegated Regulation (EU) 2015/61, regardless of their compliance with the operational requirements and with the requirements on the composition of the liquidity buffer as set out in Articles 8 and 17 of that Delegated Regulation.

*Article 428ab*

*40% required stable funding factor*

Unencumbered shares or units in CIUs eligible for a 40% haircut for the calculation of the liquidity coverage ratio in application of point (g) of Article 15(2) of Delegated Regulation (EU) 2015/61 shall be subject to a 40% required stable funding factor, regardless of their compliance with the operational requirements and with the requirements on the composition of the liquidity buffer as set out in Articles 8 and 17 of that Delegated Regulation.

*Article 428ac*

*50% required stable funding factor*

The following assets shall be subject to a 50% required stable funding factor:

- (a) unencumbered assets eligible as Level 2B assets in accordance with Article 12 of Delegated Regulation (EU) 2015/61, excluding Level 2B securitisations and high quality covered bonds referred to in points (a) and (e) of Article 12(1) of that Delegated Regulation, regardless of their compliance with the operational requirements and with the requirements on the composition of the liquidity buffer as set out Articles 8 and 17 of that Delegated Regulation;
- (b) deposits held by the institution at another financial institution that fulfil the criteria for operational deposits as set out in Article 27 of Delegated Regulation (EU) 2015/61;

- (c) monies due with a residual maturity of less than one year resulting from transactions with:
  - (i) the central government of a Member State or a third country;
  - (ii) regional governments or local authorities in a Member State or a third country;
  - (iii) public sector entities of a Member State or a third country;
  - (iv) multilateral development banks referred to in Article 117(2) and international organisations referred to in Article 118;
  - (v) credit institutions referred to in point (e) of Article 10(1) of Delegated Regulation (EU) 2015/61;
  - (vi) non-financial corporates, retail customers and SMEs;
  - (vii) 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 with a residual maturity of minimum six months and less than one year resulting from transactions 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 minimum six months and less than one year;

(f) assets encumbered for a residual maturity of minimum six months and less than one year, except where those assets would be assigned a higher required stable funding factor in accordance with Articles 428ad to 428ag of this Regulation 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 428ab of this Regulation.

*Article 428ad*

*55% required stable funding factor*

Unencumbered shares or units in CIUs eligible for a 55% haircut for the calculation of the liquidity coverage ratio in accordance with point (h) of Article 15(2) of Delegated Regulation (EU) 2015/61 shall be subject to a 55% required stable funding factor, regardless of their compliance with the operational requirements and with the requirements on the composition of the liquidity buffer as set out in Articles 8 and 17 of that Delegated Regulation.

*Article 428ae*

*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 428ac, 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 428af*

*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 derivatives contracts, unless those assets would be assigned a higher required stable funding factor in accordance with Article 428ag 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, 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 428ag 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 428ae, 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 in accordance with Articles 10 to 13 of Delegated Regulation (EU) 2015/61;
- (f) unencumbered exchange-traded equities that are not eligible as Level 2B assets in accordance with Article 12 of Delegated Regulation (EU) 2015/61;
- (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 by covered bonds that meet the eligibility requirements for the treatment set out in Article 129(4) or (5).

*Article 428ag*

*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 428r to 428af, including loans to financial customers having a residual contractual maturity of one year or more, non-performing exposures, items deducted from regulatory capital, fixed assets, non-exchange traded equities, retained interest, insurance assets, defaulted securities.

2.

3. Institutions shall apply a 100% required stable funding factor to the difference, if positive, between the sum of market values across all netting sets with positive market value and the sum of market values across all netting sets with negative market 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 market value of a netting set with positive market value where the collateral received as variation margins qualify as Level 1 assets in accordance with Title II of Delegated Regulation (EU) 2015/61, excluding extremely high quality covered bonds referred to in point (f) of Article 10(1) of that Delegated Regulation, and that institutions would be legally entitled and operationally able to reuse;

(b) all variation margin posted by institutions to their counterparties shall be deducted from the market value of a netting set with negative market value."

(115) 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 to 4 of this Article.

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 contracts listed in Annex II, credit derivatives and the positions defined in Article 429e, calculated in accordance with Article 429b(1);

(b) 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 SFTs, including those that are off-balance sheet, calculated in accordance with Article 429e;
- (d) off-balance sheet items, excluding contracts listed in Annex II, credit derivatives, SFTs and positions defined 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 sums referred to in points (a) and (d) of Article 429(4) 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.

4a. 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 mitigation purchased shall not be used to reduce the total exposure measure;
- (b) assets shall not be netted with liabilities.

5. By way of derogation from point (d) of paragraph 4, the following 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 point (b) of paragraph 4;

(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, institutions may consider an affiliated entity as a client only where that entity is outside the scope of regulatory consolidation at the level at which the requirement set out in Article 92(3)(d) is applied.

6. For the purposes of paragraph 4(e) 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 time frame established generally by law or convention in the marketplace concerned.

#### *Article 429a*

##### *Exposures excluded from the exposure measure*

1. By way of derogation from Article 429(4), an institution may exclude any of the following exposures from its exposure measure:

- (a) the amounts deducted from Common Equity Tier 1 items in accordance with Article 36(1)(d);
- (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);

- (d) where the institution is a public development credit institution, the exposures arising from assets that constitute claims on 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 export credit agency or by a central government;
  - (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 laid down 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 laid down 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 of 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 International Financial Reporting Standard (IFRS) 10, as applied in accordance with Regulation (EC) No 1606/2002, where applicable.
- (j) exposures that meet all of 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 purposes of funding general interest investments;
- (k) the excess collateral deposited at triparty 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 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 laid down in Article 243. Institution shall include any retained exposure in the exposure measure.

2. For the purposes of point (d) and (e) of paragraph 1, public development credit institution means a credit institution that meets all of 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. For these purposes, 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;
- (c) its goal is not to maximise profit or market share;
- (d) subject to 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 the national law of Member States 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.

3. Institutions shall not apply the treatment set out in points (g) and (h) of paragraph 1, where the condition in the last subparagraph of Article 429(5) is not met.

4. 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 governments or local authorities 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 governments or local authorities in a Member State.

*Article 429b*

*Calculation of the exposure value of assets*

1. Institutions shall calculate the exposure value of assets, excluding contracts listed in Annex II, credit derivatives and the positions defined in Article 429e in accordance with the following principles:
  - (a) the exposure values of assets means exposure values as defined in the first sentence of Article 111(1);
  - (b)
  - (c)
  - (d) SFTs shall not be netted.
  
2. For the purposes of point (b) of Article 429(4a), a cash pooling arrangement offered by an institution does not violate the condition set out in that point 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 a group of entities 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 paragraph on a daily basis.
  
3. By way of derogation from paragraph 2, a cash pooling arrangement that does not meet the condition laid down in point (b) of that paragraph, but meets the condition laid down in point (a) of that paragraph, does not violate the condition laid down in point (b) of Article 429(4a), provided that the arrangement meets all of the following additional 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 leverage ratio exposure measure.

4. By way of derogation from point (d) of paragraph 1, institutions may calculate the exposure value of cash receivable and cash payable under an SFT 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 all of the following situations:
  - (i) in the normal course of business;
  - (ii) in the event of default, insolvency and bankruptcy;
- (c) the counterparties intend to settle on a net basis, 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 conclude 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 of the following conditions are met:

- (a) the transactions are settled through the same settlement system;
- (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 SFTs do not interfere with the completion of the net settlement of the cash receivables and payables.

The condition in point (c) of the first subparagraph is met only where the failure of any SFT 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 an SFT 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.

6. For the purposes of paragraphs 2 and 3, 'cash pooling arrangement' means an arrangement whereby the credit or debit balances of several individual accounts are combined for the purpose of cash or liquidity management.

#### *Article 429c*

##### *Calculation of the exposure value of derivatives*

1. Institutions shall calculate the exposure value of contracts listed in Annex II and of credit derivatives, including those that are off-balance sheet, in accordance with the method set out in Part Three, Title II, Chapter 6, Section 3.

When determining 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 when they are subject to a contractual cross-product netting agreement as referred to in point (c) of Article 295.

Institutions shall include in the 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 derivatives 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 of 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.

For the purposes of the first subparagraph, where an institution provides cash collateral to a counterparty and that collateral meets the conditions laid down in points (a) to (e) of that subparagraph, the institution shall consider that collateral as the variation margin posted to the counterparty and shall include it in the calculation of replacement cost.

For the purposes of point (b) of the first subparagraph, an institution shall be considered to have met the condition 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 derivatives 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 derivatives 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 Section 5 of Chapter 6 of Title II of Part Three to determine the exposure value of 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 purposes 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 exposure measure by the amount of margin they received.

*Article 429d*

*Additional provisions on the calculation of the exposure value of written credit derivatives*

1. In addition to the treatment 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.

2. Institutions may fully or partly reduce the exposure value calculated in accordance with paragraph 1 by the effective notional amount of purchased credit derivatives provided that all of 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 services structure and for which the effective notional amount referenced by the corresponding written credit derivative is excluded from the exposure measure in accordance with point (g) or (h) of Article 429a, as applicable.

For the purposes of the PFE calculation 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 exposure measure.

3. For the purposes of point (b) of paragraph 2, '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.

For the purposes of the first subparagraph, two reference names shall be the same only where they refer to the same legal entity.

4. By way of derogation from point (b) of paragraph 2, 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.

5. 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.

6. In 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 2 only where the protection purchased is economically equivalent to buying protection separately on each of the individual obligations in the pool.

7. 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.

*Article 429e*

*Counterparty credit risk add-on for SFTs*

1. In addition to the calculation of the exposure value of SFTs, including those that are off-balance sheet in accordance with Article 429b(1), institutions shall include in the exposure measure an add-on for counterparty credit risk determined in accordance with paragraphs 2 or 3 of this Article, as applicable.

2. Institutions shall calculate the add-on for transactions with a counterparty which are not subject to a master netting agreement that meets the conditions laid down in Article 206 ( $E_i^*$ ) on a transaction-by-transaction basis in accordance with the following formula:

$$E_i^* = \max\{0, E_i - C_i\}$$

where:

$i$  = the index that denotes the transaction;

$E_i$  = the fair value of securities or cash lent to the counterparty under transaction  $i$ ;

$C_i$  = the fair value of cash or securities 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 laid down in Article 206 ( $E_i^*$ ) 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:

$i$  = the index that denotes the netting agreement;

$E_i$  = the fair value of securities or cash lent to the counterparty for the transactions subject to master netting agreement  $i$ ;

$C_i$  = the fair value of cash or securities received from the counterparty subject to master netting agreement  $i$ .

4. For the purposes of paragraphs 2 and 3, the term counterparty includes also triparty agents that receive collateral in deposit and manage the collateral in the case of triparty 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 SFTs including those that are off-balance sheet. Institutions may use this 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) to (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 an SFT, including an off-balance sheet SFT, the following shall apply to the calculation of the institution's exposure measure:



- (a) where the institution provides an indemnity or guarantee to one of the parties in the SFT 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 determined in accordance with paragraph 2 or 3, as applicable, in the 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 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 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 an SFT, the institution shall calculate its exposure measure in accordance with points (a) to (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 the exposure value of off-balance-sheet items, excluding contracts listed in Annex II, credit derivatives, SFTs and positions defined in Article 429d, in accordance with Article 111(1).

In accordance with Article 166(9), where a commitment refers to the extension of another commitment, institutions shall use the lower of the two conversion factors associated with the individual commitment.

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, 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 exposure measure the full nominal value of commitments to pay related to regular-way purchases.

For the purposes of the first subparagraph, institutions may offset the full nominal value of the commitments 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.

*Article 430*  
*Reporting requirement*

(116) Part Eight is replaced by the following:

"PART EIGHT

DISCLOSURE BY INSTITUTIONS

TITLE I

GENERAL PRINCIPLES

*Article 430a*

*Definitions*

For the purposes of this Part and Articles 13 and 99 the following definitions shall apply:

- (1) "large institution" means an institution that meets any of the following conditions:
  - (a) the institution has been identified as a global Systemically important institution ('G-SII') in accordance with Article 131(1) and (2) of Directive 2013/36/EU ;
  - (b) the institution has been identified as other systemically important institution ('O-SII') in accordance with Article 131(1) and (3) of Directive 2013/36/EU;
  - (c) the institution is, in the Member State where it is established, one of the three largest institutions by total value of assets;
  - (d) the total value of the institution's assets on an individual basis or, where applicable, on the basis of its consolidation situation in accordance with this Regulation and Directive 2013/36/EU is equal to or larger than EUR 30 billion;
- (2) "large subsidiary" means a subsidiary that qualifies as a large institution as defined in paragraph 1.

- (3) "non-listed institution" means an institution that has not 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.
- (4) "small institution" means an institution that meets all of the following conditions, provided that it is not a large institution as defined in point (1):
- (a) the 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 disclosure period. Member States may provide for a lower threshold;
  - (b) the institution's trading book and derivative activities do not exceed the thresholds set out in Articles 94 (1) and 273a (2), respectively;
  - (c) 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;
  - (d) the institution does not use internal models to meet the prudential requirements that it is subject to 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 in article 433c at consolidated level.
  - (e) the institution is subject to simplified obligations in relation to recovery and resolution planning in accordance with Article 4 of Directive 2014/59/EU;
- (5) 'financial report' has the same meaning as under Articles 4 and 5 of Directive 2004/109/EC.

## *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 shall publicly disclose the information laid down therein.
3. The management body or senior management of institutions 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. The level of verification for information required to be disclosed in Part Eight should, at a minimum, be the same as for information provided within the management report as part of the financial report. At least one member of the management body or senior management of institutions shall attest in writing that the relevant institution has made the disclosures required under this Part in accordance with the policies and internal processes, systems and controls referred to in this paragraph. The written attestation referred to in this paragraph 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 Part Eight 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.

Notwithstanding the foregoing, 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. 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, except for the disclosures laid down in Article 435(2)(c), Article 437 and Article 450.

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, in accordance with Article 16 of Regulation (EU) No 1093/2010, issue guidelines on how institutions have to apply materiality in relation to the disclosure requirements of Title 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, if shared with competitors, would render the investments of institutions therein less valuable.

Information shall be regarded as confidential where the institutions are obliged by customers or other counterparty relationships to keep that information confidential.

EBA shall, in accordance with Article 16 of Regulation (EU) No 1093/2010, issue guidelines 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 Title II and III in the manner set out in Articles 433a to 433c.

Annual disclosures shall be published on the same date as the date 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 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 and, at least, with the following frequency:
  - (a) all the information required under this Part on an annual basis;
  - (b) the information referred to in point (a) of Article 437, point (d) of Article 438, points (f) to (l) of Article 439, Article 440, points (c), (e) and (f) of Article 442, point (e) of Article 444, Article 445, point (a) and (b) of Article 448(1), point (k) to (m) of Article 449, points (a) and (b) of Article 451(1), Article 451a(2) and (3), point (g) of Article 452(1), points (f) to (j) of Article 453, and paragraphs (2) and (3) of Article 455 on a semi-annual basis;
  - (c) the information referred to in points (d) and (h) of Article 438 and the key metrics referred to in Article 447 on a quarterly basis.
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 and, at least, 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 subject to Articles 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 to be disclosed on the quarterly basis.

*Article 433b*

*Disclosures by small institutions*

1. Small institutions shall disclose the information outlined below and, at least, with the following frequency:



- (a) on an annual basis:
  - (i) the information referred to in points (a), (e) and (f) of Article 435(1);
  - (ii) the information referred to in points (a), (b) and (c) of Article 435(2);
  - (iii) the information referred to in Article 450;
  - (iv) the information referred to in point (a) of Article 437, point (d) of Article 438, Article 440, points (c), (e) and (f) of Article 442, point (e) of Article 444, points (a) and (b) of Article 448, points (k) to (m) of Article 449, points (a) and (b) of Article 451(1), Article 451a(2) and (3) and point (f) to (i) of Article 453.
- (b) the key metrics referred to in Article 447 on a semi-annual basis;

2. By way of derogation from paragraph 1, small institutions that are non-listed institutions shall disclose the following information at least on an annual basis:

- (a) the information referred to in points (a) and (e) of Article 435(1);
- (b) the information referred to in points (a), (b) and (c) of Article 435(2);
- (c) [ ];
- (d) the key metrics referred to in Article 447.

#### *Article 433c*

##### *Disclosures by other institutions*

1. Institutions that are not subject to Articles 433a or 433b shall disclose the information outlined below and, at least, with the following frequency:

- (a) all the information laid down in 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, other institutions that are non-listed institutions shall disclose the information outlined below and, at least, with the following frequency:

- (a) the information referred to in (a), (e) and (f) of Article 435(1), Article 435(2), Article 450, point (a) of Article 437, point (d) of Article 438, points (f) to (l) of Article 439, points (c), (e) and (f) of Article 442, point (e) of Article 444, points (a) and (b) of Article 448, points (k) to (m) of Article 449, points (a) and (b) of Article 451(1), Article 451a(2) and (3), point (g) of Article 452(1), point (f) to (i) of Article 453 and paragraphs (2) and (3) of Article 455 on an annual basis;
- (b) the key metrics referred to in Article 447 on a semi-annual basis.

#### *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.
3. [ ]

#### *Article 434a*

##### *Uniform disclosure formats*

1. 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 Part One to Part Seven. To facilitate the comparability of information, the implementing technical standards shall seek to maintain consistency of disclosure formats with international standards on disclosures.

Disclosure formats shall be in tabular format where appropriate.

2. EBA shall submit to the Commission the draft implementing technical standards referred to in paragraph 1 by [31 December 2019].

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;

- (da) for market risk, the policies referred to in Article 104(1) for determining which position is to be included in the trading book in accordance with Article 104;
  - (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 intra-group 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 the requirements of this Regulation as follows:

- (a) the name of the institution to which the requirements of this Regulation apply;
- (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 Part One, Title II, Sections 2 and 3. 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 scope of accounting consolidation. The outline of the legal entities included within the scope of the regulatory consolidation shall describe the method of regulatory consolidation where it is different from the accounting consolidation method, whether those entities are fully consolidated, proportionally consolidated and whether the holdings in those legal entities are deducted from own funds;
  - (ba) a breakdown of assets and liabilities of the consolidated financial statements prepared in accordance with the requirements on regulatory consolidation pursuant to Part One, Title II, Sections 2 and 3, broken down by type of risks as referred to under part Eight;
  - (bb) 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 Part One, Title II, Sections 2 and 3, and the exposure amount used for regulatory purposes. This reconciliation shall be supplemented by qualitative information on these main sources of differences;

- (bc) for exposures from the trading and the non-trading book that are adjusted in accordance with Part Two, Title I, Chapter 2, Article 34 and Part Three, Title I, Chapter 3, 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 trading book and non-trading book positions;
- (c) 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;
- (d) 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;
- (e) 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 between Common Equity Tier 1 items, Additional Tier 1 items, of Tier 2 items and the filters and deductions applied to own funds of the institution pursuant to Articles 32 to 35, 36, 56, 66 and 79 and 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) each deduction made pursuant to Articles 36, 56 and 66;
  - (iii) items not deducted in accordance with 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 subject to Articles 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 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 Articles 73 and 104(1)(a) 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 their 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 and the risk-weighted exposure amounts for each category of specialised lending referred to in Table 1 of Article 153(5) and associated expected losses 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 fund instruments held in any insurance undertaking, re- insurance 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 fund requirement and the capital adequacy ratio of the financial conglomerate calculated in accordance with Article 6 of the Directive 2002/87/EC and Annex I to that Directive where methods 1 or 2 set out in that Annex are applied;
- (h) the variations in the risk weighted exposure amounts of the current reporting period compared to the immediately preceding reporting period that result from the use of internal models, including an outline of the key drivers explaining those variations.
- (i)

*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 Part Three, Title II, Chapter 6:

- (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 Wrong-Way risk as defined in Article 291;
- (d) 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, and the amount of collateral the institution would have to provide if its credit rating was downgraded;
- (e)

- (f) for derivative transactions, the exposure values before and after the effect of credit risk mitigation as determined under the methods set out in Part Three, Title II, Chapter 6, Sections 3 to 6, 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 credit risk mitigation as determined under the methods set out in Part Three, Title II, Chapter 4 and Chapter 6, whichever method is used, and the associated risk exposure amounts broken down by applicable method;
- (ga) the exposure values after credit risk mitigation effects and associated risk exposures for credit valuation adjustment capital charge separately for each method as set out in Part Three, Title VI;
- (h) the exposure value to central counterparties and the associated risk exposures within the scope of Part Three Title II, Chapter 6, Section 9, separately for qualifying and non-qualifying central counterparties, and broken down by types of exposures;
- (i) 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;
- (j) the estimate of alpha where the institution has received the permission of the competent authorities to use their own estimate alpha in accordance with Article 284(9);
- (ja) separately, the disclosures included in point (e) of Article 444 and point (g) of Article 452(1);
- (k) for institutions using the methods set out in Part Three, Title II, Chapter 6, Sections 4 to 5, the size of their on- and off-balance sheet derivative business as calculated under Article 273a(1) and (2), as applicable.

Where the central bank of a Member State undertakes liquidity assistance in the form of collateral swap transactions, the competent authority may exempt the requirement in point (d) where it deems that the disclosure of the information referred to therein could reveal the provision of emergency liquidity assistance. For these 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 Title VII, Chapter 4 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*

Institutions identified as G-SIIs in accordance with Article 131 of Directive 2013/36/EU 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 that Article.

*Article 442*

*Disclosure of exposures to credit risk and dilution risk*

Institutions shall disclose the following information regarding their exposure 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 Part Three, Title II, Chapter 2, 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 reporting 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 with the credit quality steps as set out in Part Three, Title II, Chapter 2, taking into account that this information needs not be disclosed where the institutions comply with the standard association published by EBA;
- (e) the exposure values after credit risk mitigation associated with each credit quality step as set out in Part Three, Title II, Chapter 2 by exposure classes, as well as the exposure values deducted from own funds.

*Article 445*

*Disclosure of exposure to market risk*

The 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 provisions. In addition, own funds requirements for 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 on the relevant internal and external factors being considered in the institution's 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 fund 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 Article 104(1)(a) 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 of the leverage ratio as calculated in accordance with Article 429;

- (f) the following information in relation to their liquidity coverage ratio as calculated in accordance with Delegated Regulation (EU) 2015/61:
- (i) the average or averages, as applicable, of their liquidity coverage ratio based on end of the month observations over the preceding twelve 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 in accordance with Title II of Delegated Regulation (EU) 2015/61, based on end of the month observations over the preceding twelve months for each quarter of the relevant disclosure period
  - (iii) the averages of their liquidity outflows, inflows and net liquidity outflows as calculated in accordance with Title III of Delegated Regulation (EU) 2015/61, based on end of the month observations over the preceding twelve 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 entry into force of the CRR 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 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 paragraph 3 of this Article and in Article 98(5a)(b) 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 point (a) and (b) of this paragraph and of any significant variations of those risks measures since the previous disclosure reference date;
- (e) the description of how institutions define, measure, mitigate and control the interest rate risks 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 and paragraph 2 of this Article for the purpose of calculating changes to the economic value of equity and to the net interest income under the six supervisory scenarios, including the rationale for those differences;
  - (iii) a description of the interest rate shock scenarios that institutions use to estimate those interest rate risks;
  - (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) of this Regulation;
  - (v) an outline of how often the evaluation of those interest rate risks occurs;
- (f) the description of the overall risk management and mitigation strategies for these risks;
- (g) average and longest repricing maturity assigned to non-maturity deposits.

2. By the way of derogation from paragraph 1, the requirements set out in points (c) and (e)(i) to (e)(iv) of paragraph 1 shall not apply to institutions that use the standardised methodology referred to in Article 84(1) of Directive 2013/36/EU.

3. EBA shall develop draft regulatory technical standards to specify for the purposes of paragraph 1:

- (a) in light of internationally agreed standards, the common modelling and parametric assumptions, excluding behavioural assumptions, that institutions shall reflect in their calculation of the net interest income referred to in point (b) of paragraph 1 which are limited to:

- (i) the inclusion and composition of cash-flows sensitive to interest rates arising from the institution's assets, liabilities and off-balance sheet items, including the treatment of commercial margins and other spread components;
  - (ii) the use of dynamic and/or static balance sheet models and the resulting treatment of amortised and maturing positions;
  - (iii) the period over which future net interest income shall be measured;
- (b) the two supervisory shock scenarios to be applied to interest rates for every currency as referred to in point (b) of paragraph 1.

EBA shall submit those draft regulatory technical standards to the Commission by [two years after entry into force of amending Regulation].

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

#### *Article 449*

##### *Disclosure of exposures to securitisation positions*

Institutions calculating risk-weighted exposure amounts in accordance with Part Three, Title II, Chapter 5 or own funds requirements in accordance with Articles 337 or 338 shall disclose the following information separately for their trading 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 (STS) securitisation framework, 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) risk retained in own-originated transactions;
  - (ii) risk incurred in relation to transactions originated by third parties.
- (c) [ ]
- (d) their approaches to 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;
- (e) 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;
- (f) a list of any legal entities in relation to which the institutions have disclosed that they have provided support in accordance with Part Three, Title II, Chapter 5;
- (g) 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;
- (h) a summary of their accounting policies for securitisation activity, including where relevant a distinction between securitisation and re-securitisation positions;

- (i) the names of the ECAs used for securitisations and the types of exposure for which each agency is used;
- (j) where applicable, a description of the Internal Assessment Approach as set out in Part Three, Title II, Chapter 5, 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 (i), 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;
- (k) separately for the trading and the non-trading book, the carrying amount of securitisation exposures, including information on whether the institutions have transferred significant credit risk associated in accordance with Part Three, Title II, Chapter 5, and for which the 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;
- (l) for the non-trading book activities, the following information:
  - (i) the aggregate amount of securitisation positions when 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, for each capital requirements approach used;

- (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, for each capital requirements approach used;
- (m) the amount of impaired or past due assets securitised and the losses recognised by the institutions during the current period, both broken down by exposure type.

*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 institutions' risk profile:

- (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 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 actions 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 500000 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), institutions that benefit from such a derogation shall indicate whether this is on the basis of point (a) and/or point (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 Directive 95/46/EC.

## *Article 451*

### *Disclosure of the leverage ratio*

1. Institutions, except those referred to in Article 6(5), shall disclose the following information regarding their leverage ratio as calculated in accordance with Article 429 and their management of excessive leverage risk:
  - (a) the leverage ratio and how the institutions apply Article 499(2);
  - (aa) the leverage ratio buffer referred to in Art. 92(1a), where applicable;
  - (b) a breakdown of the total exposure measure, 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 excluded from the exposure measure in accordance with Article 429a(1);
  - (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 leverage ratio exposure measure determined in accordance with article 429a(1)(d).

## *Article 451a*

### *Disclosure of liquidity requirements*

1. Institutions subject to Part Six of this Regulation shall disclose information on their liquidity coverage ratio, net stable funding ratio and liquidity risk management in accordance with this Article.



2. Institutions subject to Part Six of this Regulation shall disclose the following information in relation to their liquidity coverage ratio as calculated in accordance with Commission Delegated Regulation (EU) 2015/61<sup>15</sup>:

(a) the average or averages, as applicable, of their liquidity coverage ratio based on end of the month observations over the preceding twelve months for each quarter of the relevant disclosure period;

(b) the average or averages, as applicable, of total high quality liquid assets, after applying the relevant haircuts, included in the liquidity buffer in accordance with Title II of Delegated Regulation (EU) 2015/61, based on end of the month observations over the preceding twelve 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 Title III of Delegated Regulation (EU) 2015/61, based on end of the month observations over the preceding twelve months for each quarter of the relevant disclosure period.

3. Institutions subject to Part Six of this Regulation shall disclose the following information in relation to their net stable funding ratio as calculated in accordance with Title IV of Part Six of this Regulation:

(a) quarter-end figures of their net stable funding ratio calculated in accordance with Chapter 2 of Title IV of Part Six of this Regulation 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 of this Regulation;

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<sup>15</sup> Commission Delegated Regulation (EU) 2015/61 of 10 October 2014 to supplement Regulation (EU) No 575/2013 of the European Parliament and of the Council with regard to the liquidity coverage requirement for credit institutions (OJ L 11.17.1.2015. p.1)

(c) an overview of the amount of required stable funding calculated in accordance with Chapter 4 of Title IV of Part Six of this Regulation.

3. Credit institutions and investment firms subject to Part Six of this Regulation 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*

1. Institutions calculating the risk-weighted exposure amounts under the internal ratings based (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 Part Three, Title II, chapter 2 or to the IRB Approach laid down in Part Three, Title II, chapter 3, 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 conversation 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. For the purposes of this point, institutions shall use the exposure value as defined in Article 166;

(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
- (ca) the role of the functions involved in the development, approval and subsequent changes of the credit risk models;
- (cb) the scope and main content of the reporting related to credit risk models;
- (cc) 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 credit conversion factors, including assumptions employed in the derivation of those variables.

(d) 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;
- (iii)(bis) 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;
- (iv) 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 exposure values referred in points (i), (ii), (iii) and (iv) subject to that permission;

(v)

(e)

(f)

(g) 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 2.

2.

*Article 453*

*Disclosure of the use of credit risk mitigation techniques*

Institutions using credit risk mitigation techniques shall disclose the following information:

- (a) a description of the core 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 policies and processes for eligible collateral evaluation and management 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 purposes of reducing capital requirements, excluding those used as part of synthetic securitisation structures;
- (e) information about market or credit risk concentrations within the credit 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 assets;
- (g) [ ];
- (h) the corresponding conversion factor and the credit risk mitigation associated with the exposure and the incidence of credit mitigation techniques with and without substitution effect;

- (ha) for institutions calculating risk-weighted exposure amounts under the Standardised Approach, the on-balance sheet 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 made 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 as per the period end;
  - (ii) the stressed value-at-risk measures over the reporting period and as per the period end;
  - (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 as per the period-end;
- (e) the elements of the own funds requirement as specified in Article 364;
- (f) the weighted average liquidity horizon for each subportfolio 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.

(117) In Article 456, the following point (k) 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".

(117a) Article 458 is amended as follows :

(a) paragraph 2 is replaced by the following:

"2. Where the authority determined in accordance with paragraph 1 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 would better be addressed by means of stricter national measures, it shall notify the Commission and the ESRB. The ESRB shall forward the notification to the European Parliament, the Council, and EBA without delay.

The notification shall include relevant quantitative or qualitative evidence of all of the following:

- (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;
- (c) a justification of why Articles 124 and 164 of this Regulation and 133 and 136 of Directive 2013/36/EU cannot adequately address the macroprudential or systemic risk identified, taking into account the relative effectiveness of those measures;
- (d) 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 Article 395 to 403;
  - (iii) the public disclosure requirements laid down in Articles 431 to 455;
  - (iv) the level of the capital conservation buffer laid down in Article 129 of Directive 2013/36/EU;
  - (v) liquidity requirements laid down in Part Six;
  - (vi) risk weights for targeting asset bubbles in the residential property and commercial immovable property sector; or
  - (vii) intra financial sector exposures;
- (e) an explanation as to why the draft measures are deemed by the authority determined 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 receiving the notification referred to in paragraph 2, the ESRB and EBA shall provide their opinions on the points mentioned in that paragraph to the Council, the Commission and 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 complied with:

- (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) Articles 124 and 164 of this Regulation and Articles 133 and 136 of Directive 2013/36/EU cannot adequately address the macroprudential or systemic risk identified, taking into account the relative effectiveness of those measures;
- (c) the draft national measures are more suitable to address the identified macroprudential or systemic risk and 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;

- (d) the issue concerns only one Member State; and
- (e) the risks have not already been addressed by other measures in this Regulation or in Directive 2013/36/EU.

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 determined in accordance with paragraph 1.

In the absence of a Council implementing act to reject the draft national measures within one month after receipt of the proposal by the Commission, the Member State 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 set 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 measures. "

- (c) paragraph 9 is replaced by the following:

"9. Before the expiry of the authorisation issued in accordance with paragraph 4, the Member State 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."

(118) Article 460 is amended as follows:

(a) paragraph 1 is replaced by the following:

"1. The Commission is empowered to adopt a delegated act in accordance with Article 462 to specify in detail the general requirement set out in Article 412(1). The delegated act adopted in accordance with this paragraph shall be based on the items to be reported in accordance with Part Six, Title II and Annex III, 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.

The Commission is empowered to adopt a delegated act in accordance with Article 462 to amend or replace Delegated Regulation (EU) 2015/61 for the purposes of the application of Articles 8(3), 411, 412, 413, 416, 419, 422, 425, 428a, 428f, 428g, 428k to 428n, 428p, 428r, 428s, 428t, 428v to 428ad, 428af, 428ag and 451a of this Regulation."

(b) the following paragraph 3 is added:

"3. The Commission is empowered to adopt a delegated act in accordance with Article 462 to amend the list of products or services set out in Article 428f(2) if it deems 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 [three years after the date of application of the net stable funding ratio as set out in Title IV of Part Six]."

(118a) The following new Article 461a is inserted:

*Article 461a*

*Alternative standardised approach for market risks*

For the purposes of the reporting requirements set out in paragraph 1 of Article 101a, the Commission shall be empowered to adopt delegated acts in accordance with Article 462, to make technical adjustments to Articles 325h, 325i, 325j, 325af, 325al, 325an, 325aq, 325at, 325aw and 325ay of the alternative standardised approach set out in Part Three, Title IV, Chapter 1a taking into account of developments in international regulatory standards.

The Commission shall adopt the delegated act referred to in paragraph 1 by 31 December 2019".

(119)

(120) 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 shall not apply to investment firms whose main business 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 whom Council Directive 93/22/EEC of 10 May 1993 on investment services in the securities field (1) did not apply on 31 December 2006.”.

(b)

(120a) Point (c) of Article 493(3) is replaced by the following:

"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;"

(121) Article 494 is replaced by the following:

*"Article 494*

*Transitional provisions - requirement for own funds and eligible liabilities*

1. By way of derogation from Article 92a, as from 1 January 2019 until 31 December 2021, institutions identified as resolution entities 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 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 paragraphs 3 and 4 of Article 92;

(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 1 January 2019 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 paragraphs 3 and 4 of Article 92.

3. For the purposes of paragraph 3 of Article 72b, until the resolution authority assesses for the first time the elements referred to in points (b) and (c) of Article 45b(3) of Directive 2014/59/EU and confirms there is no material adverse impact on the resolvability of the institution, 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 paragraphs 3 and 4 of Article 92, provided that they meet the conditions laid down in points (a) and (b) of Article 72b(3)."

(122) The following article 494a is inserted after article 494:

*"Article 494a*

*Grandfathering of issuances through SPEs*

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 of the following conditions are met:

- (a) the conditions laid down 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 laid down in this paragraph.

2. By way of derogation from Article 63 capital instruments not issued directly by an institution by an institution, as applicable shall qualify as Tier 2 instruments until 31 December 2021 only where all of the following conditions are met:

- (a) the conditions laid down 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 laid down in this paragraph."

(122a) The following article 494b is inserted after article 494a:

*"Article 494b*

*Grandfathering of own funds instruments and eligible liabilities instruments*

1. By way of derogation from Articles 51 and 52 of this Regulation, instruments issued prior to [date of entry into force of CRR 2] may qualify as Additional Tier 1 instruments at the latest until [6 years after the date of entry into force of CRR 2], where they meet the conditions laid down in Articles 51 and 52, except for the conditions referred to in points (q) and (r) of Article 52.

2. By way of derogation from Articles 62 and 63, instruments issued prior to [date of entry into force of CRR 2] may qualify as Tier 2 instruments at the latest until [6 years after the date of entry into force of CRR 2] where they meet the conditions laid down in Articles 62 and 63, except for the conditions referred to in points (o) and (p) of Article 63.

3. By way of derogation from Article 72a(1)(a), liabilities issued prior to [date of entry into force of CRR2] may qualify as eligible liabilities items where they satisfy the conditions laid down in Article 72b, except for the conditions referred to in points (f) to (m) of Article 72b(2)."

(123) 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 starting 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 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 act has not yet entered into force, the earlier of the following two dates:

- (i) two years after the date of entry into force of the implementing act;
- (ii) for CCPs that submitted the application after the [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 the [date of entry into force of this amending Regulation], two years after the entry into force of that Regulation.

2. Until the expiration of the deadline defined in paragraph 1, where a CCP referred to in that paragraph neither has a default fund nor has 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 ( $K_i$ ) 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:

$i$  = the index denoting the clearing member;

$IM_i$  = the initial margin posted to the CCP by clearing member  $i$ ;

$IM$  = 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 an implementing act under Article 5 of Regulation (EU) No 182/2011 to extend once, by 12 months, the transitional provisions set out in paragraph 1 of this Article.”.

(124) In Article 498(1), the first subparagraph is replaced by the following:

“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 93/22/EEC did not apply on 31 December 2006.”.

(125) Article 499 (3) is deleted.

(126) Article 501 is replaced by the following:

*"Article 501*

*Adjustment to 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 Chapter 3 of Title II of part Three, as applicable, in accordance with the following formula:

$$RWEA^* = RWEA \cdot \frac{\min\{E^*; EUR 1\,500\,000\} \cdot 0.7619 + \max\{E^* - EUR 1\,500\,000; 0\} \cdot 0.85}{E^*};$$

where:

RWEA\* = the RWEA adjusted by an SME supporting factor;

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 purpose 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 of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises<sup>16</sup>. 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)."

(127) The following Articles 501a, 501b and 501c are inserted:

*"Article 501a*

*Adjustment to capital 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. Capital requirements for credit risk calculated in accordance with Title II, Part III shall be multiplied by a factor of 0.75 provided the exposure complies with all the following criteria:

- (a) the exposure is included either in the corporate asset 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 primary source of repayment of the obligation is the income generated by the assets being financed, rather than the independent capacity of a broader commercial enterprise;

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<sup>16</sup> OJ L 124, 20.5.2003, p. 36.

- (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;
- (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 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 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 the 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;
- (k) where operating risks are material, they are properly managed;
- (l) the obligor uses tested technology and design;
- (m) all necessary permits and authorizations have been obtained;
- (n) the obligor uses derivatives only for risk-mitigation purposes.

2. For the purposes of paragraph 1(e), 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 government, regional government or local authority;
  - (ii) a PSE with an ECAI rating with a credit quality step of at least 3;
  - (iii) a corporate entity with an ECAI rating with a credit quality step of at least 3;
  - (iv) an entity that is replaceable without a significant change in the level and timing of revenues.
3. Institutions shall report to competent authorities every 6 months on the total amount of exposures to infrastructure project entities calculated in accordance with this Article.

4. The Commission shall, by [three years after the entry into force] 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 purpose 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 paragraph 1 (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).

*Article 501b*

[ ]

*Article 501c*

*Derogation for investment firms other than systemic investment firms*

Investment firms, that are not systemic investment firms as defined in point (139) of Article 4(1) and that are not intermediate parent undertakings pursuant to Article 21b of Directive 2013/36/EU, may continue to apply the provisions of this Regulation as they stood on [day before the date of entry into force of the amending regulation] provided that those investment firms notify their intention to apply this Article to the relevant competent authority by no later than [fixed date-before application].

*Article 501d*

*Derogation from reporting requirements*

By way of derogation from Articles 99, 100, 101, 394, 415 and 430, during the period between the date of application of this Regulation and the date of the first remittance specified in each of the technical standards referred to in those Articles, a competent authority may choose not to require institutions to report information in the format specified in the templates contained in Implementing Regulation (EU) No 680/2014 where those templates have not been updated to reflect the provisions in this Regulation."

(128) Article 507 is replaced by the following:

*"Article 507*

*Large exposures*

1. The EBA shall monitor the use of exemptions set out in Article 390 (6) and Article 400 (1) and Article 400(2) and by [one year after entry into force of the 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. The 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 the Council on the application of the derogations referred to in Article 390(4) and 401(2) concerning the methods for the calculation of exposure value of securities financing transactions, and specifically the need to take account of amendments in international standards determining the methods for such calculation.";

(129) In Article 510, the following paragraphs 4 to 9 are added:

"4. EBA shall monitor the amount of required stable funding covering the funding risk linked to the derivatives 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 these contracts set out in Article 428s(2), and report to the Commission on the opportunity to adopt a higher required stable funding factor or a more risk-sensitive measure by [three years after the date of application of the net stable funding ratio as set out in Title IV of Part Six]. This report shall at least assess:

(a) the opportunity to distinguish between margined and unmargined derivatives contracts;

(b) the opportunity to remove, increase or replace the requirement set out in Article 428s(2);

(c) the opportunity to change more broadly the treatment of derivatives contracts in the calculation of the net stable funding ratio, as set out under Article 428d, Article 428k(3), Article 428s(2), points (a) and (b) of Article 428af and Article 428ag(3), to better capture the funding risk linked to these contracts over the one-year horizon of the net stable funding ratio;

(e) the impact of the proposed changes on the amount of stable funding required for institutions' derivatives contracts.

5. If international standards developed by international fora amend the treatment of derivatives 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, these changes of international standards and the diversity of the banking sector in the Union, submit a legislative proposal to the European Parliament and the Council on how to amend the treatment of derivatives 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 these transactions.

6. [ ]

7. EBA shall monitor the amount of stable funding required to cover the funding risk linked to secured lending transactions and capital market-driven transactions, including to the assets received or given in these 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 this treatment by [three years after the date of application of the net stable funding ratio as set out in Title IV of Part Six]. This report shall at least assess:

(a) the opportunity to apply higher or lower stable funding factors to secured lending transactions and capital market-driven 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 (b) of Article 428s to secured lending transactions and capital market-driven transactions collateralised by other types of assets;

(c) the opportunity to apply stable funding factors to off-balance sheet items used in secured lending transactions and capital market-driven transactions as an alternative to the treatment set out in Article 428q(3);

(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(2) and assets resulting from transactions with a residual maturity of less than six months with financial customers that are subject to a 5% or 10% required stable funding factor in accordance with point (b) of Article 428s and points (a) and (b) of Article 428u;

(e) the impact of the introduction of higher or lower required stable funding factors for secured lending transactions and capital market-driven 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 these 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 secured lending and capital market-driven transactions with a residual maturity of less than six months with financial customers where sovereign bonds are received as collateral in these transactions.

8. By [four years after the date of application of the net stable funding ratio as set out in Title IV of Part Six], the Commission shall, if appropriate and taking into account the report referred to in paragraph, any international standards developed by international fora and the diversity of the banking sector in the Union, submit a legislative proposal to the European Parliament and the Council on how to amend the treatment of secured lending transactions and capital market-driven transactions, including of the assets received or given in these 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 if it deems 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 these transactions.

9. By [four years after the date of application of the net stable funding ratio as set out in Title IV of Part Six], the required stable funding factors applied to the transactions referred to in point (b) of Article 428s and in points (a) and (b) of Article 428u shall be raised to 10% and 15% respectively, unless otherwise specified by the Commission in its legislative proposal, if appropriate, in accordance with paragraph 8."

(130) 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 the Council on whether

(a) it is appropriate to introduce a leverage ratio surcharge for other systemically important institutions (O-SIIs); and

(b) the definition and calculation of the total exposure measure, including the treatment of central bank reserves, is appropriate

2. For the purposes of paragraph 1, the Commission shall take into account international developments and internationally agreed standards. Where appropriate, the report shall be accompanied by a legislative proposal."

(130a) Article 513 is replaced by the following:

*"Article 513*

*Macroprudential rules*

1. By 30 June 2020, the Commission shall, after consulting the ESRB and EBA, review whether the macroprudential rules contained in this Regulation and 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 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 Directive 2013/36/EU are adequate and, if appropriate, propose new macroprudential rules;
- (c) how internationally agreed standards for systemic institutions interacts with the provisions in this Regulation and Directive 2013/36/EU and, if appropriate, propose new rules taking into account those internationally agreed standards.
2. By 31 December 2020, the Commission shall, on the basis of the consultation of the ESRB and EBA, report to the European Parliament and the Council on the assessment referred to in paragraph 1 and, where appropriate, submit a legislative proposal to the European Parliament and the Council.“

(130b) The following Article 518a is inserted:

*"Article 518a*  
*Review of cross-default provisions*

No later than [insert date 3 years after entry into force of this Regulation], the Commission shall review and assess whether it is appropriate for eligible liabilities to be able to 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 no cross-default provisions referring to eligible liabilities should be included in the terms or contracts governing other liabilities. The Commission's review and assessment shall be accompanied by any appropriate legislative proposal."

(130c) 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 entry into force of this Regulation], report to the Commission on the impact and the relative calibration of the approaches set out in Sections 3 to 5 of Chapter 6 of Title II of Part Three to calculate the exposure values of derivative transactions.
2. On the basis of the EBA report, the Commission shall, where appropriate, submit a proposal to amend the approaches set out in Sections 3 to 5 of Chapter 6 of Title II of Part Three.

(131) The following Article 519a is inserted:

*"Article 519a*

*Own funds requirements for market risks*

1. By 30 September 2019, EBA shall report on the impact, on institutions in the Union, of international standards to calculate own funds requirement for market risks.
2. By 30 June 2020, the Commission shall, taking into account the results of the report referred to in paragraph 1, the international standards and the approaches set out in Part Three, Title IV, Chapters 1a and 1b, submit a report together with a legislative proposal, where appropriate, to the European Parliament and the Council on how to implement international standards on adequate own funds requirements for market risks.
3.
4.
5.

(132) In part Ten, the following Title IIa is added:

"TITLE IIa

IMPLEMENTATION OF RULES

*Article 519b*  
*Compliance tool*

1. The EBA shall develop an electronic tool aimed at facilitating institutions' compliance with this Regulation and Directive 36/2013/EU, as well as with regulatory technical standards, implementing technical standards, guidelines and templates adopted to implement this Regulation and Directive 36/2013/EU.

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 the legislation and in the related implementing provisions, guidelines and templates."

(133) 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 ( $K_{CCP}$ ) as follows:

$$K_{CCP} = \sum_i EAD_i \cdot RW \cdot capital\ ratio$$

where:

$i$  = 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 prefunded default fund contribution, against these 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 %;

capital ratio = 8 %.”

(2) Article 50b is replaced by the following:

*“Article 50b  
General rules for the calculation of  $K_{CCP}$ ”*

For the purposes of calculating  $K_{CCP}$  referred to in Article 50a(2), the following 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:

$$EAD_i = \max\{EBRM_i - IM_i - DF_i; 0\}$$

where:

$i$  = 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 to the CCP by clearing member  $i$ ;

$DF_i$  = the prefunded default fund contribution of clearing member  $i$ .

All values in the formula in the first subparagraph of this point 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 last 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 in point (ii) of point (a) of this Article, and shall determine  $EBRM_i$  in accordance with Part Three, Title V of that Regulation.

For the purposes of points (i) and (ii) of point (a) of this Article, the exception set out in Article 285(3)(a) of Regulation (EU) No 575/2013 shall not apply.

For the purposes of point (ii) of point (a) 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.

- (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 prefunded 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), 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), 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 separate sub-accounts to 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.”

(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) 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) 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 2a*  
*Amendments to Regulation (EU) 596/2014*

Regulation (EU) 596/2014 is amended as follows:

(1) In Article 17, the following new paragraph is inserted after paragraph 1:

“1a. The guidance on additional own funds referred to in Article 104b(3) of Directive 2013/36/EU shall not be subject to the disclosure requirements referred to in paragraph 1, for as long as the confidentiality of the information can be ensured.”

*Article 3*  
*Entry into force and date of 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 date of entry into force], with the following exceptions:

(a) the provisions on the introduction of the new requirements for own funds and eligible liabilities in points (4)(b), (7) to (9), and (12) to (38) and (40), which shall apply from 1 January 2019;

(ab) the provisions on the introduction of the new requirement for own funds in point (39)(a)(bis), which shall apply from 1 January 2022;

(b) the provisions in point (119) concerning amendments to Article 473a of Regulation (EU) No 575/2013, which shall apply from the date of entry into force of this Regulation;

(c) the provisions on the introduction of the new own funds requirements for market risk in points (49), (51) and (59) which shall apply from [four years after date of entry into force] of this Regulation;

(ca) the provisions on the reporting requirements for market risks in points (45bis), (49bis), (83) to (84) and (118a) which shall apply from the date of entry into force of this Regulation.

(d) the provisions in point (123) concerning amendments to Article 497 of Regulation (EU) No 575/2013, which shall apply from the date of entry into force of this Regulation.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Strasbourg,

*For the European Parliament*

*For the Council*

*The President*

*The President*