CRR - 1

RESTREINT UE/EU RESTRICTED

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Risk reduction measures in the CRD, CRR, BRRD and SRMR

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Regulation (EU) No 575/2013 and Regulation (EU) No 648/2012

(Text with EEA relevance)

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EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

Over the past years the EU implemented a substantial reform of the financial services regulatory framework to enhance the resilience of financial institutions in the EU, largely based on global standards agreed with the EU's international partners. In particular, the reform package included Regulation (EU) No 575/2013[1] (the Capital Requirements Regulation or CRR) and Directive 2013/36/EU[2] (the Capital Requirements Directive or CRD), on prudential requirements for and supervision of institutions, Directive 2014/59/EU[3] (the Bank Recovery and Resolution Directive or BRRD), on recovery and resolution of institutions and Regulation (EU) No 806/2014[4] on the Single Resolution Mechanism (SRM).

These measures were taken in response to the financial crisis that unfolded in 2007-2008 and reflect internationally agreed standards. While the reforms have rendered the financial system more stable and resilient against many types of possible future shocks and crises, they do not yet comprehensively address all identified problems. The present proposals therefore aim to complete the reform agenda by tackling remaining weaknesses and implementing some outstanding elements of the reform that are essential to ensure the institutions' resilience but have only recently been finalised by global standard setters (i.e. the Basel Committee on Banking Supervision (BCBS) and the Financial Stability Board (FSB)):

- a binding leverage ratio which will prevent institutions from excessively increasing leverage, e.g. to compensate for low profitability;
- a binding net stable funding ratio (NSFR) which will build on institutions' improved funding profiles and establish a harmonised standard for how much stable, long-term sources of funding an institution needs to weather periods of market and funding stress;

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1. Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (OJ L 321, 26.6.2013, p. 6)
2. Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.6.2013, p. 338).
3. 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)
4. 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

- more risk sensitive own funds (i.e. capital) requirements for institutions that trade to an important extent in securities and derivatives which will prevent too much divergence in those requirements that is not based on the institutions' risk profiles;
- last but not least, new standards on the total loss-absorbing capacity (TLAC) of global systemically important institutions (G-SIIs) which will require those institutions to have more loss-absorbing and recapitalisation capacity, tackle interconnections in the global financial markets and further strengthen the EU's ability to resolve failing G-SIIs while minimising risks for taxpayers.

The Commission recognised the need for further risk reduction in its Communication of 24 November 2015[5] and committed to bring forward a legislative proposal that builds on the international agreements listed above. Such risk reduction measures will not only further strengthen the resilience of the European banking system and the markets' confidence in it, but will also provide the basis for further progress in completing the Banking Union. The need for further concrete legislative steps to be taken in terms of reducing risks in the financial sector has been recognised also by the Ecofin Council Conclusions from 17 June 2016.[6] The European Parliament resolution of 10 March 2016 on the Banking Union – Annual Report 2015 also indicates some areas in the current regulatory framework that could be further addressed.

At the same time, the Commission has considered the existing regulatory framework and the new regulatory developments at international level also against the background of broader challenges affecting the EU economy, especially the need to promote growth and jobs at times of uncertain economic outlook. Various major policy initiatives, such as the Investment Plan for Europe (EFSI) and the Capital Markets Union have been launched in order to strengthen the economy of the Union. In order to ensure that regulatory measures interact smoothly with such policy initiatives, but also with broader recent reforms in the financial sector, the Commission carried out, on the basis of a call for evidence, a thorough holistic assessment of the existing financial services framework (including the CRR, CRD, BRRD and SRMR) and of the upcoming reviews of global standards from a wider economic impact perspective.

After careful consideration of all interactions between different EU policies, the Commission has decided to propose amendments of the CRR, CRD, BRRD and SRMR to implement outstanding international standards. The amendments represent a faithful implementation of international standards into Union law, subject to targeted adjustments in order to reflect EU specificities and broader policy considerations. For instance, the predominant reliance on bank financing by EU small- and medium-sized enterprises (SMEs) or for infrastructure projects prompts specific regulatory adjustments that ensure institutions remain capable of funding such entities, which constitute the backbone of the single market. Furthermore, broader policy considerations require ensuring a smooth interaction with existing requirements, such as for central clearing and collateralisation of derivatives exposures, or a gradual transition to some of the new requirements. Such adjustments are limited in terms of

[5] Communication from the Commission to the European Parliament, the Council, the European Central Bank, the European Economic and Social Committee and the Committee of the Regions, "Towards the completion of the Banking Union", 24.11.2015, COM(2015) 587 final

[6] Council Conclusions on a roadmap to complete the Banking Union, 17.06.2016

scope or time. Therefore, they do not impinge on the overall soundness of the proposals, which are aligned with the basic level of ambition of the international standards.

Moreover, based on the call for evidence, the proposals aim at improving existing rules. The analysis of the Commission showed that the present framework can be applied in a more proportionate way, taking into account in particular the situation of smaller institutions where some of the current disclosure, reporting and complex trading book-related requirements appear not to be justified by prudential considerations. Furthermore, the Commission has considered the risk attached to loans to SMEs and for funding infrastructure projects and found that for some of those loans, it would be justified to apply lower own funds requirements than are applied at present. Accordingly, the present proposals will bring corrections to these requirements and will enhance the proportionality of the prudential framework for institutions. Thereby, the ability of institutions to finance the economy will be enhanced without impinging on the stability of the regulatory framework.

- **Consistency with existing policy provisions in the policy area**

The reviews of several elements of the CRD and CRR were envisaged since the inception of those legal instruments, whilst other adaptations of the financial regulatory framework are necessary in light of subsequent developments, such as the adoption of the BRRD, the establishment of the Single Supervisory Mechanism and the work undertaken by the European Banking Authority (EBA) and on international level.

The proposal introduces amendments to the existing legislation and renders it fully consistent with the existing policy provisions in the field of prudential requirements for institutions, their supervision and recovery and resolution framework.

- **Consistency with other Union policies**

Four years after the European Heads of State and Governments agreed to create a Banking Union, two pillars of the Banking Union – single supervision and resolution – are in place, resting on the solid foundation of a single rulebook for all EU institutions. While important progress has been made, further steps are needed to complete the Banking Union, including the creation of a single deposit guarantee scheme.

The review of the CRR and the CRD is part of risk reducing measures that would facilitate the introduction of the European Deposit Insurance Scheme (EDIS), but is also aimed at ensuring a continued single rulebook for all EU institutions, whether inside or outside the Banking Union. The overall objectives of this initiative, as described above, are fully consistent and coherent with the EU's fundamental goals of promoting financial stability, reducing the likelihood and the extent of taxpayers' support in case an institution is resolved as well as contributing to a harmonious and sustainable financing of economic activity, which is conducive to a high level of competitiveness and consumer protection (Article 169 TFEU).

These overall objectives are also in line with the objectives set by other major EU initiatives, as described above.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

The proposed amendments are built on the same legal basis as the legislative acts that are being amended, i.e. Article 114 TFEU for the proposal for a regulation amending CRR and Article 53(1) TFEU for the proposal for a directive amending CRD IV.

- **Subsidiarity (for non-exclusive competence)**

The objectives pursued by the proposed measures aim at supplementing already existing EU legislation and can therefore best be achieved at EU level rather than by different national initiatives. National measures aimed at e.g. reducing institutions' leverage, strengthening their stable funding and trading book capital requirements would not be as effective in ensuring financial stability as EU rules, given the freedom of institutions to establish and provide services in other Member States and the resulting degree of cross-border service provision, capital flows and market integration. On the contrary, national measures could distort competition and affect capital flows. Moreover, adopting national measures would be legally challenging, given that the CRR already regulates banking matters, including leverage requirements (reporting), liquidity (specifically the liquidity coverage ratio or LCR) and trading book requirements.

The amendment of the CRR and CRD is thus considered to be the best alternative striking the right balance between the single rules for banks and maintaining national flexibility, such as on some macro prudential measures, for competent authorities to address risks to financial stability. Therefore the amendments would further promote a uniform application of prudential requirements, the convergence of supervisory practices and ensure a level playing field throughout the single market for banking services. These objectives cannot be sufficiently achieved by Member States alone. This is particularly important in the banking sector where many banks operate across the EU single market. Full cooperation and trust within the single supervisory mechanism (SSM) and within the colleges of supervisors and competent authorities outside the SSM is essential for banks to be effectively supervised on a consolidated basis. National rules would not achieve these objectives.

- **Proportionality**

Proportionality has been an integral part of the impact assessment accompanying the proposal. Not only have all the proposed options in different regulatory fields been individually assessed against the proportionality objective, but also the lack of proportionality of the existing rules has been presented as a separate problem and specific options have been analysed aiming at reducing administrative and compliance costs for smaller institutions (see sections 2.9 and 4.9 of the impact assessment).

- **Choice of the instrument**

The measures are proposed to be implemented by amending the CRR and the CRD through a Regulation and a Directive, respectively. The proposed measures indeed refer to or develop further already existing provisions inbuilt in those legal instruments (liquidity, leverage, remuneration, proportionality).

As regards the new FSB agreed standard on TLAC, it is suggested to incorporate the bulk of the standard into the CRR, as only a regulation can achieve the necessary uniform application, much in the same way as the existing risk-based own funds requirements. Shaping prudential requirements in the form of an amendment to the CRR would ensure that those requirements will in fact be directly applicable to G-SIIs. This would prevent Member States from implementing diverging national requirements in an area where full harmonisation is desirable in order to prevent an un-level playing field. Fine-tuning of the current legal provisions within the BRRD will however be necessary to make sure that the TLAC requirement and the minimum requirement on own funds and eligible liabilities (MREL) are fully coherent and consistent with each other.

The proposed CRD amendments affecting proportionality would leave Member States with a certain degree of flexibility to maintain divergent rules at the stage of their transposition into national law. It would give Member States the option of imposing stricter rules on matters which are not fully harmonised.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Stakeholder consultations**

The Commission carried out various initiatives in order to assess whether the existing prudential framework and the upcoming reviews of global standards were the most adequate instruments to ensure prudential objectives for EU institutions and also whether they would continue to provide the necessary funding to the EU economy.

In particular, the Commission launched in July 2015 a public consultation on the possible impact of the CRR and the CRD on bank financing of the EU economy with a particular focus on the financing of SMEs and of infrastructure and in September 2015 a Call for Evidence (CfE)[7] covering EU financial legislation as a whole. The two initiatives sought empirical evidence and concrete feedback on i) rules affecting the ability of the economy to finance itself and growth, ii) unnecessary regulatory burdens, iii) interactions, inconsistencies and gaps in the rules, and iv) rules giving rise to unintended consequences. In addition, the Commission carried out specific analyses on rules relating to remuneration[8] and on the proportionality of the rules contained in the CRR and the CRD.[9] Finally, the Commission contracted a study to assess the impact of the CRR on the bank financing of the economy[10].

All the initiatives mentioned above have provided clear evidence of the need to update and complete the current rules in order i) to reduce further the risks in the banking sector and

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7 See http://ec.europa.eu/finance/consultations/2015/long-term-finance/docs/consultation-document_en.pdf and http://ec.europa.eu/finance/consultations/2015/financial-regulatory-framework-review/docs/consultation-document_en.pdf.

8 Commission Report COM(2016)510 Report from the Commission to the European Parliament and the Council of 28 July 2016 – Assessment of the remuneration rules under Directive 2013/36/EU and Regulation (EU) No 575/2013.

9 The Call for Evidence was intended to cover the entire spectrum of the financial services regulation. The impact assessment address issues limited to the areas of banking only. Other issues involving other segments of the EU financial legislation will be dealt with separately.

10 Insert the link to the study

thereby reduce the reliance on State aid and taxpayers' money in case of a crisis, and ii) to enhance the ability of institutions to channel adequate funding to the economy.

Annexes 1 and 2 of the impact assessment provide a summary of the consultations, reviews and reports.

- **Impact assessment**

The impact assessment[11] was discussed with the Regulatory Scrutiny Board on 7 September 2016. The Regulatory Scrutiny Board issued a positive opinion[12] on 27 September 2016. The proposal is accompanied by the impact assessment. The proposal remains consistent with the Impact Assessment.

As shown by the simulation analysis and macroeconomic modelling developed in the impact assessment, there are limited costs to be expected from the introduction of the new requirements, in particular the new Basel standards such as the leverage ratio and the trading book. The increase of funding costs for the banking sector could amount to 0.03% points in the most extreme scenario. On the benefits side, the simulation exercise has shown that public resources required to support the banking system in case of a financial crisis of the size similar to 2007 - 2008 would decrease by 32% - a decline from EUR 51 bn to EUR 34 bn.

- **Regulatory fitness and simplification**

The retention of simplified approaches to calculate own funds requirements would ensure continued proportionality of the rules for smaller institutions. Furthermore, the additional measures to increase proportionality of some of the requirements (related to reporting, disclosure and governance) should decrease the administrative and compliance burden for those institutions.

As far as SMEs are concerned, the proposed recalibration of the own funds requirements for bank exposures to SMEs is expected to have a positive effect on bank financing of SMEs. This would primarily affect SMEs which currently have exposures beyond €1.5 million as these exposures do not benefit from the SME Supporting Factor under the existing rules.

Other proposed options in the impact assessment, particularly those aimed at improving resilience of institutions to future crises, are expected to increase sustainability of lending to SMEs.

Finally, measures aimed at reducing compliance costs for institutions, in particular the smaller and less complex institutions, are expected to reduce borrowing costs for SMEs.

On the third country dimension, the proposal will enhance the stability of EU financial markets thereby reducing the likelihood and costs of potential negative spillovers for global financial markets. Moreover, the proposed amendments will further harmonise the regulatory framework throughout the Union thereby reducing substantially administrative costs for third country institutions operating in the EU.

11 Insert link to impact assessment.
12 Insert link to opinion.

In view of the ongoing review of the investment firms under the CRR and in light of the initial report delivered by EBA[13], it is considered reasonable that the newly introduced requirements apply only to systemically relevant investment firms, whilst other investment firms are grandfathered until the completion of the review.

The proposal is consistent with the Commission's priority for the Digital Single Market.

- **Fundamental rights**

The EU is committed to high standards of protection of fundamental rights and is signatory to a broad set of conventions on human rights. In this context, the proposal is not likely to have a direct impact on these rights, as listed in the main UN conventions on human rights, the Charter of Fundamental Rights of the European Union, which is an integral part of the EU Treaties and the European Convention on Human Rights (ECHR).

4. BUDGETARY IMPLICATIONS

The proposal includes a legislative financial statement indicating the additional resources required for the EBA to conduct reviews as well as to issue further technical standards and guidelines. In addition, the EBA will need to organise bilateral and multilateral meetings with stakeholders, conduct analysis and assessment of options and drafting of consultation documents, issue public stakeholder consultations, set up and manage standing expert groups composed of supervisors from Member States as well as ad hoc expert groups composed of market participants and representatives of investors, analyse responses to consultations, conduct cost-benefit analyses and draft legal texts.

5. OTHER ELEMENTS

- **Implementation plans and monitoring, evaluation and reporting arrangements**

It is expected that the proposed amendments will start entering into force in 2019 at the earliest. The amendments are tightly inter-linked with other provisions of the CRR and the CRD, which are already in effect since 2014.

The BCBS and the EBA will continue to collect the necessary data for the monitoring of the leverage ratio and the new liquidity measures in order to allow for the future impact evaluation of the new policy tools. Regular supervisory review and evaluation programmes (SREPs) and stress testing exercises will also help monitoring the impact of the new proposed measures upon affected institutions and assessing the adequacy of the flexibility and proportionality provided for to cater for the specificities of smaller institutions. Additionally, the Commission services will continue to participate in the working groups of the BCBS and the joint task force established by the European Central Bank (ECB) and by EBA, that monitor the dynamics of institutions' own funds and liquidity positions, globally and in the EU, respectively.

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13 See https://www.eba.europa.eu/-/eba-issues-recommendations-for-sound-prudential-regime-for-investment-firms for more details.

The set of indicators to monitor the progress of the results stemming from the implementation of the preferred options consists of the following:

On NSFR:

Indicator	NSFR for EU institutions
Target	As of the date of application, 99% of institutions taking part to the EBA Basel III monitoring exercise meet the NSFR at 100% (65% of group 1 and 89% of group 2 credit institutions meet the NSFR as of end-of December 2015)
Source of data	Semi-annual the EBA Basel III monitoring reports

On leverage ratio:

Indicator	Leverage ratio for EU institutions
Target	As of the date of application, 99% of group 1 and group 2 credit institutions have a leverage ratio of at least 3% (93.4% of group 1 institutions met the target as of June 2015)
Source of data	Semi-annual EBA Basel III monitoring reports

On SMEs

Indicator	Financing gap to SMEs in the EU, i.e. difference between the need for external funds and the availability of funds
Target	As of two years after the date of application, < 13% (last known figure – 13% as of end 2014)
Source of data	European Commission / European Central Bank SAFE Survey (data coverage limited to the euro area)

On TLAC:

Indicator	TLAC in EU G-SIIs
Target	All EU G-SIBs meet the target (>16% of risk weighted assets (RWA)/6% of the leverage ratio exposure measure (LREM) as of 2019, > 18% RWA/6.75% LREM as of 2022)
Source of data	Semi-annual EBA Basel III monitoring reports

On trading book:

Indicator	RWA for market risks for EU institutions Observed variability of risk-weighted assets of aggregated portfolios applying the internal models approach.
Target	- As of 2023, all EU institutions meet the own funds requirements for market risks under the final calibration adopted in the EU. - As of 2021, unjustifiable variability (i.e. variability not driven by differences in underlying risks) of the outcomes of the

	internal models across EU institutions is lower than the current variability* of the internal models across EU institutions. *Reference values for the "current variability" of value-at-risk (VaR) and incremental risk charge (IRC) requirements should be those estimated by the latest EBA "Report on variability of Risk Weighted Assets for Market Risk Portfolios", calculated for aggregated portfolios, published before the entry into force of the new market risk framework.
Source of data	Semi-annual EBA Basel III monitoring reports EBA Report on variability of Risk Weighted Assets for Market Risk Portfolios. New values should be calculated according to the same methodology.

On remuneration:

Indicator	Use of deferral and pay-out in instruments by institutions
Target	As of 2019, 99% of institutions that are not small and non-complex, in line with the CRD requirements, defer at least 40% of variable remuneration over 3 to 5 years and pay out at least 50% of variable remuneration in instruments with respect to their identified staff with material levels of variable remuneration.
Source of data	EBA remuneration benchmarking reports

On proportionality:

Indicator	Reduced burden from supervisory reporting and disclosure
Target	80% of smaller and less complex institutions report reduced burden
Source of data	Survey to be developed and conducted by EBA by 2022 - 2023

The evaluation of the impacts of the proposed options will be done five years after the date of application of the proposed measures on the basis of the methodology agreed before launching the evaluation. The methodology could be developed for individual options or a set of interlinked options depending on the circumstances present before launching the evaluation and depending on the output of monitoring indicators.

Compliance and enforcement will be ensured on an ongoing basis including through the Commission launching infringement proceedings for lack of transposition or for incorrect transposition or application of the legislative measures. Reporting of breaches of EU law can be channelled through the European System of Financial Supervision (ESFS), including the national competent authorities and EBA, as well as through the ECB. EBA will also continue publishing its regular reports of the Basel III monitoring exercise on the EU banking system. This exercise monitors the impact of the Basel III requirements (as implemented through the CRR and the CRD) on EU institutions in particular as regards institutions' capital ratios (risk-based and non-risk-based) and liquidity ratios (LCR, NSFR). It is run in parallel with the one conducted by the BCBS.

- **Detailed explanation of the specific provisions of the proposal**

WAIVERS FROM CAPITAL AND LIQUIDITY REQUIREMENTS (CRR)

Requiring subsidiaries to comply with own funds and liquidity requirements on an individual basis may prevent institutions from managing those resources efficiently at the level of the group. This is particularly relevant in the current context where technological developments increasingly facilitate centralisation of capital and liquidity management in a group.

Under existing legislation competent authorities have been endowed with the possibility to waive the application of requirements on an individual level for subsidiaries or parents within a single Member State or part of a liquidity sub-group spread across several Member States, subject to safeguards ensuring that capital and liquidity are distributed adequately between the parent undertaking and the subsidiaries. With the establishment of the Single Supervisory Mechanism (SSM), group supervision has been substantially reinforced especially where group entities are situated in the Member States participating in the SSM, with the SSM having a better knowledge and direct powers over group entities situated in different Member States. However, pending the completion of the Banking Union, concerns in Member States where the subsidiaries are located still persist that insufficient liquidity or capital at the level of subsidiaries in trouble might have fiscal consequences for such ("host") Member States.

It is therefore considered that, at this stage of the Banking Union, it should be possible for the competent authority supervising parents and subsidiaries established in different Member States within the Banking Union to waive the application of own funds and liquidity requirements for subsidiaries located in other Member States than the parent, provided the commitment of the parent to support such subsidiaries is guaranteed for the whole amount of the waived requirement and the guarantee is collateralised for at least half of the guaranteed amount. Articles 7 and 8 of the CRR are amended accordingly. The same waivers are made available, as an option, for competent authorities of Member States outside the Banking Union.

IMPLEMENTATION OF THE FSB TOTAL LOSS ABSORPTION CAPACITY STANDARD (CRR, BRRD, SRM)

The FSB published on 9 November 2015 the Total Loss-absorbing Capacity Term Sheet ('the TLAC standard') that was adopted a week later at the G20 summit in Turkey[14]. The TLAC standard requires global systemically important banks (G-SIBs), referred as G-SIIs in Union legislation, to have a sufficient amount of highly loss absorbing ("bailinable") liabilities to ensure smooth and fast absorption of losses and recapitalisation in resolution. The interaction of the TLAC standard with existing Union legislation pursuing the same regulatory objectives is described in more detail in the explanatory memorandum accompanying the proposals for amendments to the BRRD and the SRMR.

[14] FSB, *Principles on Loss-absorbing and Recapitalisation Capacity of Globally Systemically Important Banks (G-SIBs) in Resolution, Total Loss-absorbing Capacity (TLAC) Term sheet*, 9.11.2015

Consistency with the BRRD

The TLAC standard is implemented in the Union via amendments to the CRR, building on the existing framework of the BRRD. In order to integrate the two frameworks which pursue the same policy purposes, new definitions have to be introduced, such as resolution entities, resolution group etc. (Article 4 of the CRR), and cooperation has to be warranted between competent authorities and resolution authorities (Article 2 of the CRR).

Based on the review required in Article 518 of the CRR and in accordance with the requirements in Article 59 of the BRRD, the criteria for Additional Tier 1 instruments (Article 52 of the CRR) and Tier 2 instruments (Article 63 of the CRR) are amended to require that those instruments be written down or converted to Common Equity Tier 1 instruments at the point of non-viability. This will not change the status of capital instruments issued by EU institutions, while ensuring at the same time that only instruments issued by third-country subsidiaries of EU institutions that meet this additional requirement can be considered as Additional Tier 1 or as Tier 2 instruments by their EU parent entities when they calculate consolidated own funds requirements.

The requirement for own funds and eligible liabilities

The TLAC standard is implemented in the EU by introducing a requirement for own funds and eligible liabilities composed of a risk-based ratio and on a non-risk-based ratio (new Article 92a of the CRR). Such requirement applies only in the case of EU G-SIIs, which may be a group of institutions or stand-alone institutions (Article 131(1) of the CRD). Article 6 of the CRR is amended to require stand-alone G-SIIs that are resolution entities to comply with the requirement for own funds and eligible liabilities on a solo basis, whilst Article 11 is amended to require resolution entities part of groups designated as G-SIIs to comply with the requirement for own funds and eligible liabilities on a consolidated basis.

The TLAC standard also contains a requirement for internal TLAC (i.e. a requirement to pre-position loss absorbing and recapitalisation capacity at the level of subsidiaries within a resolution group), which is transposed in the EU by introducing a requirement for own funds and eligible liabilities (new Article 92b of the CRR) that applies to non-EU G-SIIs (the BRRD contains already a similar rule for EU G-SIIs). Such requirement represents 90% of the requirement applicable to EU G-SIIs in accordance with the new Article 92a. The non-EU G-SII requirement for own funds and eligible liabilities applies to material subsidiaries of non-EU G-SIIs on a solo basis if they are neither resolution entities nor EU parent institutions, and on a consolidated basis if they are EU parent undertakings but not resolution entities.

Eligible liabilities

A new Chapter 5a (new Articles 72a to 72l) on eligible liabilities is introduced in the CRR after the chapters governing own funds. New Article 72a lists excluded liabilities that cannot count towards fulfilling the requirement for own funds and eligible liabilities. Article 72b contains the eligibility criteria for eligible liabilities instruments, paragraph 2 reflecting the eligibility criteria for subordinated liabilities, whilst paragraphs 3 and 4 reflect eligibility criteria for liabilities that rank pari passu with excluded liabilities. Article 72c specifies that instruments may count towards eligible liabilities only if they have a residual maturity of at least one year. The eligibility criteria exclude liabilities issued through special purpose entities.

Section 2 of the new Chapter 5a (Articles 72c to 72j) provides for the deduction rules applicable to determine the net amount of liabilities that may count for the requirement for own funds and eligible liabilities. Institutions are obliged to deduct holdings of own eligible liabilities instruments (Article 72f), and holdings of eligible liabilities of other G-SIIs (Articles 72h and 72i). Article 72e(3) specifies a proportionate deduction for holdings of liabilities that rank pari passu with excluded liabilities and may count only up to a limited amount as eligible liabilities. Deductions are made from eligible liabilities, and from own funds – on the basis of a corresponding deduction approach (Article 66(e) of the CRR). Article 72j contains the exception from deductions for trading book items. Section 3 of the new Chapter 5a defines the concepts of eligible liabilities (Article 72k) and own funds and eligible liabilities (Article 72l).

The Commission will ask EBA for advice on alternative options for treating holdings of TLAC instruments issued by G-SIIs and on the impact of those options. One of the options that the Commission will seek advice on will be the one contained in the standard on the treatment of TLAC holdings recently published by the BCBS. Based on the advice, the Commission will consider whether changes to the solution put forward in this proposal are warranted.

Adjustments to general requirements for own funds and eligible liabilities

Chapter 6 of Title I of Part II of the CRR (Articles 73 to 80) is adjusted to reflect the introduction of the category of eligible liabilities. Articles 77 and 78 are extended to cover prior supervisory permission for the early redemption of capital instruments and eligible liabilities. Article 78 introduces the possibility to give a general prior permission to institutions to effect early redemptions, subject to criteria that ensure compliance with the conditions for granting such supervisory permission. Under Article 80, EBA is entrusted with monitoring issuances of own funds and eligible liabilities. To align own funds eligibility criteria with criteria for eligible liabilities, Additional Tier 1 and Tier 2 instruments issued by a special purpose entity will be able to count for own funds purposes only until 31 December 2021.

EQUITY INVESTMENTS IN FUNDS (CRR)

In December 2013, the BCBS published a new standard on the treatment of equity investments in funds. The new standard was aimed at clarifying the existing treatment and at achieving a more internationally consistent and risk-sensitive treatment of such exposures (i.e. one reflecting both the risk of the fund's underlying investments and its leverage). In order to implement the new standard in Union law, several changes were made to the CRR.

Article 128 is amended to ensure the definition of items associated with particularly high risk does not capture exposures in the form of units or shares in CIUs.

Article 132 is amended to reflect the new general principles and requirements underlying the calculation of own funds requirements for exposures in the form of units or shares in CIUs for institutions applying the Standardised Approach for credit risk.

A new Article 132a is introduced to detail to the calculations under two of the methods foreseen under Article 132, namely the look-through approach and the mandate-based approach.

Article 152 is amended to reflect the revised requirements and methodologies to calculate own funds requirements for exposures in the form of units or shares in CIUs for institutions applying the Internal Rating Based Approach for credit risk.

STANDARDISED APPROACH FOR COUNTERPARTY CREDIT RISK (SA-CCR) (CRR)

In March 2014, the BCBS published a standard on a new standardised method to compute the exposure value of derivatives exposures, the so-called Standardised Approach for Counterparty Credit Risk (SA-CCR), to address the shortcomings of the existing standardised methods. In order to introduce the new method into Union law, while ensuring that the new rules remain proportionate, several changes to the CRR were made.

In Article 273, some definitions were modified and some new definitions were added to reflect the new methods introduced. The Mark-to-Market Method was replaced by the SA-CCR (Articles 274 to 280f). The rules related to the Standardised Method were removed. New rules on a simplified SA-CCR were introduced (Article 281). The current rules on the Original Exposure Method were modified (Article 282). The eligibility criteria for using the OEM were modified and eligibility criteria for using the simplified SA-CCR were introduced (Article 273a and 273b). Articles 298 and 299 were modified to reflect the introduction of the SA-CCR.

EXPOSURES TO CCPS (CRR AND EMIR)

In April 2014, the BCBS published a final standard on the treatment of exposures to central counterparties (CCPs). The final standard addressed the shortcomings of the interim standard published two years earlier. In order to implement the final standard in Union legislation, several changes were made to the CRR and to Regulation (EU) 648/2012 (the European Market Infrastructure Regulation or EMIR).

Amendments to Articles 300 to 310 and 497 of the CRR

Several new definitions were added to Article 300 covering terms used in the amended rules on own funds requirements for exposures to CCPs. Article 301 was modified in order to introduce a specific treatment of institutions' exposures to a CCP due to cash transactions, to specify further the treatment of initial margin and to reflect the fact that a single method would be applicable to the calculation of own funds requirements for exposures to qualifying CCPs (QCCPs). Article 304 was modified in order to reflect change to the methods for calculating exposure values of derivatives, and to clarify the treatment of securities financing transactions (SFTs) and of collateral provided by clients to their clearing members. Articles 305 was modified to clarify the treatment of SFTs and to adjust the eligibility criteria for the preferential treatment of clients' exposures. A clarification of the treatment of clearing members' guarantees to their clients as well as of the treatment of SFTs was inserted in Article 306. A new method for calculating own funds requirements for prefunded default fund contributions to a QCCP was introduced in Article 308. The formula for calculating the own funds requirements for exposures to a non-qualifying CCP in Article 309 was modified. In Article 310, the alternative method for calculating the own funds requirements for exposures to CCPs was removed and replaced by a new treatment for unfunded default fund contributions. Finally, the transitional provisions in Article 497 were modified.

Amendments to Articles 50a to 50d and 89 of EMIR

Articles 50a to 50d were modified to incorporate a new method for calculating the hypothetical capital of a CCP that is needed by institutions to calculate their own funds requirements for default fund contributions to that CCP. Article 89(5a) was modified to update the transitional provisions related to that calculation.

MARKET RISK (CRR)

In January 2016, the BCBS concluded its work on the fundamental review of the trading book and published a new standard on the treatment of market risk. The standard addressed the design flaws present in existing market risk framework, including the insufficient capture of the full range of risks to which institutions were exposed to and uncertainty about the boundary between the trading and non-trading (i.e. banking) book which created opportunities for regulatory arbitrage. The new standard contains revised rules for the use of internal models for calculating own funds for market risk, as well as a new standardised approach which replaces the existing one. In order to implement the new standard in Union law, while ensuring that the rules remain proportionate, several modifications were made to the CRR.

In Title I -General requirements, valuation and reporting

Article 94 sets out the revised conditions for an institution to benefit from the derogation for institutions with small trading book business, under which the own funds requirements for the credit risk of banking book positions may replace the own funds requirements for the market risk. Articles 102 and 103 clarify the general requirements for trading book positions. Article 104 and 104a clarify the criteria to assign positions in the trading book and the conditions for reclassifying a trading book position as a banking book position and vice versa. Article 104b defines the new concept of trading desk. Article 105 sets out the rules that must be respected to prudently value trading book positions. Article 106 describes the recognition and treatment of trading book positions which are considered as internal hedges of positions in the banking books.

In Title IV Chapter 1 – General provisions

Article 325 describes the different approaches that can be used by institutions to compute own funds requirements for market risk as well as the conditions for their use and how their use may be combined. Article 325a specifies in more detail the eligibility criteria for using the simplified standard approach for institutions with medium-sized trading book business. Article 325b lays out the conditions under which market risk exposures can be netted between different legal entities within a group for the purposes of calculating consolidated own funds requirements for market risk. Article 325c specifies the conditions under which the positions entered into by an institution in order to hedge against the adverse effect of changes in exchange rates on the institution's own funds ratios can be exempted from the market risk requirements.

Chapter 1a – The standardised approach

Section 1 (Article 325d) describes the different components of the standardised approach. Section 2 (Articles 325e to 325l) describes the functioning of the first component, the sensitivities-based method. It sets out the general principles for the calculation and aggregation of delta, vega and curvature risks. Subsection 1 of Section 3 (Articles 325m to

325r) specifies the risk factors that have to be considered to calculate the sensitivities of trading book positions to different classes of risk. Subsection 2 of Section 3 (Articles 325s to 325u) explains how these sensitivities must be computed. Section 4 (Article 325v) describes the functioning of the second component of the standardised approach, the residual risk add-on. Section 5 describes the functioning of the third component of the standardised approach, the default risk charge. Article 325w gives the main definitions. Subsection 1 (Articles 325x to 325z) describes how the default risk charge must be computed for non-securitisation positions, while subsections 2 (Articles 325aa and 325ab) and 3 (Articles 325ac to 325ae) describe the same calculation for securitisations. Section 6 (Articles 325af to 325az) provides the risk weights and correlations that must be used for each risk class in combination with the sensitivities to determine own funds requirements for market risks under the standardised approach. Exposures to EU sovereigns are included in the first risk bucket, which is assigned the lowest risk weight (Articles 325ai and 325al). This treatment is in line with the non-rating dependent treatment currently provided for those types of exposures included in the non-trading book. The risk weights applicable to covered bonds issued by EU institutions were reduced (Articles 325ai and 325al). This treatment would prevent a potential significant increase in the capital requirements for exposures to covered bonds issued by EU institutions, thus maintaining lower funding costs for mortgage loans for housing and non-residential property.

Chapter 1b The internal model approach

Section 1 (Articles 325ba and 325bb) specifies the conditions under which institutions are allowed to use internal models and how own funds requirements for market risk must be calculated for trading desks that benefit from this permission. Section 2 (Articles 325bc to 325bl) describes how expected shortfalls and liquidity horizons must be used in the calculation of own funds requirements for market risk, the requirements that internal models must meet in terms of back testing, profit-and-loss (P&L) attribution, internal validation as well as more general qualitative and risk measurement requirements, and the stress scenario risk measure that must be calculated for the non-modellable risk factors. Like for the standardised approach, a beneficial treatment was introduced under the internal models approach via shorter liquidity horizons for exposures to EU sovereigns and covered bonds issued by EU institutions (Article 325be). Section 3 (Articles 325bm to 325bq) describes how the default risk charge must be calculated for trading desks subject to default risk using an internal model approach.

Chapters 2, 3 and 4 - The simplified standardised approach

Chapters 2, 3 and 4 – respectively own funds requirements for position risk, foreign exchange risks and commodity risks – reflect the simplified standardised approach under the revised market risk framework. These rules already existed in the current market risk framework and remain unchanged. Institutions will be able to use this approach until the approaches laid out in Chapter 1a and 1b enter into force as set out in Article 521. After this date, only institutions that fulfil the eligibility criteria set out in Article 325a will be able to use the simplified standardised approach.

Chapter 5 The simplified internal approach

Chapter 5 constitutes the simplified internal models approach under the revised market risk framework. These rules already existed in the current market risk framework and remain unchanged. Institutions will be able to use this approach until the approaches laid out in Chapter 1a and 1b enter into force as set out in Article 521. After this date, institutions will no longer be able to use the simplified internal models approach for calculating the own fund requirements for market risks. However, Chapter 5 shall remain in force for calculating the own fund requirements for CVA risks under the Advanced method as set out in Article 383.

Part Ten -- Transitional provisions, reports, reviews and amendments.

Article 501a describes how own funds requirements for market risk, as calculated under Chapters 2 and 3, will be phased-in. Article 519a specifies a number of technical elements of the revised market risk framework that may appear to be problematic once implemented. The EBA is mandated to review those technical elements no later than 3 years after the entry into force of this Regulation and the Commission may make proposals to change the related rules in light of the EBA conclusions. Article 521 describes when the different components of the revised framework for own funds requirements for market risk shall enter into force.

LARGE EXPOSURES (CRR)

The current capital base (the 'eligible capital') only captures a small part of the overall large exposures that institutions have and is thus not sufficiently prudent to avoid that the maximum possible loss by an institution in case of the sudden failure of a single counterparty or a group of counterparties endangers the institution's survival as a going concern. Moreover, the current limit does not take into account the higher risks carried by the exposures that G-SIIs have to single counterparties or groups of connected clients and, in particular, as regards exposures to other G-SIIs. The financial crisis has, in fact, demonstrated that material losses in one G-SII can trigger concerns about the solvency of other G-SIIs with potentially serious consequences on financial stability. Finally, the current large exposures framework relies on less accurate methods than the new methodology (i.e. Standardised Approach for Counterparty Credit Risk, SA-CCR) that the Basel Committee on Banking Supervision (BCBS) has developed for computing banks' derivatives exposures (i.e. OTCs). The large exposures framework is amended to address the loopholes identified. In particular, the capital that can be taken into account to calculate the large exposures limit is limited to Tier 1 capital (no more Tier 2 capital); Article 395(1) is amended to introduce the lower limit of 15% for G-SIBs exposures to other G-SIBs and the amended Article 390 imposes the use of the SA-CCR methods for determining exposures to OTC derivative transactions, even for banks that have been authorised to use internal models. The modifications introduced in the current framework will overall increase the risk-sensitivity of the large exposures regime and better align the European system to the BCBS standard on large exposures issued in 2014.

Article 507 of the CRR required the Commission to review and report on the application of Article 400(1)(j) and Article 400(2). Since it was not possible to gather sufficient quantitative data to assess the potential impact of removing or rendering mandatory the exemptions listed in those provision, Article 507 provides for a new mandate to the EBA to report to the Commission on the use of the exemptions set out in Article 400(2) and Article 390(6)(a), (b), (c) and (e).

LEVERAGE RATIO (CRR)

New provisions are introduced and adjustments are made to several articles in the CRR in order to introduce a binding leverage ratio requirement for all institutions subject to the CRD. The leverage ratio requirement complements the current requirements on supervisory monitoring of the risk of excessive leverage in the CRD and the CRR requirements to calculate the leverage ratio, to report it to supervisors and, since January 2015, to disclose it publicly.

The leverage ratio requirement

A leverage ratio requirement of 3% of Tier 1 capital is added to the own funds requirements in Article 92 of the CRR which institutions must meet in addition to their risk-based requirements. Thereby a harmonised binding requirement is introduced throughout the Union, setting a backstop for institutions. In addition, competent authorities remain responsible for monitoring leverage policies and processes of individual institutions and may impose additional measures to address risks of excessive leverage, if warranted.

Adjustments to the leverage ratio exposure measure

The adjustments to the leverage ratio exposure measure that were already included in the current CRR have been carried over. Since a 3% leverage ratio would constrain certain business models and lines of business more than others, further adjustments are warranted. Institutions may reduce the leverage ratio exposure measure for public lending by public development banks (Article 429a(1)(d)), pass-through loans (Article 429(1)(e)) and officially guaranteed export credits (Article 429a(1)(f)). In order not to dis-incentivise client clearing by institutions, institutions are allowed to reduce the exposure measure by the initial margin received from clients for derivatives cleared through QCCPs (Article 429c(4)).

A leverage ratio buffer for G-SIBs

International discussions are ongoing on a possible leverage ratio buffer for G-SIBs. Once a final international agreement on the leverage ratio buffer will be reached it should be considered for inclusion in the CRR.

REGULATORY REPORTING (CRR AND CRD)

Various provisions have been added to or amended in the CRR and the CRD to enhance proportionality and reduce costs on institutions in the overall regulatory reporting framework.

Article 99(5) is amended to include a mandate to EBA to deliver a report to the Commission on the cost of regulatory reporting by 31 December 2019. The mandate sets out a very precise methodology for EBA to quantify reporting costs on institutions and provides for an obligation to make recommendations on ways to simplify reporting for small institutions through amendments to existing EBA reporting templates.

Small institutions as defined in Article 430a will only be required to submit regulatory reports on an annual basis as opposed to semi-annually or more frequently for all other institutions (Articles 99(4), 100, 101, 394 and 430).

Reporting on large exposures will be simplified by removing two items currently required to be reported under Article 394.

DISCLOSURE (CRR)

Enhanced proportionality in disclosure requirements

New provisions are added in Part Eight to provide for a more proportionate disclosure regime that takes into account the relative size and complexity of institutions. These are classified into three categories as either significant (Article 433a), small (Article 433b) and other (Article 433c), with a further distinction between listed and non-listed institutions. Disclosure requirements will apply to each category of institutions on a sliding scale basis, with a differentiation in the substance and frequency of disclosures.

At the upper end of the sliding scale, significant institutions with listed securities will be required to provide annual disclosures of all the information required under Part Eight, plus disclosures of selected information on a semi-annual and quarterly basis, including in the latter case a key prudential metrics table (Article 451d). On the lower end, small non-listed institutions will only be required to make selected disclosures of governance, remuneration and risk management information and the key metrics table on an annual basis.

Targeted amendments for consistency purposes with international standards and new or amended Pillar 1 requirements

A number of amendments have been made to Titles II and III of Part Eight (Articles 435 to 455) to align better disclosure requirements with international standards on disclosures. In particular, a new requirement has been added to disclose information about significant investments in insurance undertakings that a competent authority has authorised not to be deducted from supplementary own fund requirements of financial conglomerates (Article 438(e) and (f)).

Other amendments to these Titles are intended to reflect new or amended Pillar 1 requirements to be introduced as part of this legislative proposal. This will include disclosures on TLAC (Article 437a), counterparty credit risk (Article 439), market risk (Article 445) and liquidity requirements (Article 451a).

Empowerments to the EBA and the Commission

The proposal comprises an empowerment to EBA to develop uniform disclosure formats, which should be as aligned as possible with international disclosure formats to facilitate comparability (Article 434a).

To the same end, the proposal includes an empowerment to the Commission to amend the disclosure requirements in Part Eight to reflect developments or amendments of international standards on disclosures (Article 456(k)).

NSFR (CRR)

A new Title is added to Part Six, and adjustments to existing provisions have been made to introduce a binding net stable funding ratio (NSFR) for institutions.

General provisions

Adjustments have been made to the general provisions in Part One. Amendments have been made to Article 8 to adjust the conditions under which institutions can benefit from derogations from liquidity requirements at the individual, legal entity level, and to Articles 11 and 18 regarding consolidation rules.

Existing liquidity provisions

Amendments are introduced in Titles I and II of Part Six to adjust definitions and reporting requirements. Definitions are adjusted in Article 411, while reporting requirements are further specified in Articles 412, 413, 415, 416 and 422 to 425. Article 414 is modified to integrate the new NSFR requirement and specify the applicable consequences should it be breached.

The new Title IV of Part Six: The net stable funding ratio for institutions

Chapter 1 The net stable funding ratio (Articles 428a and 428b)

Article 428a specifies that the definitions for the calculation of the NSFR mirror the ones of the LCR, clarifies some definitions and specifies rules for subsidiaries in third countries

Article 428b defines the general design of the NSFR which is calculated as the ratio of an institution's amount of available stable funding (ASF) to its amount of required stable funding (RSF).

Chapter 2 General rules on calculation of the net stable funding ratio (Articles 428c to 428h)

Article 428c clarifies the general rules that apply to calculate the NSFR.

Article 428d specifies the way derivatives transactions shall be taken into account for the calculation of the NSFR, while Article 428e specifies the treatment of secured lending and capital market-driven transactions.

Article 428f defines the conditions under which some assets and liabilities can be considered as interdependent and draws a list of products considered as such: centralised regulated savings, promotional loans, covered bonds issuance without funding risk on a one-year horizon and derivatives client clearing activities. The Commission is empowered to adopt a delegated act to review this list (new paragraph 3 of Article 460).

Article 428g specifies the treatment of funding in networks or institutional protection schemes and Article 428h introduces a discretion for competent authorities to grant a preferential treatment to intragroup transactions.

Chapter 3 Available stable funding (Articles 428i to 428o)

Section 1 (Articles 428i and 428j) of this Chapter defines the general rules that apply to calculate the amount of available stable funding that constitutes the numerator of the NSFR.

Section 2 (Articles 428k to 428o) defines the ASF factors that apply to the regulatory capital and to different liabilities depending on their characteristics, in particular their maturity and the nature of the counterparty.

Chapter 4 Required stable funding (Articles 428p to 428ag)

Section 1 (Articles 428p and 428q) of this Chapter defines the general rules that apply to calculate the amount of required stable funding that constitutes the denominator of the NSFR.

Section 2 (Articles 428r to 428o) defines the RSF factors that apply to different assets and off-balance sheets exposures depending on their characteristics, in particular their maturity, their liquidity and the nature of the counterparty.

The definitions and RSF factors applied for the calculation of the NSFR reflect the definitions and haircuts applied for the calculation of the EU LCR. In particular, assets eligible as high quality liquid assets (HQLA) Level 1, excluding extremely high quality covered bonds, are subject to a 0% RSF factor to avoid negative impacts on the liquidity of sovereign bond markets.

Assets resulting from transactions with financial customers having a residual maturity of less than six months and secured by HQLA Level 1, excluding covered bonds, are subject to a 5% RSF factor (Article 428s). If they are unsecured or secured by other assets, these transactions are subject to a 10% RSF factor (Article 428u). These adjusted RSF factors are meant to mitigate the immediate impact on the liquidity of interbank funding markets, on the liquidity of the securities and on market making activities. The Commission is empowered to adopt a delegated act to review this treatment, taking into account the conclusions of a report prepared by the EBA. If no decision is taken by 31 December 2022, these RSF factors will be raised to respectively 10% and 15% (new paragraph 5 of Article 510 in Part Ten).

For derivatives transactions, if derivatives assets (offset by variation margins received in the form of cash and HQLA Level 1, excluding covered bonds) are greater than derivatives liabilities (offset by all variation margins posted), the difference is subject to a 100% RSF factor (Article 428ag). In addition, an adjusted risk-sensitive approach is introduced to capture the future funding risk of derivatives. For unmargined derivatives transactions, a 10% RSF factor applies to their gross derivatives liabilities (Article 428u) and, for margined derivatives transactions, an option is introduced to either apply a 20% RSF factor to gross derivatives liabilities or to use the potential future exposure (PFE) as calculated under standardised approach for counterparty credit risk - SA-CCR (Article 428x). The Commission is empowered to adopt a delegated act to review this treatment, taking into account the conclusions of a report prepared by the EBA. If no decision is taken by 31 December 2022, a 20% RSF factor on gross derivatives liabilities will apply for all derivatives transactions (new paragraph 4 of Article 510).

IFRS 9 (CRR)

Article 473a is added to phase in the new incremental provisioning requirements for credit risk under IFRS over a period starting on 1 January and ending on 31 December 2023 to mitigate the financial impact on institutions.

SME SUPPORTING FACTOR (CRR)

The proposal includes changes to capital requirements for exposures to SMEs (Article 501). The current capital reduction of 23.81% for an exposure to an SME, if it does not exceed EUR 1.5 million, is maintained. In relation to an SME exposure, exceeding EUR 1.5 million, 23.81% capital reduction is proposed for the first EUR 1.5 million share of the exposure and a 15% reduction for the remaining part of the exposure above the threshold of EUR 1.5 million. Institutions will be able to continue implementing the reduction by adjusting the risk-weighted exposure amount for a given SME.

TREATMENT OF SPECIALISED LENDING EXPOSURES (CRR)

Promoting viable infrastructure projects in domains like transport, energy, innovation, education, research is of vital importance for the economic growth of the Union. In conjunction with other Commission initiatives, like the Capital Market Union and the Investment Plan for Europe, the proposal aims at mobilising private finance for high quality infrastructure projects. Building on the recent developments in the regulatory framework for insurance undertakings and on the on-going work carried out in the context of the upcoming reform of the Standardised Approach by the BCBS, it is proposed to grant, under both the Standardised Approach and the Internal Based Approach for credit risk, a preferential treatment to specialised lending exposures aiming at funding safe and sound infrastructure projects. These are defined through a set of criteria able to reduce the risk profile of the exposure and enhance the capacity of institutions to manage that risk. The criteria are consistent with those identifying qualifying infrastructure projects that receive a preferential treatment in the Solvency II framework. The proposed treatment is subject to a review clause in order to possibly fine-tune the provision in light of its impact on infrastructure investments in the EU and to take into account any relevant development at global level. It will also allow, if appropriate, to amend the provision in view of more flexibility with regard to the financing structure of infrastructure projects, i.e. to extend the treatment to infrastructure corporates. The Commission, after consulting the EBA, will report on the trends in the market for infrastructure investments and the effective risk profile of those investments and shall submit this report to the European Parliament and the Council together with any appropriate proposal.

INVESTMENT FIRMS REVIEW (CRR)

The review under Article 508(3) on investment firms is now in its second phase. In a first report published in December 2015, EBA found that the bank-like rules under the CRR were not fit for purpose for the majority of investment firms with the exception of the more systemic ones that pose risks similar to those faced by credit institutions. At the request of the Commission, the EBA is conducting additional analytical work and a data-gathering exercise in order to articulate a more appropriate and proportionate capital treatment for investment firms which will cover all parameters of a possible new regime. EBA is expected to deliver their final input to the Commission in June 2017. As indicated in its 2017 Annual Work programme, the Commission intends to present legislative proposals setting-up a specific prudential framework for non-systemic investment firms by the end of 2017.

Pending the adoption of these proposals, it is considered appropriate to allow investment firms that are not systemic to apply the CRR in the version as it stood before the amendments come into force. Systemic investment firms will, for their part, be subject to the amended version of the CRR. This will ensure that systemic firms are treated appropriately while alleviating the regulatory burden for non-systemic firms who would otherwise have to temporarily apply a new set of rules designed for credit institutions and systemic investment firms during the period preceding the final adoption of the dedicated investment firms' prudential framework that will be proposed in 2017.

INTRODUCING A MODIFIED FRAMEWORK FOR INTEREST RATE RISK (CRR AND CRD)

Following developments at international level on the measurement of interest rate risks. Articles 84 and 98 of the CRD and Article 448 of the CRR are amended in order to introduce a revised framework for capturing interest rate risks for banking book positions. The amendments include the introduction of a common standardised approach that institutions might use to capture these risks or that competent authorities may require the institution to use when the systems developed by the institution to capture these risks are not satisfactory, improved outlier test and disclosure requirements. In addition. EBA is mandated, in Article 84 of the CRD, to elaborate the details of the standardised methodology the criteria and conditions that institutions should follow to identify, evaluate, manage and mitigate interest rate risks and, in Article 98 of the CRD, to define the six supervisory shock scenarios applied to interest rates and the common assumption that institutions have to implement for the outlier test.

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Regulation (EU) No 575/2013 and Regulation (EU) No 648/2012

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the European Commission,

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

Having regard to the opinion of the European Economic and Social Committee[15],

Having regard to the opinion of the Committee of the Regions[16],

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. The reform was largely based on internationally agreed standards. Among its many measures, the reform package included Regulation (EU) No 575/2013 and Directive 2013/36/EU which strengthened the prudential requirements for credit institutions and investment firms.

(2) While the reforms have rendered the financial system more stable and resilient against many types of possible future shocks and crises, they did not address all identified problems. An important reason for that was that international standard setters, such as the Basel Committee on Banking Supervision and the Financial Stability Board, 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.

(3) The Commission recognised the need for further risk reduction in its Communication of 24 November 2015 and committed to bring forward a legislative proposal that builds on internationally agreed standards. The need for further concrete legislative steps to be taken in terms of reducing risks in the financial sector has been recognised also by the Council Conclusions from 17 June 2016.

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15 OJ C , , p.
16 OJ C , , p. .

(4) Any risk reduction measures should not only further strengthen the resilience of the European banking system and the markets' confidence in it, but should also provide the basis for further progress in completing the Banking Union. They 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 this 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 to ensure that any risk reduction measures interact smoothly with such policy initiatives as well as with broader recent reforms in the financial sector.

(5) The provisions of this amending Regulation are equivalent to internationally agreed standards and in particular 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 are limited in terms of scope or time in order not to impinge on the overall soundness of the prudential framework.

(6) Existing rules should also be improved in order 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 institutions.

(7) The leverage ratio contributes to preserving financial stability by acting as a backstop to risk based capital requirements and 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) EBA has concluded in its report to the Commission that a Tier 1 capital leverage ratio calibrated at 3% for any type of credit institution would constitute a credible backstop function. Also at international level a 3% leverage ratio requirement was agreed. The leverage ratio requirement should therefore be calibrated at 3%.

(10) A 3% leverage ratio would 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 disproportionally and the leverage ratio should be adjusted for these types of exposures.

(11) The provision of central clearing services by credit institutions to clients should not be undermined by the introduction of a leverage ratio requirement. Therefore, the initial margins on centrally cleared derivative transactions that credit institutions receive in cash from clients and pass on to the CCP, should be excluded from the leverage ratio exposure measure.

(12) The Basel Committee has adopted frequently asked questions and revised rules on the leverage ratio. The CRR should be aligned with these internationally agreed rules and frequently asked questions so as to enhance the international level playing field,

(13) The Financial Stability Board (FSB) has published on 9 November 2015 the Total Loss-Absorbing Capacity (TLAC) Term Sheet ('the TLAC standard') 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 bring 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.

(14) The implementation of the TLAC standard in the Union needs to account for the existing minimum requirement for own funds and eligible liabilities (MREL) in Directive 2014/59/EU. 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 is reflected in amendments to this Regulation introducing a requirement for own funds and eligible liabilities, while the firm-specific add-on for G-SIIs and the firm-specific requirement for non-G-SIIs is addressed through targeted amendments to the Directive 2014/59/EU and of Regulation (EU) No 806/2014. The relevant provisions introducing the TLAC standard in this Regulation (EU) should be read together with those in the aforementioned pieces of legislation and with Directive 2013/36/EU.

(15) Given that the FSB term-sheet only covers global systemically important banks, the minimum requirement for a sufficient amount of highly loss absorbing liabilities introduced in this Regulation only applies in the case of G-SIIs. On the contrary, the rules concerning eligible liabilities introduced in this Regulation apply to all institutions, in line with the complementary adjustments and requirements in Directive 2014/59/EU.

(16) In line with the FSB term sheet the requirement on own funds and eligible liabilities applies to resolution entities which are either themselves G-SIIs or are part of a group identified as G-SII. Depending on whether such resolution entities are stand-alone institutions with no subsidiaries, or parent undertakings, the requirement should apply on an individual basis and respectively on a consolidated basis.

(17) Under Directive 2014/59/EU resolution tools may apply not only to institutions but also to 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.

(18) In order to ensure the effectiveness of the requirement on own funds and eligible liabilities, it is essential that the instruments held for meeting the requirement have a high capacity of loss absorption. Liabilities that are excluded from the bail in tool in Directive 2014/59/EU, as well as other liabilities which although bail-in-able in

principle might raise difficulties for being bailed in in practice should therefore be excluded from eligibility for the requirement on own funds and eligible liabilities. On the contrary, capital instruments, as well as by subordinated liabilities display 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 FSB term-sheet.

(19) In view of avoiding double counting of liabilities for the purpose 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 for capital instruments. Under this approach, holdings of eligible liabilities instruments should first be deducted from eligible liabilities and to the extent there are no sufficient liabilities from Tier 2 capital instruments.

(20) The FSB term-sheet contains some eligibility criteria that are stricter than current eligibility criteria for capital instruments. To ensure consistency, eligibility criteria for capital instruments will be aligned as regards the non-eligibility of instruments issued through special purpose entities as of 1 January 2022.

(21) Under Regulation (EU) 575/2013, reporting requirements are subject to an overarching proportionality principle. Respondents to the Commission's call for evidence on the EU regulatory framework for financial services, however, often regarded the existing supervisory reporting requirements as disproportionate or overlapping. The EBA should report on where proportionality of the Union supervisory reporting package could be improved in terms of scope, granularity or frequency. Furthermore, competent authorities should only require information which is not duplicative relative to information which is or may be already available to them through other means or which has been required from the institution under a different enabling legal provision.

(22) Regulation (EU) No 575/2013 introduced specific rules on own funds requirements for institutions' exposures to central counterparties (CCPs). The introduction of those rules represented an important change in terms of the measurement, monitoring and management of such exposures as they had previously attracted no own funds requirements. Those rules implemented internationally agreed interim standards published by the Basel Committee.

(23) Since the adoption of Regulation (EU) No 575/2013, the international standards were amended in order to improve the treatment of exposures to qualifying CCPs (QCCPs). Notable revisions to the international standards 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, EU law should be amended to incorporate those standards.

(24) The treatment of exposures in the form of units or shares in CIUs should be risk sensitive and promote transparency with respect to the underlying exposures of CIUs, in order to promote adequate risk management of these exposures by institutions. To this end, the Basel Committee has adopted revised standards setting a clear hierarchy of approaches to calculate risk weights reflecting the degree of transparency over the underlying exposures. Regulation (EU) No 575/2013 of the European Parliament and of the Council should be aligned with those internationally agreed rules so as to enhance the international level playing field.

(25) Regulation (EU) No 575/2013 allows institutions the choice between three different standardised approaches for calculating the exposure value of derivative transactions under the counterparty credit risk framework: the Standardised Method ('SM'), the Mark-to-Market Method ('MtMM') and the Original Exposure Method ('OEM'). These approaches are also used in other areas of that Regulation, including the rules on own fund requirements for risks related to credit valuation adjustments, own fund requirements for trade exposures to CCPs, rules on large exposures and rules on the leverage ratio.

(26) The existing standardised approaches suffer from several shortcomings. The three main ones are that they do not recognise appropriately the risk-reducing nature of collateral in the exposures, that their calibrations are outdated and do not reflect the high level of volatility observed during the financial crisis, and that they do not recognise appropriately netting benefits. In order to address those shortcomings, the BCBS decided to replace the SM and the MtMM with a new standardised approach to compute 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 treatment that is better suited to the central clearing environment, EU law should be amended to incorporate those standards.

(27) The SA-CCR is more risk-sensitive 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 method would 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.

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

(29) In order to guide the choice of which of the approaches an institution is permitted to use clear criteria should be introduced. The criteria should be based on the size of the derivatives exposures of an institution.

(30) During the financial crisis, trading book losses in some EU institutions were substantial and, for some of them, the level of capital required against these losses proved insufficient leading them to seek extraordinary public financial support as a

result. These observations led the regulatory community to improve a number of weaknesses in the prudential treatment for trading book positions which are the own fund requirements for market risks.

(31) In 2009, a first set of reforms were finalised at international level (known as the 'Basel 2.5' package of reforms) and transposed in the EU via Directive 2010/76/EU (CRD III). These reforms, subsequently retained in this Regulation, sought to increase the overall own fund requirements for market risks which was the most pressing deficiency in measuring those risks.

(32) However, the 2009 reform 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. The robustness of institutions' internal models for market risks also needed to be strengthened.

(33) The Basel Committee for Banking Supervision initiated the Fundamental review of the trading book (FRTB) to address those weaknesses. This work was concluded in January 2016. The FRTB standards enhance the risk-sensitivity of the market risk framework by setting an amount of own fund requirements more proportionate with the risks of trading book positions. In addition, these standards clarify the definition of the boundary between banking and trading book making it less.

(34) The implementation of the FRTB standards in the EU needs to preserve the good functioning of financial markets in the EU. Recent impact studies about the FRTB standards showed that a steep increase in the overall own fund requirement for market risks could be foreseen for most of European institutions as a result of the implementation of the FRTB standards. As a consequence, in order to avoid a sudden contraction of trading businesses in the EU, a phase-in period is introduced for institutions to recognise the overall level of own fund requirements for market risks generated by the transposition of the FRTB standards in the EU. Particular attention has also been paid to European trading specificities and adjustments to have been made to the own funds requirements for sovereign and covered bonds, and simple, transparent and standardised securitisations.

(35) Finally, a proportional treatment for market risks should apply to institutions with limited trading book activities. To this end, more institutions with small trading activities will apply the credit risk framework for banking book positions as set out under the derogation for small trading book business. In addition, institutions with medium-sized trading book will be allowed to use a simplified standardised approach for calculating the own fund requirements for market risks in line with the approach currently in use under CRR.

(36) The large exposures framework should be strengthen to improve the ability of institutions to absorb losses and to better align with international standard. To this end a higher quality of capital should be used as capital base for the calculation of the large exposures limit and exposures to credit derivatives should be calculated with the Standardised Approach for Counterparty Credit Risk. Moreover, the limit concerning the exposures that G-SIBs have toward other G-SIBs should be lowered to reduce

systemic risks related to interlinks among large institutions and the probability that the default of G-SIBs counterparty may have on financial stability.

(37) During the financial crisis, institutions made use of excessive amounts of short-term wholesale funding to finance their long term activities. When short-term funding became unavailable, institutions were either forced to request emergency liquidity assistance from central banks or engage in 'fire sales' of assets, triggering a downward spiral in prices and eroding their liquidity positions, with the ultimate consequence of driving a number of them into insolvency. Some credit institutions also had to be bailed-out by their governments. These crisis periods were generally preceded by years of extensive long-term assets growth without a similar increase in stable funding sources.

(38) Article 413(1) of Regulation (EU) No 575/2013 imposes a stable funding requirement on institutions formulated in general terms as an obligation to "ensure that long term obligations are adequately met with a diversity of stable funding instruments under both normal and stressed conditions". Pursuant to Article 510(3) and in accordance with recital (112) Regulation (EU) No 575/2013, the Commission shall, if appropriate, submit a legislative proposal to the co-legislators to specify in detail that stable funding requirement, taking into account the recommendations of the report of 15 December 2015 prepared by the European Banking Authority (EBA) pursuant to paragraphs 1 and 2 of Article 510 of Regulation (EU) No 575/2013. Until the specification and introduction of binding minimum standards for stable funding requirements in the Union, Member States may maintain or introduce national provisions in this area.

(39) While the LCR ensures that credit institutions and systemic investment firms will be able to withstand a severe stress on a short-term basis it does not ensure that they will have a sustainable stable funding structure on a longer-term horizon. General requirements on stable funding introduced by Regulation (EU) No 575/2013 and market discipline would likely mitigate some of risks related to insufficiently stable funding, but are unlikely to prevent institutions from relying on too-high amounts of short-term funding. Institutions would therefore be more prone to liquidity problems in situations where markets for short-term funding were disrupted. This would likely lead to the failure of those institutions and could have negative consequences on financial stability in case of economic shock. Thus it became apparent that it was necessary to develop a detailed binding stable funding requirement 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.

(40) Consistent with BCBS stable funding standards, rules should 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. The "amount of available stable funding" should be calculated by multiplying an 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 an 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.

(41) 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. Competent authorities should assess the reasons for non-compliance with the NSFR requirement before defining potential supervisory measures.

(42) In accordance with the recommendations made by the EBA in its report, the rules of calculation of the NSFR should align closely with the BCBS' standards but the necessity to take specific account of some European specificities in order to ensure that the NSFR does not hinder the financing of the European real economy justifies adopting some adjustments to the Basel NSFR for the definition of the European NSFR. These adjustments to the European context are recommended by the EBA NSFR report and relate mainly to specific treatments for i) pass-through models in general and covered bonds issuance in particular, whose funding risk can be considered as low when assets and liabilities are matched funded; ii) trade finance activities, whose short-term transactions are less likely to be rolled-over than other type of loans to non-financial counterparties; iii) centralised regulated savings, whose scheme of transfer renders the client deposits (liabilities) and claims on the state-controlled fund (assets) interdependent; iv) residential guaranteed loans, whose specific characteristics make them similar to mortgage loans; v) credit unions, whose statutory constraints on investment of their excess of liquidity entail a funding risk similar to that of non-financial corporates for the institution receiving the deposits; vi) CCPs not undertaking maturity transformation, whose business model does not imply the type of maturity transformation that the NSFR is meant to address. These proposed specific treatments broadly reflect the preferential treatment granted to these activities in the European LCR compared to the Basel LCR. As the NSFR complements the LCR, these two ratios shall 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 EU LCR.

(43) Beyond the European specificities, the stringent 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 European economy, and on the access to some operations (e.g. hedging of currency risk, interest risk, exposure to a commodity etc.) for end-users (e.g. corporates, pension funds, public sector entities, insurance companies, retail banks etc.).

(44) The treatment of derivative transactions and of some interlinked transactions (e.g. clearing activities) could be unduly and disproportionately impacted by the introduction of the NSFR without having been subject to extensive quantitative impact studies and public consultation. The additional requirement to hold 20% of stable funding against gross derivatives liabilities is very widely seen as a rough measure that overestimates additional funding risks related to the potential increase of derivative liabilities over a one year horizon. It then seems reasonable to adopt an alternative

more risk-sensitive measure not to hinder the good functioning of EU 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.

(45) For unmargined derivatives transactions, whose future funding risk is contingent on some unpredictable events (e.g. rating triggers requiring to post collateral) and is best approximated by their market value (which would be the amount of funding required should such an event occur), a 10% RSF factor will apply to their gross derivatives liabilities as the 20% RSF factor seems to be very conservative (equivalent to assuming that an unpredictable event of the type mentioned above has a 20% chance of realising over one year). For margined derivatives transactions, an option is introduced for institutions using SA-CCR (institutions not using SA-CCR have very small derivatives portfolios and should be exempted from this requirement) to either apply the 20% RSF factor as indicated in the Basel standard or to use their PFE as calculated under SA-CCR.

(46) This approach is more risk-sensitive and, as it will be introduced in the Regulation (EU) No 575/2013 for counterparty credit risk and for the leverage ratio calculation, it will not constitute an additional burden for institutions to compute. The Commission is empowered to adopt a delegated act to review this treatment if need be, taking into account the conclusions of a report prepared by the EBA. The target remains to move to the Basel 20% RSF factor on gross derivatives liabilities for all derivatives transactions if no decision to the contrary is taken by 31/12/2022.

(47) 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 institutions 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.

(48) Furthermore, this will 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 (if the securities in the buffer become less liquid, the effectiveness of the mechanism in case of crisis may be undermined). 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 is then maintained but RSF factors are reduced to 5% and 10% respectively (instead of 10% and 15%). The Commission is empowered to adopt a delegated act to review this treatment if need be, taking into account the conclusions of a report prepared by the EBA. The target

remains to move to the Basel RSF of 10% and 15% if no decision to the contrary is taken by 31/12/2022.

(49) 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 I 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, is then reduced from 5% to 0%.

(50) Furthermore, all HQLA Level I as defined in the EU LCR, excluding extremely high quality covered bonds, received as variation margins in derivatives contracts offset derivatives assets while the Basel standard only recognises cash respecting the conditions of the leverage framework to offset derivatives assets. This 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.

(51) The NSFR should apply to institutions both on an individual and consolidated basis, unless competent authorities waive the application on an individual basis in accordance with Articles 8 or 10 of Regulation (EU) No 575/2013. It may not be assumed that institutions will always receive funding support from other undertakings belonging to the same group or to the same institutional protection scheme when they experience difficulties in meeting their payment obligations. However, where no waiver has been granted for the application of the NSFR at individual level in accordance with Articles 8 or 10 of Regulation (EU) No 575/2013, 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 not to impede the effective liquidity management in EU groups where liquidity is centrally managed. Such preferential treatments should only be granted provided that 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.

(52) The consolidation of subsidiary undertakings 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 subsidiary undertakings than that which is available under the national law of those third countries.

(53) The provision to market participants of meaningful information about common key risk metrics is a fundamental tenet of a sound banking system as it reduces information

asymmetry and helps promote comparability of credit institutions' risk profiles within and across jurisdictions.

(54) To enhance comparability and consistency of disclosures by credit institutions the Basel Committee on Banking Supervision (BCBS) published revised Pillar 3 disclosure requirements in January 2015. The BCBS is working on additional modifications to those requirements.

(55) To strengthen market discipline and financial stability, it is necessary to enhance the comparability of disclosures on regulatory capital, risk weighted assets, leverage and liquidity in a way that is consistent with internationally agreed standards. That will ensure that investors and depositors are sufficiently well informed about the solvency, leverage and liquidity of institutions. The mandate of the European Banking Authority ('EBA') to develop standardised disclosure templates laid down in Article 434a should therefore be extended to cover 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.

(56) Respondents to the Commission's call for evidence on the EU regulatory framework for financial services often singled out disclosure requirements as disproportionate, in particular for small institutions. The existing disclosure requirements should therefore be amended to make them more proportionate and, specifically, to reduce significantly the volume of disclosures required from small institutions.

(57) Disclosure requirements at international and Union level change over time in response to developments on financial markets. To react more efficiently to those developments, the Commission should have a mandate to amend the disclosure requirements laid down in Regulation (EU) 575/2013 through a delegated act.

(58) In accordance with Article 508(3) of Regulation (EU) No 575/2013, the Commission must report to the co-legislators on an appropriate regime for the prudential supervision of investment firms and submit, if 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.

(59) Institutions are required to report in the reporting currency to their competent authorities the NSFR as specified in detail in Regulation (EU) No 575/2013 in accordance with Article 415 of that Regulation, for all items and separately for items denominated in each significant currency. They shall not be subject to any double reporting requirements due to the net stable funding requirement and be granted sufficient time to get prepared to the entry into force of new reporting requirements.

(60) The application of the expected credit loss provisioning introduced by the revised international accounting standards on financial instruments "IFRS9", may lead to a sudden significant increase in the capital ratios of institutions. While discussions are on-going on the appropriate prudential treatment of the impact of increased expected

credit losses and to prevent an unwarranted detrimental effect on lending by credit institutions, the incremental provisioning for credit risk of IFRS9 should be phased in.

(61) 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 should amount to 15% reduction of a risk-weighted exposure amount.

(62) 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 mobilization of additional private source 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.

(63) 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 capital charges 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 by [four years after the entry into force] in order to assess its impact on the volume of infrastructure investments by institutions and its adequacy from a prudential standpoint. The Commission should also consider whether the scope should be extended to infrastructure investments by corporates.

(64) Article 508(3) of Regulation (EU) No 575/2013 of the European Parliament and of the Council[12] 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

[12] 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).

same systemic risk as credit institutions should however be subject to the same requirements as those that apply to credit institutions,

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 and settlement risk;

(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) and to leverage;

(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 or part of global systemically important institutions 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.

2. For the purposes of ensuring compliance where required in this Regulation, resolution authorities shall have the powers and shall follow the procedures set out in Directive 2014/59/EU or in this Regulation.

3. For the purposes of the requirements concerning own funds and eligible liabilities competent authorities and resolution authorities shall cooperate."

(3) In Article 4(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[17] 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[18];".

(4) In point (39) of Article 4(1) the following subparagraph is inserted after the last subparagraph :

"Two or more natural or legal persons that fulfil the conditions of points (a) or (b) because of their direct exposure to the same CCP for clearing activities purposes are considered as not constituting a group of connected clients."

(5) Point (26) of Article 4(1) is replaced by the following:

"(26) "financial institution" means an undertaking other than an institution and a purely 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 of 13 November 2007 on payment services in the internal market (1), 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;"

(6) Point (20) of Article 4(1) 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 such subsidiaries is an institution and where more than 50% of the equity, consolidated assets, revenues, personnel or another indicator deemed relevant by the competent authority of the financial institution are associated with subsidiaries that are institutions or financial institutions.".

(7) In point (71) of Article 4(1), letter (b) is replaced by the following:

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

(i) Tier 1 capital as referred to in Article 25;

(ii) Tier 2 capital as referred to in Article 71 that is equal to or less than one third of Tier 1 capital;'

(8) Point (a) of point (72) of Article 4(1) is replaced by the following:

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17 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).

18 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).

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

(9) Point (86) of Article 4(1) is replaced by the following:

"(86) "trading book" means all positions in financial instruments and commodities held by an institution either with trading intent, or in order to hedge positions held with trading intent or positions referred to in Article 104(2), excluding positions referred to in Article 104(3);".

(10) Point (96) of Article 4(1) is replaced by the following:

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

(11) In Article 4(1) the following points are added:

(129) "resolution authority" means an authority designated by a Member State in accordance with Article 3 of Directive 2014/59/EU;

(130) "resolution entity" means a resolution entity determined by the resolution authority in accordance with Article 12 of Directive 2014/59/EU;

(131) "resolution group" means a resolution entity and its subsidiaries that are not themselves resolution entities and are not subsidiaries of another resolution entity;

(132) "EU global systemically important institution" (EU G-SII) means a G-SII 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 EU G-SIIs and that are included on 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 that on an individual or consolidated basis meets any of the following conditions:

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

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

(c) it has a total leverage exposure measure larger than 5% of its original parent undertaking's consolidated leverage exposure measure;

(135) "G-SII entities" means entities with legal personality that are G-SIIs or are part of an EU G-SII or non-EU G-SII;

(136) "bail-in tool" means the bail-in too 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 undertakings linked to each other by relationship within the meaning of Article 22 of Directive 2013/34/EU;

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

(139) "systemic investment firm' means an investment firm within the meaning of this Regulation that has been identified as a G-SII or an O-SII in accordance with Article 131(1) ,(2)(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 portfolio of transactions in the time period needed to liquidate these transactions, or 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;

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

(143) "Commodity risk" means the risk of losses arising from movements in commodity prices;

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

(12) In Article 4, the following paragraph is added after paragraph 3:

"4. EBA shall develop draft regulatory technical standards specifying in which circumstances the conditions set out in points (a) or (b) of the first subparagraph of 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 Article 15 of Regulation (EU) No 1093/2010."

(13) In Article 6, the following paragraph is added after paragraph 1:

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

Only material subsidiaries of a non-EU G-SII that are not subsidiaries of an EU parent institution and are not resolution entities shall comply to the extent and in the manner prescribed in Article 18 with Article 92b on an individual basis."

(14) Article 7 is replaced by the following:

"Article 7
Derogation from the application of prudential requirements on an individual basis

1. Competent authorities may waive the application of Article 6(1) to any subsidiary of an institution, where both the subsidiary and the parent undertaking are established in the same Member State and the subsidiary is included in the supervision on a consolidated basis of the parent undertaking, which is an institution, a financial holding company or a mixed financial holding company, and all of the following conditions are satisfied, in order to ensure that own funds are distributed adequately between the parent undertaking and the subsidiary:

   (a) there is no current or foreseen material practical or legal impediment to the prompt transfer of own funds or repayment of liabilities by its parent undertaking;

   (b) either the parent undertaking satisfies the competent authority regarding the prudent management of the subsidiary and has declared, with the permission of the competent authority, that it guarantees the commitments entered into by the subsidiary, or the risks in the subsidiary are of negligible interest;

   (c) the risk evaluation, measurement and control procedures of the parent undertaking cover the subsidiary;

   (d) the parent undertaking holds more than 50 % of the voting rights attached to shares in the capital of the subsidiary or has the right to appoint or remove a majority of the members of the management body of the subsidiary.

2. After consulting the consolidating supervisor, the competent authority may waive the application of Article 6(1) to a subsidiary established in a different Member State than its parent undertaking and included in the supervision on a consolidated basis of that parent undertaking, which is an institution, a financial holding company or a mixed financial holding company, provided that all of the following conditions are satisfied

   (a) the conditions laid down in points (a) to (d) of paragraph 1;

   (b) the institution grants a guarantee to its subsidiary, which fulfils at all times the following conditions:

      (i) the guarantee is provided for at least an amount equivalent to the amount of the own funds requirement of the subsidiary which it waived;

      (ii) the guarantee is triggered when the subsidiary is unable to pay its debts or other liabilities as they fall due or a determination has been made in accordance with Article 59(3) of Directive 2014/59/EU in respect of the subsidiary, whichever is the earliest;

      (iii) the guarantee is fully collateralised through a financial collateral arrangement as defined in point (a) of Article 2(1) of Directive 2002/47/EC for at least 50% of its amount;

      (iv) the guarantee and financial collateral arrangement are governed by the laws indicated by the competent authority of the subsidiary;

      (v) the collateral backing the guarantee is an item defined as eligible collateral in accordance with article 197 , which, following appropriately conservative haircuts, is sufficient to fully cover the amount referred to in point (iii);

(vi) the collateral backing the guarantee is unencumbered and is not used as collateral to back any other guarantee;

(vii) there are no legal, regulatory or operational barriers to the transfer of the collateral from the institution to the relevant subsidiary.

3. Competent authorities may waive the application of Article 6(1) to a parent institution in a Member State where that institution is subject to authorisation and supervision by the Member State concerned, and it is included in the supervision on a consolidated basis, and all the following conditions are satisfied, in order to ensure that own funds are distributed adequately among the parent undertaking and the subsidiaries:

(a) there is no current or foreseen material practical or legal impediment to the prompt transfer of own funds or repayment of liabilities to the parent institution in a Member State;

(b) the risk evaluation, measurement and control procedures relevant for consolidated supervision cover the parent institution in a Member State.

(c) The competent authority which makes use of this paragraph shall inform the competent authorities of all other Member States.".

(15) Article 8 is replaced by the following

"Article 8

Derogation from the application of liquidity requirements on an individual basis

1. The competent authorities may waive in full or in part the application of Part Six to an institution and to all or some of its subsidiaries in the Union and supervise them as a single liquidity sub-group or to all or some of the subsidiaries of a financial holding company or a mixed financial holding company in the Union and supervise these subsidiaries and the financial holding company or mixed financial holding company as a single liquidity sub-group so long as they fulfil all of the following conditions:

(a) the parent institution, financial holding company or mixed financial holding company on a consolidated basis or a subsidiary institution on a sub-consolidated basis complies with the obligations laid down in Part Six;

(b) the parent institution, financial holding company or mixed financial holding company on a consolidated basis or the subsidiary institution on a sub-consolidated basis monitors and has oversight at all times over the liquidity positions of all institutions within the group or sub-group, that are subject to the waiver and ensures a sufficient level of liquidity for all of these institutions;

(c) the institutions, financial holding company or mixed financial holding company have entered into contracts that, to the satisfaction of the competent authorities, provide for the free movement of funds between them to enable them to meet their individual and joint obligations as they come due;

(d) there is no current or foreseen material practical or legal impediment to the fulfilment of the contracts referred to in (c).

2. The competent authorities may waive in full or in part the application of Part Six to an institution and to all or some of its subsidiaries or to all or some of the subsidiaries of a financial holding company or a mixed financial holding company where all institutions, financial holding company or mixed financial holding company of the single liquidity sub- group are established in the same Member State and provided that the conditions in paragraph 1 are fulfilled.

3. Where institutions, financial holding company or mixed financial holding company of the single liquidity sub-group are established in different Member States, paragraph 1 shall only be applied after following the procedure laid down in Article 21 and only to the institutions, financial holding company or mixed financial holding company whose competent authorities agree about the following elements:

(a) their assessment of the compliance of the organisation and of the treatment of liquidity risk with the conditions set out in Article 86 of Directive 2013/36/EU across the single liquidity sub-group;

(b) the distribution of amounts, location and ownership of the required liquid assets to be held within the single liquidity sub-group;

(c) the determination of minimum amounts of liquid assets to be held by institutions for which the application of Part Six will be waived;

(d) the need for stricter parameters than those set out in Part Six;

(e) unrestricted sharing of complete information between the competent authorities;

(f) a full understanding of the implications of such a waiver.

3a. Where institutions of the single liquidity sub-group are established in different Member States, the competent authority may waive in full or in part the application of Part Six to an institution and to all or some of its subsidiaries provided that all of the following conditions are fulfilled:

(a) the conditions laid down in points (a) to (d) of paragraph 1;

(b) the condition laid down in point (a) of paragraph 3;

(c) the parent institution on a consolidated basis or a subsidiary institution on a sub-consolidated basis grants a guarantee to the institution or group of institutions established in another Member State, which fulfils the following conditions:

(i) the guarantee is provided for an amount at least equivalent to the amount of the net liquidity outflows of the institution subject to the waiver, at individual level, or group of institutions, at sub-consolidated level, in the Member State which it substitutes, calculated in accordance with Delegated Regulation (EU) No 2015/61 and not taking into account any preferential treatment, in particular available under Articles 33 and 34 of Delegated Regulation (EU) No 2015/61;

(i) the guarantee is triggered when the institution or group of institutions in the Member State subject to the waiver is unable to pay its debts or other liabilities as they fall due or a determination has been made in accordance with Article 59(3) of Directive 2014/59/EU in respect of the waived institution or group of institutions in the Member State, whichever is the earliest;

(ii) the guarantee is fully collateralised through a financial collateral arrangement as defined in point (a) of Article 2(1) of Directive 2002/47/EC;

(iii) the guarantee and financial collateral arrangement are governed by the laws indicated by the competent authority of the institution or group of institutions subject to the waiver;

(iv) the collateral backing the guarantee is eligible as high quality liquid asset as defined in Chapter 2 of Title II of Delegated Regulation (EU) No 2015/61 and, following the application of appropriate haircuts as defined in Chapter 2 of Title II of Delegated Regulation (EU) No 2015/61, covers at least 50% of net liquidity outflows of the institution subject to the waiver, at individual level, or group of institutions, at sub-consolidated level, in the Member State, calculated in accordance with Delegated Regulation (EU) No 2015/61 and not taking into account any preferential treatment, in particular available under Articles 33 and 34 of Delegated Regulation (EU) No 2015/61;

(v) the collateral backing the guarantee is unencumbered and is not used as collateral to back any other transaction;

(vi) there are no current or foreseen legal, regulatory or practical barriers to the transfer of the collateral from the institution to the relevant institution or group of institutions subject to the waiver.

4. Competent authorities may also apply paragraphs 1, 2 and 3 to institutions which are members of the same institutional protection scheme referred to in Article 113(7)(b), provided that they meet all the conditions laid down in Article 113(7), and to other institutions linked by a relationship referred to in Article 113(6) provided that they meet all the conditions laid down therein. Competent authorities shall in that case determine one of the institutions subject to the waiver to meet Part Six on the basis of the consolidated situation of all institutions of the single liquidity sub-group.

5. Where a waiver has been granted under paragraph 1 or paragraph 2, the competent authorities may also apply Article 86 of Directive 2013/36/EU, or parts thereof, at the level of the single liquidity sub-group and waive the application of Article 86 of Directive 2013/36/EU, or parts thereof, on an individual basis.

Where a waiver has been granted under paragraph 1 or 2 of this Article, for the parts of Part Six that are waived, the competent authorities shall apply reporting obligations set out in Article 415 of this Regulation at the level of the single liquidity subgroup and waive the application of Article 415 on an individual basis.

6. Where a waiver is not granted under paragraph 1 or paragraph 2 to institutions previously waived on an individual basis, the competent authorities shall take into account the time needed for these institutions to get prepared to the application of full or part of Part Six of this Regulation and introduce an appropriate transitional period before application of these requirements to these institutions.".

(16) Article 11 is replaced by the following:

"Article 11
General treatment

1. For the purposes of applying the requirements of this Regulation 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 apply to financial holding companies and mixed financial holding companies authorised in accordance with Article 21a of Directive 2013/36/EU.

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 EU G-SIIs or part of EU G-SIIs or non-EU G-SIIs shall comply to the extent and in the manner prescribed in Article 18 with Article 92a on a consolidated basis.

Only EU parent undertakings that are a material subsidiary of non-EU G-SIIs and are not resolution entities shall comply to the extent and in the manner prescribed in Article 18 with Article 92b on a consolidated basis.

4. EU parent institutions, shall comply with the obligations laid down in Part Six on the basis of their consolidated situation, if 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 in accordance with Article 508(2) of this Regulation, and if the group comprises only investment firms, competent authorities may exempt the EU parent institutions from compliance with the obligations laid down in 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 or 2 of Article 8, the parent institution, financial holding company or mixed financial holding company or a subsidiary institution shall comply with the obligations laid down in Part Six of this Regulation on a consolidated basis or on the consolidated basis of the liquidity subgroup."

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 4, 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. ".

(17) Article 12 is replaced by the following:

"Article 12
Consolidated calculation for EU G-SIIs with multiple resolution entities

Where more than one G-SII entity belonging to the same EU G-SII are resolution entities, the EU parent institution of the EU G-SII shall calculate the amount of own funds and eligible liabilities referred to in Article 92(1)(a). This calculation shall be undertaken based on the consolidated situation of the EU parent institution as if it was the only resolution entity of the EU G-SII.

Where the requirement calculated in accordance with the first sub-paragraph is lower than the sum of the requirements of all resolution entities belonging to the EU G-SII, the resolution authorities shall act in accordance with Articles 45d(3) or 45h(1) of Directive 2014/59/EU.

Where the requirement calculated in accordance with the first sub-paragraph is higher than the sum of the requirements of all resolution entities belonging to the EU G-SII, the resolution authorities may act in accordance with Articles 45d(3) or 45h(1) of Directive 2014/59/EU."

(18) Article 13 is replaced by the following:

"Article 13
Application of disclosure requirements on a consolidated basis

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

   Significant subsidiaries of EU parent institutions and those subsidiaries which are of material significance for their local market shall disclose the information specified in Articles 437, 438, 440, 442, 450, 451, 451a, 451d and 453 on an individual or sub-consolidated basis as applicable in accordance with the level of application of this Regulation and Directive 2013/36/EU.

2. Institutions identified as resolution entities that are an EU G-SII or are part of an EU G-SIIs shall comply with the obligations laid down in Part Eight on the basis of their consolidated financial situation.

3. The first subparagraph of paragraphs 1 and paragraph 2 shall not apply in full or in part to EU parent institutions, EU parent financial holding companies, EU parent mixed financial holding companies or resolution entities, to the extent that they are included within equivalent disclosures provided on a consolidated basis by a parent undertaking established in a third country.

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

4. Where Article 10 is applied, the central body referred to in that Article shall comply with the requirements of 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 the subsidiaries of the central body."

(19) Article 18 is replaced by the following:

Article 18
Methods for 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 7 of this Article shall not apply where Part Six applies on the basis of the consolidated situation of an institution, financial holding company and mixed financial holding company.

Where institutions are required to comply with the requirements referred to in Articles 92a or 92b on the basis of their consolidated situation they shall carry out a full consolidation of all institutions and financial institutions that are their subsidiaries in the relevant resolution groups.

2. Where consolidated supervision is required pursuant to Article 111 of Directive 2013/36/EU, ancillary services undertakings shall be included in consolidations 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, the 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 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 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.

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 2 to 6 of this Article.

   EBA shall submit those draft regulatory technical standards to the Commission by 31 December 2016.

   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.

(20) Article 22 is replaced by the following

"Article 22
Sub-consolidation in cases 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, or the parent undertaking where it is a financial holding company or mixed financial holding company, 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 a subsidiary institution may not apply the requirements laid down in Articles 89 to 91 and Parts Three and Four on the basis of its consolidated situation where the total assets of the subsidiary in the third country are less than 10 % of the total amount of the assets and off-balance sheet items of the subsidiary institution or the parent undertaking on a sub-consolidated basis."

(21) The title of Part Two is amended as follows:

" OWN FUNDS AND ELIGIBLE LIABILITIES"

(22) Point (v) in Article 27(1)(a) is deleted.

(23) 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."

(24) In Article 36 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;"

(25) In the first subparagraph of Article 39(2), the introductory sentence 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 [date of entry into force of the amending Regulation], where all the following conditions are met:".

(26) In Article 45(a) point (i) is replaced by the following:

"(i) the maturity date of the short position is equal to or after the maturity date of the long position or the maturity date of the short position is at least 365 days in the future;"

(27) Article 49(2) is amended as follows:

"2. For the purposes of calculating own funds on an individual basis and a sub-consolidated basis, institutions subject to supervision on a consolidated basis in accordance with Chapter 2 of Title II of Part One shall not deduct holdings of own funds instruments issued by financial sector entities included in the scope of consolidated supervision.

When calculating own funds and eligible liabilities for the purposes of Articles 92a and 92b on the basis of the consolidated or sub-consolidated situation of the resolution entity, the first sub-paragraph shall not apply and institutions subject to supervision on a consolidated basis in accordance with Chapter 2 of Title II of Part One shall not deduct holdings of own funds instruments and eligible liabilities instruments issued by financial sector entities included in the same resolution group as the institution."

(28) In Article 52, point (a) is replaced by the following

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

(29) In Article 52 point (p) is replaced by the following:

"(p) the law or contractual provisions governing the instruments require that, upon a decision by the resolution authority in accordance with 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 are to be converted to Common Equity Tier 1 instruments;"

(30) In Article 52 the following points are added after point (p):

"(q) the instruments may only be issued under, or be otherwise subject to the laws of a third country if, under those laws, the application of the write down and conversion powers referred to in Article 59 of Directive 2014/59/EU is effective and enforceable on the basis of statutory provisions or legally enforceable contractual provisions for the recognition of resolution or other write-down or conversion actions;

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

(31) 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;"

(32) In Article 59(a) point (i) is replaced by the following:

"(i) the maturity date of the short position is equal to or after the maturity date of the long position or the maturity date of the short position is at least 365 days in the future;"

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

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

(34) In Article 63 point (a) is replaced by the following:

"(a) the instruments are directly issued or the subordinated loans are directly raised, as applicable, by an institution and fully paid-up;"

(35) In Article 63, 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;"

(36) In Article 63, point (n) is replaced by the following:

"(n) the law or contractual provisions governing the instruments require that, upon a decision by the resolution authority in accordance with 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 are to be converted to Common Equity Tier 1 instruments:

(37) In Article 63, the following points are added after point (n):

"(o) the instruments may only be issued under, or be otherwise subject to the laws of a third country if, under those laws, the resolution entity's resolution authority use of its resolution tools or such other statutory write-down or conversion powers is effective and enforceable on the basis of statutory provisions or legally enforceable contractual provisions for the recognition of resolution or other write-down or conversion actions;

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

(38) Article 64 shall be 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 or subordinated loans 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 or subordinated loans.

(39) 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."

(40) In Article 69(a) point (i) is replaced by the following:

"(i) the maturity date of the short position is equal to or after the maturity date of the long position or the maturity date of the short position is at least 365 days in the future;".

(41) 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:

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

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

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

   (a) covered deposits;

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

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

(d) deposits that would be eligible deposits from natural persons, micro, small and medium–sized enterprises were they 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 which form an integral part of the cover pool and which 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 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 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 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 systems or operators of systems designated according to Directive 98/26/EC or their participants and arising from the participation in such a system;

(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 remuneration that is not regulated by a collective bargaining agreement, and except for the variable component of the remuneration of material risk takers as identified in Article 92(2) of Directive 2013/36/EU;

(ii) a commercial or trade creditor arising from the provision to the institution or the parent undertaking of goods or services that are critical to the daily functioning of its 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 arising from contributions due in accordance with Directive 2014/49/EU.

(k) liabilities arising from derivatives;

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

Article 72b
Eligible liabilities instruments

1. Liabilities shall qualify as eligible liabilities instruments provided they comply with the conditions laid down in the following paragraphs and only to the extent specified in those paragraphs.

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 purchased 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 purchase 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 excluded liabilities referred to in Article 72a(2);

(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 any set off arrangements or netting rights 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, as applicable by the institution;

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

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

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

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

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

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

(n) the contractual provisions governing the liabilities require that, upon decision by the resolution authority in accordance with Article 48 of Directive 2014/59/EU, the principal amount of the liabilities be written down on a permanent basis or the liabilities be converted to Common Equity Tier 1 instruments.

The subordination requirement referred to in point (d) shall be considered to be met in any of the following situations:

(i) the contractual provisions governing the liabilities contain a clause stating that 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) in the event of normal insolvency proceedings as defined in point 47 of Article 2(1) of Directive 2014/59/EU;

(ii) the law governing the liabilities specifies that 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) in the event of normal insolvency proceedings as defined in point 47 of Article 2(1) of Directive 2014/59/EU;

(iii) the instruments are issued by a resolution entity which does not have on its balance sheet any excluded liabilities referred to in Article 72a(2) that rank pari passu or junior to eligible liabilities instruments [structural subordination].

3. In addition to the liabilities referred to in paragraph 2, liabilities shall 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; and

(b) the liabilities rank pari passu with excluded liabilities referred to in Article 72a(2);

(c) the inclusion of such liabilities in eligible liabilities items does not have a material adverse impact on the resolvability of the institution.

4. An institution may decide not to include in eligible liabilities items the liabilities referred to in paragraph 3. Where an institution takes that decision, in addition to the liabilities referred to in paragraph 2, liabilities shall qualify as eligible liabilities instruments, provided that all of the following conditions are met:

(a) the decision by the institution not to include in eligible liabilities items liabilities referred to in paragraph 3 is effective, in accordance with paragraph 5;

(b) all the conditions laid down in paragraph 2 except for the condition in point (d) are met;

(c) the liabilities rank pari passu or senior to excluded liabilities referred to in Article 72a(2);

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

(e) the inclusion of such liabilities in eligible liabilities items does not have a material adverse impact on the resolvability of the institution.

5. The decision referred to in paragraph 4 shall specify whether the resolution entity intends either to include in eligible liabilities items the liabilities referred to in paragraph 4 or not to include any of the liabilities referred to in paragraphs 3 and 4. A resolution entity may not decide to include in eligible liabilities items liabilities referred to in both paragraphs 3 and 4.

The decision shall be published in the annual report and shall take effect 6 months after the publication of the annual report. The decision shall be effective for at least one year.

6. The competent authorities shall grant institutions permission to recognise guarantees as eligible liabilities instruments provided that all of the following conditions are fulfilled:

(a) the guarantor is a parent undertaking of the institution;

(b) the guarantee meets the requirements laid down in Article 194(6);

(c) the guarantor has posted collateral that is eligible collateral in accordance with Article 197 in a way that the institution would be able to recognise the collateral under Article 194(3) and (4) if the guarantee was a loan by the institution and the guarantor was the obligor;

(d) the amount of eligible liabilities items recognised due to the guarantee does not exceed the volatility-adjusted value of the collateral in accordance with Article 223;

(e) the terms of the guarantee do not hinder the loss absorption capacity of the institution's other own funds and eligible liability instruments.

7. When examining whether the conditions of this paragraph are fulfilled, the competent authority shall consult the resolution authority.

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, for the proposes of this Article, 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.

Article 72d
Consequences of the eligibility conditions ceasing to be met

Where in the case of a 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 a resolution entity 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 by the institution 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 (h) of eligible liabilities instruments referred to in Article 72b(3) as follows:

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

where

i = the index denoting the issuing institution;

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

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

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 consulting the resolution authorities of any subsidiaries concerned, may permit the parent institution to derogate from paragraphs 1(c), 1(d) and 2 by deducting a lower amount specified by the home resolution authority. This lower amount must be at least equal to the amount (m) calculated as follows:

$$m = \sum_i (O_i + P_i - |(O_i + P_i) - r_{Mi} \cdot R_i|)$$

Where

i = the index denoting the subsidiary;

O_i = the amount of own funds instruments issued by subsidiary i which is recognised in consolidated own funds by the parent institution

P_i = the amount of eligible liabilities instruments issued by subsidiary i and held by the parent institution

r_{RG} = the ratio applicable to the respective resolution group in accordance with Article 92a(1)(a) and Article 45d of Directive 2014/59/EU

R_i = the total risk exposure amount of the G-SII entity i calculated in accordance with paragraphs 3 and 4 of Article 92.

Where the parent institution is allowed to deduct the lower amount in accordance with the previous subparagraph, the difference between the amount calculated in accordance with paragraphs 1(c), 1(d) and 2 and this lower amount shall be deducted by the

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:

(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; and

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; and

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, 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

Where they do not make use of Article 72j, institutions shall make the deductions referred to in points (c) and (d) of Article 72e 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 of the short position matches the maturity of the long position or has a residual maturity of at least one year; and

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, 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 instruments of a G-SII entity held. 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.

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) to (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 specified in point (a) of this paragraph by the amount specified in point (b) of this paragraph:

   (a) the amount of holdings required to be risk weighted pursuant to paragraph 4;

   (b) 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 choose 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 application of 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."

(42) Chapter 6 shall be replaced by the following:

"Chapter 6
General requirements for own funds and eligible liabilities

Article 73
Distributions on instruments

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 these conditions before granting permission.

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 the instrument 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.

5. Paragraph 4 shall not apply where the institution is a reference entity in that broad market index unless both the following conditions are met:

(a) the institution considers movements in that broad market index not to be significantly correlated to the credit standing of the institution, its parent institution or parent financial holding company or parent mixed financial holding company or parent mixed activity holding company;

(b) the competent authority has not reached a different determination from that referred to in point (a).

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

7. EBA shall develop draft regulatory technical standards to specify the conditions according to which indices shall be deemed to qualify as broad market indices for the purposes of paragraph 4.

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

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

Article 74

Holdings of capital instruments issued by regulated financial sector entities that do not qualify as regulatory capital

Institutions shall not deduct from any element of own funds direct, indirect or synthetic holdings of capital instruments issued by a regulated financial sector entity that do not qualify as regulatory capital of that entity. Institutions shall apply risk weights to such holdings in accordance with Chapter 2 or 3 of Title II of Part Three, as applicable.

Article 75

Deduction and maturity requirements for short positions

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 deemed to be met in respect of positions held where the following conditions are met:

(a) the institution has the contractual right to sell on a specific future date to the counterparty providing the hedge the long position that is being hedged:

(b) the counterparty providing the hedge to the institution is contractually obliged to purchase from the institution on that specific future date the long position referred to in point (a).

Article 76
Index holdings of instruments

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 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;

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 either or both of points (a) and (b):

   (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 indeces.

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.

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

   (a) when an estimate used as an alternative to the calculation of underlying exposure referred to in paragraph 2 is sufficiently conservative;

   (b) the meaning of operationally burdensome for the purposes of paragraph 3.

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

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

Article 77
Conditions for reducing own funds and eligible liabilities

An institution shall obtain the prior permission of the competent authority to do either or both of the following:

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

(b) effect the call, redemption, repayment or repurchase of Additional Tier 1, Tier 2 or eligible liabilities instruments as applicable, prior to the date of their contractual maturity.

Article 78

Supervisory permission for reducing own funds and eligible liabilities

1. The competent authority shall grant permission for an institution to reduce, repurchase, call or redeem Common Equity Tier 1, Additional Tier 1, Tier 2 or eligible liabilities instruments 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 referred to in Article 77 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 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.

   The competent authority shall consult the resolution authority before granting permission.

   Where an institution provides sufficient safeguards as to its capacity to operate above the requirements laid down in this Regulation, in Directive 2013/36/EU and in Directive 2014/59/EU, the competent authority, after consulting the resolution authority, may provide 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.

   The competent authorities shall withdraw the general prior permission where the institution breaches any of the criteria provided for the purposes of such 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 and liabilities would be more costly for the institution than those 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. The competent authorities may permit institutions to call, redeem, repay or repurchase Additional Tier 1 or Tier 2 instruments during the five years following their date of issue where the conditions laid down in paragraph 1 and point (a), (b), (c), (d) or (e) are met:

(a) there is a change in the regulatory classification of those instruments that would be likely to result in their exclusion from own funds or reclassification as 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; and

(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 are grandfathered under Article 484 of the CRR;

(d) earlier than or at the same time as the action referred to in Article 77, the institution replaces the instruments referred to in Article 77 with own funds or eligible liabilities instruments of equal or higher quality at terms that are sustainable for the income capacity of the institution and the competent authority has permitted this action based on the determination that this action 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.

The competent authority shall consult the resolution authority as concerns these conditions before granting permission.

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;

(d) the exceptional circumstances referred to in paragraph 4;

(e) the meaning of the term "market making" referred to in paragraph 4.

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

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

Article 79

Temporary waiver from deduction from own funds and eligible liabilities

1. Where an institution holds capital instruments or liabilities or has granted subordinated loans, as applicable, that qualify temporarily as Common Equity Tier 1, Additional Tier 1, Tier 2 in a financial sector entity or as eligible liabilities instruments in an institution and the competent authority deems those holdings to be for the purposes of a financial assistance operation designed to reorganise and save that entity, the competent authority may waive on a temporary basis the provisions on deduction that would otherwise apply to those instruments.

2. EBA shall develop draft regulatory technical standards to specify the concept of temporary for the purposes of paragraph 1 and the conditions according to which a competent authority may deem those temporary holdings to be for the purposes of a financial assistance operation designed to reorganise and save a relevant entity.

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

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

Article 80

Continuing review of the quality of own funds and eligible liabilities

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 of those instruments not meeting the respective eligibility criteria set out in this Regulation.

   Competent authorities shall, without delay, upon request by EBA, forward all information that EBA deems 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.

2. A notification shall include the following:

   (a) a detailed explanation of the nature and extent of the shortfall identified;

   (b) technical advice on the action by the Commission that EBA considers to be necessary;

   (c) significant developments in the methodology of EBA for stress testing the solvency of institutions.

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:

   (a) relevant developments in market standards or practice;

   (b) changes in relevant legal or accounting standards;

   (c) significant developments in the methodology of EBA for stress testing the solvency of institutions.

4. EBA shall provide technical advice to the Commission by 1 January 2014 on possible treatments of unrealised gains measured at fair value other than including them in Common Equity Tier 1 without adjustment. Such recommendations shall take into account relevant developments in international accounting standards and in international agreements on prudential standards for banks."

(43) In Article 81 paragraph 1 is replaced by the following:

"1. Minority interests shall comprise the sum of Common Equity Tier 1 capital 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 the same rules as credit institutions of that third country and where these rules have been judged equivalent with those of the CRR by the European Commission in accordance with Article 107(4);

   (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 capital, 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.

(44) 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 capital, as applicable, where the following conditions are met:

(a) the subsidiary is either of the following:

      (i) an institution;

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

(ii) an intermediate financial holding company in a third country that is subject to the same rules as credit institutions of that third country and where these rules have been judged equivalent with those of the CRR by the European Commission in accordance with Article 107(4).

(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.".

(45) In Article 83 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:

(a) the special purpose entity issuing those instruments is included fully in the consolidation pursuant to Chapter 2 of Title II of Part One;

(b) the instruments, and the related share premium accounts, are included in qualifying Additional Tier 1 capital only where the conditions laid down in Article 52(1) are satisfied;

(c) the instruments, and the related share premium accounts, are included in qualifying Tier 2 capital only where the conditions laid down in Article 63 are satisfied;

(d) the only asset of the special purpose entity is its investment in the own funds of the parent undertaking or a subsidiary thereof that is included fully in the consolidation pursuant to Chapter 2 of Title II of Part One, the form of which satisfies the relevant conditions laid down in Articles 52(1) or 63, as applicable.

Where the competent authority considers the assets of a special purpose entity other than its investment in the own funds of the parent undertaking or a subsidiary thereof that is included in the scope of consolidation pursuant to Chapter 2 of Title II of Part One, to be minimal and insignificant for such an entity, the competent authority may waive the condition specified in point (d) of the first subparagraph."

(46) In Article 92(1) the following is added after point (c):

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

(47) Article 92(3) is replaced by the following:

"3. Total risk exposure amount shall be calculated as the sum of points (a) to (f) of this paragraph after taking into account the provisions laid down in paragraph 4:

(a) the risk-weighted exposure amounts for credit risk and dilution risk, calculated in accordance with Title II and Article 379, in respect of all the business activities of an institution, excluding risk-weighted exposure amounts from the trading book business of the institution;

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

(i) market risks as determined in accordance with Article 325, Chapter 1, Title IV of this Part;

(ii) large exposures exceeding the limits specified in Articles 395 to 401, to the extent 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 Article 325 Chapter 1, Title IV of this Part for all business activities that generate foreign-exchange or commodity risks;

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

(48) The following Articles 92a and 92b are inserted after Article 92:

"Article 92a

EU G-SII Requirement for own funds and eligible liabilities

1. Subject to Articles 93 and 94 and the exceptions set out in paragraph 2, institutions identified as resolution entities that are an EU G-SII or part of an EU 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 paragraphs 3 and 4 of Article 92;

(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 when the institution or the group of which the resolution entity is part has been identified as an EU G-SII ;

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

(c) within the two years following the date when the resolution entity has reached a binding agreement with its creditors to convert capital instruments and other liabilities into Common Equity Tier 1 in order to recapitalise the firm without the application of resolution tools [as a recovery measure] in accordance with Directive 2014/59/EU.

3. Where the sum of the requirements applicable in accordance with Article 92a(1)(a) 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 consulting the other relevant resolution authorities may 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 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 paragraph 1, Additional Tier 1, Tier 2 and eligible liabilities instruments shall only be recognised where they are held by a parent undertaking of the institution in a third country.".

(49) Article 94 is replaced by the following:

"Article 94
Derogation for small trading book business

1. By derogation from Article 92(3)(b), institutions may determine the own funds requirement of their trading-book business in accordance with paragraph 2 provided that the size of the institution's on- and off-balance sheet trading-book business is equal to or less than the following thresholds on a monthly basis observation:

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

   (b) EUR 50 million.

2. Where the conditions set out in paragraph 1 are met, institutions may determine 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) by the requirement calculated in accordance with point (a) of that same Article 92(3).

3. Institutions shall determine the size of their on- and off-balance sheet trading book business on a given date for the purposes of paragraph 1 in accordance with the following requirements:

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

      (i) positions concerning foreign-exchange and commodities;

      (ii) credit derivatives that are recognised as internal hedges against non-trading book credit risk exposures or counterparty risk exposures;

   (d) all positions shall be valued at their market prices on that date; If the market price of a position is not available on a given date, institutions shall take the most recent market value for this position.

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

4. Institutions shall notify the competent authorities where they determine, or cease to determine, as applicable, the own fund requirements of their trading-book business according to this Article.

5. Where an institution no longer meets any of the conditions of paragraph 1, it shall immediately notify the competent authority.

6. The institution shall cease to determine the own fund requirements of their trading-book business according to this Article within three months of either of the following situations happening:

(a) the institution does not meet any of the conditions of paragraph 1for three consecutive months; or

(b) the institution does not meet any of the conditions of paragraph 1 during more than 6 out of the last 12 months;

7. After ceasing to determine the own fund requirements of their trading-book business according to this Article, an institution shall only be permitted to determine the own fund requirements of its trading-book business according to 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.

Institutions shall not enter into a trading book position for the only purpose of complying with any of the conditions at the monthly observation dates.".

(50) Article 99 is replaced by the following:

"Article 99

Reporting on own funds requirements and financial information

1. Reporting by institutions to their competent authorities on the obligations laid down in Article 92 shall be carried out in accordance with this Article.

1a. Reporting by resolution entities to their competent authorities on the obligations laid down in Article 92a and 92b shall be carried out at least on a semi-annual basis.

2. In addition to the own funds reporting referred to in paragraph 1, institutions shall report to their competent authorities financial information 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 conformity with the international accounting standards pursuant to Article 5(b) of Regulation (EC) No 1606/2002.

3. Competent authorities may require from 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. The EBA shall develop draft implementing technical standards to specify the uniform formats, frequency, dates of reporting, definitions and IT solutions for the reporting referred to in paragraphs 1 to 3 and in Article 100. The required frequency of reporting shall be on an annual basis for small institutions within the meaning of Article 430a and no less frequent than on a semi-annual basis for all other institutions.

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.

The reporting on the 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 institutions to the financial sector or the real economy as set out in Regulation (EU) No 1093/2010.

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.

5. The EBA shall assess the financial impact on institutions Commission Implementing Regulation (EU) No. 680/2014[19] in terms of compliance costs and shall report its findings to the Commission by no later than [31 December 2019]. That report shall, in particular, examine whether reporting requirements have been applied in a sufficiently proportionate manner. For those purposes, the report shall:

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

(b) measure the reporting burden to meet the reporting requirements set out in Commission Implementing Regulation (EU) No. 680/2014 incurred by each category of institutions during the relevant period, taking into account the following principles:

(iii) the reporting burden shall be measured as the ratio of compliance costs relative to institutions' net income during the relevant period;

(iv) the compliance costs shall comprise of all expenditure directly or indirectly related to the implementation and operation on an on-going basis of the reporting systems, including, for the avoidance of doubt, expenditure in staff, IT systems, legal, accounting, auditing and consulting;

(v) the relevant period shall refer to each annual period during which institutions have incurred compliance costs to prepare for the implementation of the reporting requirements laid down in Commission

[19] 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).

Implementing Regulation (EU) No. 680/2014 and to continue operating the reporting systems on an on-going basis;

(c) assess whether and to what extent compliance costs substantially prevented newly incorporated institutions from entering the market;

(d) assess the impact of compliance costs, as defined in point (b)(ii), on each category of institutions in terms of opportunity costs, with opportunity costs meaning the value lost to institutions for services not provided to customers due to compliance costs; and

(e) where appropriate, in the light of the relevant findings, recommend amendments of Commission Implementing Regulation (EU) No. 680/2014 to reduce the reporting burden on specified categories of institutions. The report shall, at a minimum, make recommendations on how to reduce the level of granularity of reporting requirements for small institutions as defined in Article 430a.

6. Competent authorities considering that institutions, other than those referred to in paragraphs 2 and 3 that are subject to an accounting framework based on Directive 86/635/EEC, should report on financial information in accordance with paragraph 2 to provide a comprehensive view of those institutions' activities' risk profile and of the systemic risks they pose to the financial sector or the real economy as set out in Regulation (EU) No 1093/2010, shall consult the EBA on whether to extend the reporting requirements on financial information on a consolidated basis to those institutions, except where those institutions are already reporting on a consolidated basis.

The EBA shall develop draft implementing technical standards to specify the formats to be used by the institutions referred to in the first subparagraph..

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.

Where a competent authority considers information not covered by the implementing technical standards referred to in paragraph 4 to be 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".

(51) Article 100 is replaced by the following:

"Article 100

Reporting requirements on asset encumbrance

1. Institutions shall report to their competent authorities on their level of asset encumbrance.

2. The report referred to in paragraph (1) shall provide for a breakdown by type of asset encumbrance, such as repurchase agreements, securities lending, securitised exposures and loans attached as collateral to covered bonds.

(52) In Article 101 the introductory part to paragraph 1 is replaced by the following:

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

(53) In Article 101 paragraphs 4 and 5 are replaced by the following:

"4. EBA shall develop draft implementing technical standards to specify uniform formats, definitions, frequencies and dates of reporting, as well as the IT solutions, of the aggregate date referred to in paragraph 1.

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.

5. By derogation from paragraph 1, small institutions as defined in Article 430a shall report the information referred to in paragraph 1 on an annual basis. ".

(54) Article 102 is replaced by the following:

"Article 102
Requirements for the trading book

1. Positions in the trading book shall be either free of restrictions on their tradability or capable to being hedged.

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.

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

4. Trading book positions shall be attributed to trading desks established by the institution in accordance with Article 104b, unless the institution is eligible for the treatment set out in Article 94 or has been granted the waiver referred to in paragraph 3 of Article 104b.

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.".

(55) 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. These policies and procedures shall at least address:

(a) the 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:

(vi) identify all material risks of the position;

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

(viii) 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 such transfers, in accordance with Article 104b.

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.".

(56) Article 104 is replaced by the following:

"Article 104
Inclusion in the trading book

1. Institutions shall have in place clearly defined policies and procedures for determining which position to include in the trading book for the purposes of calculating their capital requirements, in accordance with the requirements set out in Article 102, the definition of trading book in accordance with point (86) of Article 4(1) and the provisions of this Article, taking into account the institution's risk management capabilities and practices. The institution shall fully document its compliance with these policies and procedures, shall subject them to internal audit at least yearly and make available to the competent authorities the results of this audit.

2. Positions in the following instruments shall be assigned to the trading book:

(a) instruments meeting the criteria for the inclusion in the correlation trading portfolio in accordance with paragraphs 6 to 9;

(b) financial instruments that are managed on a trading desk established in accordance with article 104b;

(c) financial instruments giving rise to a net short credit or equity position;

(d) instruments resulting from underwriting commitments;

(e) financial assets or liabilities measured at fair value;

(f) instruments resulting from market-making activities;

(g) collective investment undertakings provided that they meet the conditions specified in paragraph 10;

(h) listed equities;

(i) trading-related repo-style transaction;

(j) options including bifurcated embedded derivatives from instruments in the non-trading book that relate to credit or equity risk.

For the purposes of point (c), an institution shall have a net short equity position when a decrease in an equity price would result in a profit for the institution. Correspondingly, an institution shall have a net short credit position when a credit spread increase or deterioration in the creditworthiness of an issuer or group of issuers would result in a profit for the institution.

3. Positions in the following instruments shall not be assigned to the trading book:

(a) instrument designated for securitisation warehousing;

(b) real estate holdings;

decrease of own funds requirements, all things being equal, the institution shall hold additional own funds equal to this net change and publicly disclose its value. The amount of this additional own funds shall remain constant until the position matures unless the competent authorities permit the institution to phase it out at an earlier date.

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

Article 104b
Requirements for trading desk

1. Institutions shall establish trading desks in accordance with the requirements set out in this Article 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 be subject on an ongoing basis to all the following requirements:

(a) Each trading desk shall have a clear and distinctive business strategy and a risk management structure which 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. One 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 its business strategy;

(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 in place a clear annual business plan including a well-defined remuneration policy based on sound criteria used for performance measurement.

3. Institutions shall submit a notification to the competent authorities setting out the manner in which they comply with the trading desk requirements laid down in paragraph 2. Competent authorities may require an institution to change the structure or organisation of their trading desks to comply with this Article.

4. By derogation from paragraph 1, institutions using the approaches set out in points (a) and (c) of paragraph 1 of Article 325 to determine the own funds requirements for market risk may apply for a waiver of part or all the requirements set out in this Article. Competent authorities may grant the waiver where the institution demonstrates that:

(a) non-compliance with the requirements in paragraph 2 would not have a material adverse impact on the institution's ability to manage and monitor the market risks of its trading book positions effectively;

(b) the institution complies with the general trading book management requirements set out in Article 103.".

(58) Article 105 is replaced by the following:

"Article 105
Requirements for prudent valuation

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.

2. Institutions shall establish and maintain systems and controls sufficient to provide prudent and reliable valuation estimates. Those systems and controls shall include at least the following elements:

(a) documented policies and procedures for the process of valuation, including clearly defined responsibilities of the various areas involved in the determination of the valuation, sources of market information and review of their appropriateness, guidelines for the use of unobservable inputs reflecting the institution's assumptions of what market participants would use in pricing the position, frequency of independent valuation, timing of closing prices, procedures for adjusting valuations, month end and ad-hoc verification procedures;

(b) reporting lines for the department accountable for the valuation process that are clear and independent of the front office, which shall ultimately be to the management body.

3. Institutions shall revalue trading book positions at fair value at least daily and changes in the value of these positions shall be reported in the profit and loss account.

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.

5. When marking to market, an institution shall use the more prudent side of bid and offer unless the institution can close out at mid market. Where institutions make use of this derogation, they shall every six months inform their competent authorities of the positions concerned and furnish evidence that they can close out at mid-market.

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 .

7. Institutions shall comply with the following requirements when marking to model:

(a) senior management shall be aware of the elements of the trading book or of other fair-valued positions which are subject to mark to model and shall understand the materiality of the uncertainty thereby created in the reporting of the risk/performance of the business;

(b) institutions shall source market inputs, where possible, in line with market prices, and shall assess the appropriateness of the market inputs of the particular position being valued and the parameters of the model on a frequent basis;

(c) where available, institutions shall use valuation methodologies which are accepted market practice for particular financial instruments or commodities;

(d) where the model is developed by the institution itself, it shall be based on appropriate assumptions, which have been assessed and challenged by suitably qualified parties independent of the development process;

(e) institutions shall have in place formal change control procedures and shall hold a secure copy of the model and use it periodically to check valuations;

(f) risk management shall be aware of the weaknesses of the models used and how best to reflect those in the valuation output; and

(g) institutions' models shall be subject to periodic review to determine the accuracy of their performance, which shall include assessing the continued appropriateness of assumptions, analysis of profit and loss versus risk factors, and comparison of actual close out values to model outputs.

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.

8 Institutions shall perform independent price verification in addition to daily marking to market or marking to model. Verification of market prices and model inputs shall be performed by a person or unit independent from persons or units that benefit from the trading book, at least monthly, or more frequently depending on the nature of the market or trading activity. Where independent pricing sources are not available or pricing sources are more subjective, prudent measures such as valuation adjustments may be appropriate.

9. Institutions shall establish and maintain procedures for considering valuation adjustments.

10. Institutions shall formally consider the following valuation adjustments: unearned credit spreads, close-out costs, operational risks, market price uncertainty, early termination, investing and funding costs, future administrative costs and, where relevant, model risk.

11. Institutions shall establish and maintain procedures for calculating an adjustment to the current valuation of any less liquid positions, which can in particular arise from market events or institution-related situations such as concentrated positions and/or positions for which the originally intended holding period has been exceeded. Institutions shall, where necessary, make such adjustments in addition to any changes to the value of the position required for financial reporting purposes and shall design such adjustments to reflect the illiquidity of the position. Under those procedures. institutions shall consider several factors when determining whether a valuation adjustment is necessary for less liquid positions. Those factors include 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 assigned to the risk factors of the position in accordance with Article 325bc:

(b) the volatility and average of bid/offer spreads;

(c) the availability of market quotes (number and identity of market makers) and the volatility and average of trading volumes including trading volumes during periods of market stress;

(d) market concentrations;

(e) the ageing of positions;

(f) the extent to which valuation relies on marking-to-model;

(g) the impact of other model risks.

12. When using third party valuations or marking to model, institutions shall consider whether to apply a valuation adjustment. In addition, institutions shall consider the need to establish adjustments for less liquid positions and on an ongoing basis review their continued suitability. Institutions shall also explicitly assess the need for valuation adjustments relating to the uncertainty of parameter inputs used by models.

13. With regard to complex products, including securitisation exposures and n-th-to-default credit derivatives, institutions shall explicitly assess the need for valuation adjustments to reflect the model risk associated with using a possibly incorrect valuation methodology and the model risk associated with using unobservable (and possibly incorrect) calibration parameters in the valuation model.

14. EBA shall develop draft regulatory technical standards to specify the conditions according to which the requirements of Article 105 shall be applied for the purposes of paragraph 1 of this Article.

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

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

(59) Article 106 is replaced by the following:

"Article 106
Internal Hedges

1. An internal hedge shall in particular meet the following requirements:

(a) it shall not be primarily intended to avoid or reduce own funds requirements;

(b) it shall be properly documented and subject to particular internal approval and audit procedures;

(c) it shall be dealt with at market conditions;

(d) the market risk that is generated by the internal hedge shall be dynamically managed in the trading book within the authorised limits;

(e) it shall be carefully monitored in accordance with adequate procedures.

These requirements apply without prejudice to the requirements applicable to the hedged position in the non-trading book or in the trading book, where relevant.

2. When 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.

3. When 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 purposes of calculating the own funds requirements for market risks.

4. When 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 as 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 when the following conditions are met:

(a) the position has been attributed to a trading desk established in accordance with the requirements set out in Article 104b which business strategy is solely dedicated to manage and mitigate the market risk of internal hedges of interest rate risk exposure. For this purpose, this trading desk may enter into other interest rate risk positions with third parties or other trading desks of the institution, as long as these other trading desks perfectly offset the market risk of these 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;

5. The own funds requirements for market risks of all the positions assigned to or entered into by the trading desk referred to in point (a) of paragraph 3 shall be calculated on a standalone basis as a separate portfolio and shall be additional to the own funds requirements for the other trading book positions.".

(60) Article 107(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 if the third country applies prudential and supervisory requirements to that entity that are at least equivalent to those applied in the Union."

(61) Article 128 is replaced by the following:

"*Article 128*
Items associated with particular high risk

1. Where appropriate, institutions shall assign a 150 % risk weight to exposures that are associated with particularly high risks.

2. For the purposes of this Article, speculative immovable property financing shall be considered to be associated with particularly high risks.

3. When assessing whether an exposure other than exposures referred to in paragraph 2 is associated with particularly high risks, institutions shall take into account the following risk characteristics:

(a) whether there is a high risk of loss as a result of a default of the obligor;

(b) whether it is impossible to assess adequately whether the exposure falls under point (a).".

(62) Article 132 is replaced by the following:

"*Article 132*
Own funds requirements for CIUs

1. Institutions shall calculate the risk weighted exposure amount for their exposures in the form of units or shares in CIUs by multiplying the risk weighted exposure amount of the CIU, calculated in accordance with the methods set out in this Article, with the percentage of units or shares held.

Institutions shall exclude from the calculations referred to in the first subparagraph exposures that according to Article 36 must be deducted from Common Equity Tier 1 items.

Institutions may exclude from the calculations referred to in the first subparagraph exposures to funds fulfilling the conditions laid down in points (g) and (h) of Article 150(1) , unless that exclusion would result in a material understatement of the risks associated with those exposures.

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). Where the institutions do not apply the look-through approach or the mandate-based approach, a risk weight of 1,250 % ("fall-back approach") shall be assigned.

Where the conditions set out in paragraph 3 are met, institutions may calculate the risk weighted exposure amount associated with an individual exposure in the form of units or shares in CIUs using a combination of the fall-back approach, the look-through approach and the mandate-based approach.

3. Institutions may determine the risk weight for a CIU in accordance with the methods set out in Article 132a, where the following eligibility criteria are met:

(a) the CIU is one of the following:

(ix) an undertaking for collective investment in transferable securities (UCITS) governed by Directive 2009/65/EU;

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

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

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

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

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

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

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

(a) reporting by the CIU to the institution complies with the following requirements:

(64) the business of the CIU is reported at least as frequently as that of the institution;

(65) the granularity of the financial information must be sufficient to calculate the corresponding risk weighted asset amounts;

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

4. Institutions not having adequate data or information to calculate and report, in accordance with the methods set out in Article 132a, a risk weight for the CIU, may rely for that calculating and reporting on the following third parties:

(a) 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 the financial institution;

(b) for CIUs not covered by point (a), the CIU management company, provided that the CIU management company meets the criteria set out in paragraph 3(a).

An external auditor shall confirm the correctness of the calculation referred to in the first subparagraph.

The risk weighted exposure amount shall be multiplied by a factor of 1.2, where an institution relies on a third party to calculate the risk weighted asset amounts for a CIU and that third party applies the method set out in Article 132a(1).

Where an institution applies the approaches set out in Article 132a for the purpose of calculating the risk-weighted exposure amount of a CIU, and the underlying exposure of the CIU is an exposure in the form of units or shares in another CIU, the risk-weight for the exposure in the other CIU may be determined using any of the three approaches described in paragraph 2. Risk-weighted exposure amounts of CIUs in subsequent layers must be determined in accordance with the fall-back approach, unless the look-through approach is used for the preceding layer, in which case the look-through approach may also be used for the subsequent layer.".

(67) The following Article 132a is inserted after Article 132:

"*Article 132a*
Specific methods for CIUs

1. Where the conditions of Article 132(3) are met, institutions that are aware of the 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 those institutions.

2. Institutions that are not aware of the underlying exposures of a CIU may calculate the risk weighted exposure amount for their exposures in the form of a unit or share in the CIU in accordance with the limits set in the CIU's mandate and relevant legislation as a sum of the following items, subject to the assumption that the CIU first incurs exposures to the maximum extent allowed under its mandate, in the exposure classes attracting the highest capital requirement and then continues incurring exposures in descending order until the maximum total exposure limit is reached:

(a) balance sheet exposures that are risk-weighted according to the methods set out in this Chapter.

(b) exposure values for underlying risk of a derivatives exposure or off-balance sheet items, calculated in accordance with Article 111..

(c) exposure values for counterparty credit risk incurred by the CIU, calculated in accordance with the methods set out in Sections 3 to 5 of Chapter 6, as applicable.

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 may replace the own funds requirement for credit valuation adjustment by multiplying by 1.5 the exposure value calculated under Sections 3, 4 and 5 of Chapter 6, as applicable, for the relevant exposures.

4. EBA shall develop draft implementing technical standards to determine the methods according to which the risk weighted exposure amount shall be determined for the exposures referred to under points (b) and (c) of paragraph 2 where the inputs required for the methods referred to in these points are not available.

EBA shall submit those draft implementing technical standards to the Commission by [nine months after entry into force].

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.".

(68) 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 asset amounts and expected loss amounts associated with exposures in the form of units or shares in CIUs in accordance with Article 132.

2. Where the conditions of Article 132(3) are met, institutions that are aware of the underlying exposures of a CIU shall look through to those underlying exposures in order 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.

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 replace the own funds requirement for credit valuation adjustment by multiplying by 1.5 the exposure value for the relevant exposures calculated under Sections 3, 4 and 5 of Chapter 6, as applicable.

3. Institutions applying the look-through approach in accordance with paragraph 2 that fulfil the conditions for permanent partial use in accordance with Article 150, or 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). 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:

(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.

4. Where the conditions of Article 132(3) are met, institutions that are not aware of the underlying exposures of a CIU may calculate the risk weighted exposure amount for their exposures in the form of a unit or share in the CIU in accordance with the mandate-based approach set out in Article 132a(2). However, for the exposures listed in points (a), (b) and (c) of paragraph3, the approaches set out therein shall be applied.

5. Institutions not having adequate data or information to calculate and report, in accordance with the methods set out in paragraphs 2, 3 and 4, a risk weight for the CIU may rely for that calculating and reporting on the following third parties:

(a) 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 the financial institution;

(b) for CIUs not covered by point (a) of this paragraph, the CIU management company, provided that the CIU management company meets the criteria set out in point (a) of paragraph 3.

Where an institution relies on a third party to calculate the risk weighted asset amounts for a CIU and the look-through approach is applied by the third party, the risk weighted exposure amount shall be multiplied by a factor of 1.2. For the exposures listed in points (a), (b) and (c) of paragraph 3, the approaches set out therein shall be applied.

The correctness of the calculation referred to in the first subparagraph shall be confirmed by an external auditor.".

(69) Point (h) of Article 201(1) is replaced by the following:

"(h) qualifying central counterparties.".

(70) The following Article 204a is inserted after Article 204:

"Article 204a
Eligible types of equity derivatives

1. Institutions may use equity derivatives, which are total return swaps orare 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 does 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 for the calculation of risk-weighted exposure amounts and expected loss amounts where they acquire unfunded credit protection.".

(71) Article 223 is replaced by the following:

"Article 223
Financial Collateral Comprehensive Method

1. In order to take account of price volatility, institutions shall apply volatility adjustments to the market value of collateral, as set out in Articles 224 to 227, when valuing financial collateral for the purposes of the Financial Collateral Comprehensive Method.

Where collateral is denominated in a currency that differs from the currency in which the underlying exposure is denominated, institutions shall add an adjustment reflecting currency volatility to the volatility adjustment appropriate to the collateral as set out in Articles 224 to 227.

In the case of OTC derivatives transactions covered by netting agreements recognised by the competent authorities under Chapter 6, institutions shall apply a volatility adjustment reflecting currency volatility when there is a mismatch between the collateral currency and the settlement currency. Even where multiple currencies are involved in the transactions covered by the netting agreement, institutions shall apply a single volatility adjustment.

2. Institutions shall calculate the volatility-adjusted value of the collateral (C_{VA}) they need to take into account as follows:

$$C_{VA} = C \cdot \left(1 - H_c - H_{fx}\right)$$

where:

C = the value of the collateral;

H_c = the volatility adjustment appropriate to the collateral, as calculated under Articles 224 and 227;

H_{fx} = the volatility adjustment appropriate to currency mismatch, as calculated under Articles 224 and 227.

Institutions shall use the formula in this paragraph when calculating the volatility-adjusted value of the collateral for all transactions except for those transactions subject to recognised master netting agreements to which the provisions set out in Articles 220 and 221 apply.

3. Institutions shall calculate the volatility-adjusted value of the exposure (EVA) they need to take into account as follows:

$$E_{VA} = E \cdot (1 + H_E)$$

where:

E = the exposure value as would be determined under Chapter 2 or Chapter 3, as applicable, where the exposurewas not collateralised;

H_E = the volatility adjustment appropriate to the exposure, as calculated under Articles 224 and 227.

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:

$$E_{VA} = E.$$

4. For the purpose of calculating E in paragraph 3, the following shall apply:

(a) for institutions calculating risk-weighted exposure amounts under the Standardised Approach, the exposure value of an off-balance sheet item listed in Annex I shall be 100 % of that item's value rather than the exposure value indicated in Article 111(1);

(b) for institutions calculating risk-weighted exposure amounts under the IRB Approach, they shall calculate the exposure value of the items listed in Article 166(8) to (10) by using a conversion factor of 100 % rather than the conversion factors or percentages indicated in those paragraphs.

5. Institutions shall calculate the fully adjusted value of the exposure (E*), taking into account both volatility and the risk-mitigating effects of collateral as follows:

$$E^* = max\{0, E_{VA} - C_{VAM}\}$$

where:

E_{VA} = the volatility adjusted value of the exposure as calculated in paragraph 3;

C_{VAM} = C_{VA} further adjusted for any maturity mismatch in accordance with the provisions of Section 5;

In the case of OTC derivative transactions, institutions using the methods laid down in Sections 3 to 5 of Chapter 6 shall take into account the risk-mitigating effects of collateral in accordance with the provisions laid down in these Sections, as applicable6. Institutions may calculate volatility adjustments either by using the Supervisory Volatility Adjustments Approach referred to in Article 224 or the Own Estimates Approach referred to in Article 225.

An institution may choose to use the Supervisory Volatility Adjustments Approach or the Own Estimates Approach independently of the choice it has made between the

Standardised Approach and the IRB Approach for the calculation of risk-weighted exposure amounts.

However, where an institution uses the Own Estimates Approach, it shall do so for the full range of instrument types, excluding immaterial portfolios where it may use the Supervisory Volatility Adjustments Approach.

6. Where the collateral consists of a number of eligible items, institutions shall calculate the volatility adjustment (H) as follows:

$$H = \sum_i a_i \cdot H_i$$

where:

a_i – the proportion of the value of an eligible item i in the total value of collateral;

Hi – the volatility adjustment applicable to eligible item i.".

(72) Article 272 points (6), (7) 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 Part 3, Title II, Chapter 6, Sections 3 or 4;

(7) "margin agreement" means an agreement or provisions of an agreement under which one counterparty must supply collateral to a second counterparty when an exposure of that second counterparty to the first counterparty exceeds a specified level;

(12) "Current Market Value" or "CMV" means the net market value of all the transactions within a netting set gross of any collateral held or posted where positive and negative market values are netted in computing the CMV;".

(73) In Article 272, the following point is inserted after point 7:

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

(74) In Article 272, the following point is inserted after point 12:

"(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;".

(75) Article 273 is replaced by the following:

"Article 273

Methods for calculating the exposure value

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(2) 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(3) shall not use the method set out in Section 5 of this Chapter.

To determine the exposure value for the contracts listed in point 3 of Annex II an institution 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 5 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.

2. Where permitted by the competent authorities in accordance with Article 283(1) and (2), an institution may calculate the exposure value for the following items using the Internal Model Method set out in Section 6 of this Chapter:

(a) the contracts listed in Annex II;

(b) repurchase transactions;

(c) securities or commodities lending or borrowing transactions;

(d) margin lending transactions;

(e) long settlement transactions.

3. When an institution purchases protection through a credit derivative against a non-trading book exposure or against a counterparty risk exposure, it may calculate its own funds requirement for the hedged exposure in accordance with either of the following:

(a) Articles 233 to 236;

(b) in accordance with Article 153(3), or Article 183, where permission has been granted in accordance with Article 143.

The exposure value for CCR for those credit derivatives shall be zero, unless an institution applies the approach in point (h)(ii) of Article 299(2).

4. Notwithstanding paragraph 3, an institution may choose consistently to include for the purposes of calculating own funds requirements for counterparty credit risk all credit derivatives not included in the trading book and purchased as protection against a non-trading book exposure or against a counterparty credit risk exposure where the credit protection is recognised under this Regulation.

5. Where credit default swaps sold by an institution are treated by an institution as credit protection provided by that institution and are subject to own funds

requirement for credit risk of the underlying for the full notional amount, their exposure value for the purposes of CCR in the non-trading book shall be zero.

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 the way of derogation from the first subparagraph, where a single margin agreement applies to multiple netting sets with that counterparty and the institution is using the method set out in Section 3 and Section 6 of this Chapter to calculate the exposure value of these netting sets, the exposure value shall be calculated in accordance with that 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 Article 33(1)(c).

7. In accordance with all 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 equals 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 such positions.

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.".

(76) The following new Articles are introduced after Article 273:

Article 273a

Conditions for using simplified methods for calculating the exposure value

1. An institution may determine 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 the following thresholds on a monthly basis observation:

(a) 10 % of the institution's total assets;

(b) EUR 150 million;

For the purposes of this paragraph, institutions shall determine the size of their on- and off-balance sheet derivative business on a given date by including all its derivative positions except credit derivatives that are recognised as internal hedges against non-trading book credit risk exposures.

2. An institution may determine the exposure value of interest rate, foreign exchange and gold 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 the following conditions on a monthly basis observation:

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

(b) (b) EUR 20 million;

For the purposes of this paragraph, institutions shall determine the size of their on- and off-balance sheet derivative business on a given date by including all its derivative positions referred to contracts in paragraphs 1 and 2 of Annex II:

3. For the purposes of paragraphs 1 and 2, when determining the size of its on- and off-balance sheet derivative business on a given date, institutions shall apply the following provisions:

(a) derivative positions shall be valued at their market prices on that date. If the market value of a position is not available on a given date, institutions shall take the most recent market value for this position.

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

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

5. Institutions shall not enter into a derivative transaction for the only purpose of complying with these conditions at the monthly observation dates.

Article 273b

Breaches of conditions for using simplified methods for calculating the exposure value of derivatives

1. Where an institution no longer meets any of the conditions set out in of paragraphs 1 or 2 of Article 273a, as applicable, it shall immediately notify the competent authority.

2. The institution shall cease to apply paragraphs 1 or 2 of Article 273a, as applicable, within three months of either of the following situations happening:

   (a) the institution does not meet any of the conditions of paragraphs 1 or 2 of Article 273a, as applicable, for three consecutive months; or

   (b) the institution does not meet any of the conditions of paragraphs 1 or 2 of Article 273a, as applicable, during more than 6 out of the last 12 months;

3. After ceasing to apply paragraphs 1 or 2 of Article 273a, as applicable, an institution shall only be permitted to determine the exposure value of its derivatives positions 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 paragraphs 1 or 2 of Article 273a, as applicable have been met for an uninterrupted full year period.

(77) Section 3 of Chapter 6 of Title II in Part Three 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 agreement 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 in Article 297 for this netting agreement.

   Where any of the conditions in the first subparagraph are not met, the institution shall treat each transaction as if it were its own netting set.

2. Institutions shall calculate the exposure value of a netting set under the Standardised Approach for Counterparty Credit Risk Method (hereinafter referred to as "SA-CCR Method") as follows:

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

where:

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

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

α = 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 it contractually applies to and separately calculate an exposure value for each of these grouped transactions.

5. Institutions may set to zero the exposure value of a netting set that satisfies all the following conditions:

(a) the netting set is solely composed of sold options;

(b) the current market value of the netting set is at all times negative;

(c) the premium of all the options included of 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. Institutions shall replace, in a netting set, a transaction which is linear combination of bought or sold vanilla call or put options by all the single options that form the combination, taken as individual transaction, for the purpose of calculating its exposure value of the netting set in accordance with this section.

Article 275
Replacement Cost

1. Institutions shall calculate the replacement cost (henceforth "RC") for netting sets not subject to a margin agreement or subject to a one-way margin agreement under which the institution posts variation margin to the counterparty but does not receive variation margins from the counterparty, 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 a 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_i = the CMV of netting set i;

VM_{MA} = 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 purpose 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 purpose of this Section, institutions shall determine the collateral amounts VM, VM_{MA}, NICA, $NICA_{MA}$, 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 Article 299 shall be recognised;

(b) where a netting set contains at least one transaction that belong 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 set out in Article 225.

(e) the same collateral item shall not be included in both VM and NICA at the same time;

(f) the same collateral item shall not be included in both VM_{MA} and $NICA_{MA}$ at the same time;

(g) any collateral posted to the counterparty that is segregated from the assets of that counterparty and, as a result of that segregation, is bankruptcy remote in the event of the default or insolvency of that counterparty shall not be recognised in the calculation of NICA and $NICA_{MA}$, as applicable.

2. For the purposes of the calculation of the volatility-adjusted value of collateral posted in point (d) of paragraph 1, institutions shall replace the formula in paragraph (2) of Article 223 with the following formula:

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

3. For the purpose of point (d) of the first subparagraph, institutions shall determine the liquidation period relevant to the calculation of the volatility-adjusted value of any collateral received or posted in accordance with the following time horizon relevant:

(a) for the netting sets referred to paragraphs 1 of Article 276(1), the time horizon shall be one year;

(b) for the netting sets referred to paragraphs 2 and 3 of Articles 276, the time horizon shall be the margin period of risk determined in accordance with Article 279d(1)(b)

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 in order to determine the potential future exposure of the netting set as set out in Article 278:

(a) interest rate risk;

(b) foreign exchange risk;

(c) credit risk;

(d) equity risk;

(e) commodity risk;

(f) other risks.

2. The mapping referred to in paragraph 1 shall be based on the primary risk driver of the transaction. For transactions not referred to in paragraph 3, the primary risk driver is the only material risk driver of a derivative position. When mapping transactions to the risk categories listed in paragraph 1, institutions shall take into account the following:

(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.

3. After the entry into force of Chapters 2 and 3, Title IV, for a derivative transaction allocated to the trading book for which an institution use either the approaches set out in those Chapters to calculate the own funds requirements for market risk, the primary risk driver shall be the risk factor associated with the highest absolute sensitivity among all the sensitivities calculated for this transaction in accordance with Chapter 2, Title IV.

4. By the way of derogation from paragraph 2, for derivative transactions that have more than one material risk driver, institutions shall map those transactions 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 map one time this transaction to this risk category based on the most material of these risk drivers. Where the material risk drivers of one of those transactions belong to different risk categories, institutions shall map one time this transaction 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 each risk category.

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

(a) a method for identifying the only material risk driver of transactions other than those referred to in paragraph 3;

(b) a method for identifying transactions with more than one material risk driver and for identifying the most material of these risk drivers for the purposes of paragraph 3;

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 assigned each transaction to those hedging sets in accordance with the following provisions:

(a) transactions mapped to the interest rate risk category shall be assigned to the same hedging set only if 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 if 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:

(xv) energy;

(xvi) metals;

(xvii) agricultural goods;

(xviii) climatic conditions;

(xix) other commodities.

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

For the purpose of paragraph (a), transactions mapped to the interest rate risk category that have an inflation variable as primary risk driver shall be assigned to other, separate hedging sets than the hedging sets established for transactions mapped to the interest rate risk category that have an inflation variable as primary risk driver. Those transactions shall be assigned to the same hedging set only if 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;

(b) Transactions for which the primary risk driver is the difference between two risk drivers mapped to the same risk category or transactions which consist in 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), institutions shall assign transactions to the same hedging set of the relevant risk category only if their primary risk driver is identical.

For the purposes of point (b), institutions shall assign transactions to the same hedging set of the relevant risk category only if the pair of risk drivers used to identify them contained in the transaction is identical and only if the two risk drivers included in one of those transactions are positively correlated. Where the two risk drivers included in one of those transactions are not positively correlated, institutions shall assign the transactions to one of the hedging established in accordance with paragraph 1, on the basis of only one of its risk drivers.

3. The institutions shall, for each risk category, make available upon request to the competent authorities the number of hedging sets established according to this paragraph, the primary risk driver or the pair of risk drivers of each of these hedging sets and the number of transactions in each of these hedging sets.

Article 278

Potential future exposure

1. Institutions shall calculate the potential future exposure (henceforth 'PFE') of a netting set as follows:

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

where:

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

$Addon^{(a)}$ 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 applicable formula 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 this risk category.

2. The potential future exposure of multiple netting sets subject to a single margined agreement, as referred in Article 275(3), shall be determined as the simple sum 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:

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

where:

$Floor_m$ = 5%;

$$2 \cdot (1 - Floor_m) \cdot \sum_a Addon^{(a)}$$

y =

z =

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

$NICA_i$ = the net independent collateral amount calculated only for transactions that are included in netting set "i". $NICA_i$ may be calculated at trade-level or at netting set-level depending on the level of applicable of the margin agreement.

Article 279
Calculation of risk position

Institutions shall calculate the risk position of each transaction of a netting set for the purposes of calculating the risk category add-ons in accordance with Article 280a to 280f. institutions shall calculate the risk position of each transaction of a netting set, as follows:

$$RiskPosition = \delta \cdot AdjNot \cdot MF$$

where:

δ = the supervisory delta of the transaction calculated in accordance with the applicable formula in Article 279a;

$AdjNot$ = the adjusted notional amount of the transaction determined in accordance with the provisions set out in Article 279b;

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

Article 279a
Supervisory delta

1. Institution shall determine the supervisory delta (δ) as follows:

(a) for call and put options that gives the right for the option buyer to purchase or sell an underlying instrument at a positive price on a single date in the future, except when such options are mapped to the interest rate risk category, institutions shall use the following formula:

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

where:

$sign$ = $\begin{cases} -1, \text{ if the transaction is a put option} \\ 1, \text{ if the transaction is a call option} \end{cases}$

$type$ = $\begin{cases} -1, & \text{if the transaction is a bought option} \\ 1, & \text{if when the transaction is a sold option} \end{cases}$

$N(x)$ = the cumulative distribution function for a standard normal random variable (i.e. 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, as applicable;

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.

σ = the supervisory volatility of the option determined in accordance with Table 1on 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
Interest rate	All	50%
Foreign Exchange	All	15%
Credit	Single-name instrument	100%
	Multiple-names instrument	80%
Equity	Single-name instrument	120%
	Multiple-names instrument	75%
Commodity	Electricity power	150%
	Other commodities (excluding electricity power)	70%
Others	All	150%

Where an institution uses the forward price of the underlying instrument of an option it shall ensure that the price is consistent with the characteristics of the option, that it is calculated using a relevant interest rate prevailing at the reporting date and that it 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

$$\delta = sign \cdot \frac{15}{(1 + 14 \cdot A) \cdot (1 + 14 \cdot D)}$$

formula:

where:

$$\text{sign} = \begin{cases} 1, \textit{if credit protection has been obtained through the transaction} \\ -1, \textit{if credit protection has been provided through the transaction} \end{cases}$$

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

$$\delta = \begin{cases} 1, \textit{if the transaction is a long position in the primary risk driver} \\ -1, \textit{if the transaction is a short position in the primary risk driver} \end{cases}$$

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 where these transactions are long or short positions in the primary risk driver based on objective information about their structure or their intention.

3. For those transactions with more than one material risk drivers, institutions shall determine whether the transaction is a long position or a short position in each of the material risk driver consistently with the approach used under paragraph 2 for the primary risk driver.

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

(a) a formula that institutions shall use to determine 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;

(b) which objective information about the structure and the intention of a transaction shall be used by institutions to determine where a transaction that is not referred to in paragraph 2 of Article 277 is a long or short position in its primary risk driver;

The 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. For the purposes of Article 279, institutions shall determine 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 times the supervisory duration factor calculated using the following formula:

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

where:

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

S = the start date which is the date at which a transaction starts fixing or making payments, other than payments related to the exchange of collateral in a margin agreement. If the transaction had already been fixing or making payments 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 has one or multiple 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 date between:

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; and

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 underlying instrument that may give rise to additional contractual obligations beyond the contractual obligations 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 date at which the value of the last contractual payment of a transaction is exchanged between the institution and the counterparty. 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 additional contractual obligations beyond the contractual obligations 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 determine the adjusted notional amount as follows:

(i) where the transaction consists in one payment leg, the adjusted notional shall be the notional amount of the derivative contract;

(ii) where the transaction consists in 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 in 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 between the notional amount of the two payment legs after their conversion into the institution's reporting currency at the prevailing spot exchange rate.

(iv) for transactions mapped to the equity risk category or commodity risk category, institutions shall calculate the adjusted notional amount shall be the product of the market price of one unit of the underlying instrument of the transaction times the number of units of the underlying instrument referenced by the transaction.

Where a transaction mapped to the equity risk category or commodity risk category is contractually expressed with a notional amount instead of the number of units of the underlying instrument, institution shall use the notional amount as the adjusted notional.

2. In order to determine the notional amount or number of units of the underlying instrument, as applicable, for the purpose of calculating the adjusted notional amount of a transaction in accordance with paragraph 1, institutions shall apply the following requirements:

(a) where the notional amount or the number of units of the underlying instrument, as applicable, of a transaction is not fixed until its contractual maturity:

(i) for deterministic notional amounts and numbers of units of the underlying instrument, the notional amount shall be the weighted average of all the deterministic values of notional amounts or number of units of the underlying instrument, as applicable, until the contractual maturity of the transaction, where the weights are the proportion of the time period during which each value of notional amount applies;

(ii) for stochastic notional amounts and numbers of units of the underlying instrument, the notional amount shall be the amount determined by fixing current market values within the formula for calculating the future market values that is used to determine the notional amount or the number of units of the underlying instrument, as applicable.

(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 stochastic, institution shall use the method set out in point (a)(ii) to determine its value;

(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 contract;

(d) for contracts that provides a multiplication of the cash flows 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 that contract.

3. Institutions shall convert the adjusted notional amount of a transaction into its reporting currency at the prevailing spot exchange rate when the adjusted notional amount is calculated under this Article from a contractual notional amount or a market price of a number of units of the underlying instrument denominated in another currency.

Article 279c
Maturity Factor

1. For the purpose of Article 279, institutions shall calculate the maturity factor (henceforth 'MF') as follows:

(a) for transactions included in netting sets referred to in Article 276(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 length of the time interval until all the contractual obligations of the transaction terminate. For this purpose, any optionality feature of a derivative contract shall be considered as a contractual obligation. The remaining maturity shall be expressed in years using the relevant business day convention.

When 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 the length of the time interval until all the contractual obligations of the underlying instrument would terminate.

OneBusinessYear = one year expressed in business days using the relevant business day convention.

(b) for transactions included in the netting sets referred to in paragraphs 2 and 3 of Article 275, 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 using the provisions set out in paragraphs 2 to 5 of Article 285.

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) by 5 business days. The other provisions of Article 285 still apply to these transactions.

2. For the purpose of paragraph 1, for transactions that are structured to settle outstanding exposure following specified payment dates and where the terms are reset so that the market value of the contract is zero on those specified dates, the remaining maturity shall be equal to the time until the next reset date.

Article 280

Hedging set supervisory factor coefficient

For the purposes of determining the add-on of a hedging set in accordance with Articles 280a to 280f, the hedging set supervisory factor coefficient ϵ is defined as follows:

$$\epsilon = \begin{cases} 1, \text{ for the hedging sets established according to paragraph 1 of Article 275} \\ 5, \text{ for the hedging sets established according to paragraph 2(a) of Article 275} \\ 0.5, \text{ for the hedging sets established according to paragraph 2(b) of Article 275} \end{cases}$$

Article 280a

Interest rate risk category add-on

1. For the purpose of Article 278, for a given netting set, institution shall calculate the interest rate risk category add-on 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 Article 277a(1)(a) and Article 277a(2) for the netting set;

$AddOn_j^{IR}$ = the add-on of hedging set j of the interest rate risk category determined in accordance with paragraph 2.

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

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

where:

ϵ_j = the hedging set supervisory factor coefficient of hedging set j determined in accordance with the applicable value specified in Article 280;

SF^{IR} = the supervisory factor for the interest rate risk category with a value equal to 0.5%;

$EffNot_j^{IR}$ = the effective notional of hedging set j calculated in accordance with paragraphs 3 and 4;

3. For the purpose of calculating the effective notional 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 Article 279b(1)(a):

Table 2

Bucket	End date (in years)
1	>0 and <=1
2	>1 and <= 5
3	> 5

The institution shall then calculate the effective notional of hedging set j in accordance with the following formula:

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

where:

l = the index that denotes the risk position;

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

$$D_{j,k} = \sum_{l \in Bucket\ k} RiskPosition_l$$

Article 280b
Foreign Exchange risk category add-on

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

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

where:

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

$AddOn_j^{FX}$ = the add-on of hedging set j of the foreign risk category determined in accordance with paragraph 2.

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

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

where:

ϵ_j = the hedging set supervisory factor coefficient of hedging set "j"

determined in accordance with the applicable value specified in Article 280;

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

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

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

Article 280c
Credit risk category add-on

1. For the purpose of paragraph 2, institutions shall establish the relevant credit reference entities of the netting set in accordance with the following provisions:

(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 same credit reference entity only if 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 if the group of underlying reference debt instruments or single-name credit derivatives, as applicable, of those transactions has the same constituents.

2. For the purpose of Article 278, for a given netting set, institution shall calculate the add-on for the credit risk category 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 Article 277a(1)(c) and 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 2.

3. Institutions shall calculate the credit risk category add-on of hedging set j the credit risk category as follows:

$$AddOn_j^{Credit} = \epsilon_j \cdot \left[\left(\sum_j \rho_j^{Credit} \cdot AddOn(Entity_j)\right)^2 + \sum_j \left(1 - \left(\rho_j^{Credit}\right)^2\right) \cdot \left(AddOn(Entity_j)\right)^2\right]^{\frac{1}{2}}$$

where:

j = the index that denotes the credit reference entities of the netting setestablished in accordance with paragraph 1;

ϵ_j = the hedging set supervisory factor coefficient of hedging set "j" determined in accordance with the applicable value specified in Article 280(3):

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

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

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

$$AddOn(Entity_j) = EffNot_j^{Credit}$$

where:

$\mathrm{EffNot}_j^{\mathrm{Credit}}$ – the effective notional of credit reference entity "j" calculated as follows:

$$EffNot_j^{Credit} = \sum_{l \in Credit\ reference\ entity\ j} SF_{j,l}^{Credit} \cdot RiskPosition_l$$

where

l – the index that denotes the risk position;

$\mathrm{SF}_{j,l}^{\mathrm{Credit}}$ – the supervisory factor applicable to credit reference entity *j* determined in accordance with paragraph 5.

5. For the purpose of paragraph 4, institutions shall calculate the supervisory factor applicable to credit reference entity *j* as follows:

(a) For credit reference entity *j* established in accordance with paragraph (1)(a), $\mathrm{SF}_{j,l}^{\mathrm{Credit}}$ shall be mapped to one of the six supervisory factors set out in Table 3 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 in Title II, Chapter 3 shall map the internal rating of the individual issuer to one of the external credit assessment;

   (ii) an institution using the approach in Title II, Chapter 2 shall assign $\mathrm{SF}_{j,l}^{\mathrm{Credit}}$ = 0,54 % to this credit reference entity. However, if an institution uses Article 128 to risk weight counterparty credit risk exposures to this individual issuer, $\mathrm{SF}_{j,l}^{\mathrm{Credit}}$ = 1,6 % shall be assigned;

(b) For credit reference entity *j* established in accordance with paragraph (1)(b):

   (i) where the position *l* is a credit index listed on a recognised exchange, $\mathrm{SF}_{j,l}^{\mathrm{Credit}}$ shall be mapped to one of the two supervisory factors set out in Table 3 based on the dominant credit quality of its individual constituents;

   (ii) for positions not referred to in points (i), $\mathrm{SF}_{j,l}^{\mathrm{Credit}}$ shall be the weighted average of the supervisory factors mapped to each constituent in accordance with the method set out in point (a), where the weights are defined by the proportion of notional of the constituents in the position.

Table 3

Credit quality step	Supervisory factor for single-

	name transactions
1	0.38%
2	0.42%
3	0.54%
4	1.06%
5	1.6%
6	6.0%

Table 4

Dominant credit quality	Supervisory factor for quoted indices
Investment grade	0.38%
Non-investment grade	1.06%

Article 280d
Equity risk category add-on

1. For the purpose of paragraph 2, institutions shall establish the relevant equity reference entities of the netting set in accordance with the following provisions:

(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 if 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 if the group of underlying reference equity instruments or single-name equity derivatives, as applicable, of those transactions has the same constituents.

2. For the purpose 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 Article 277a(1)(d) and Article 277a(2) for the netting set;

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

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

$$AddOn_j^{Equity} = \epsilon_j \cdot \left[\left(\sum_j \rho_j^{Equity} \cdot AddOn(Entity_j)\right)^2 + \sum_j \left(1 - \left(\rho_j^{Equity}\right)^2\right) \cdot \left(AddOn(Entity_j)\right)^2\right]^{\frac{1}{2}}$$

where:

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

ϵ_j = the hedging set supervisory factor coefficient of hedging set "j" determined in accordance with the applicable value specified in Article 280:

$AddOn(Entity_j)$ = the add-on for equity reference entity j determined in accordance with paragraph 4;

ρ_j^{Equity} = the correlation factor of entity j.

Where the equity reference entity j has been established in accordance with paragraph 1(a) $\rho_j^{Credit} = 50\%$. Where the equity reference entity j has been established in accordance with paragraph 1(a) $\rho_j^{Credit} = 80\%$.

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

$$AddOn(Entity_j) = SF_j^{Equity} \cdot EffNot_j^{Equity}$$

where:

SF_j^{Equity} = the supervisory factor applicable to equity reference entity j. When the equity reference entity j has been established in accordance with paragraph 1(a),

$SF_j^{Equity} = 50\%$; when the equity reference entity j has been established in accordance with paragraph 1(a), $SF_j^{Equity} = 80\%$;

$\mathrm{EffNot}_j^{\mathrm{Equity}}$ = the effective notional of equity reference entity j calculated as follows:

$$EffNot_j^{Equity} = \sum_{l \in Equity\,reference\,entity\,j} RiskPosition_l$$

Article 280e
Commodity risk category add-on

1. For the purposes of Article 278, for a given netting set, institutions shall calculate the commodity risk category add-on as follows:

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

where:

j = the index that denotes the commodity hedging sets established in accordance with Articles 277a(1)(e) and 277a(2) for the netting set;

$AddOn_j^{Com}$ = 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 if the underlying commodity instrument of those transactions has the same nature.

3. By the way of derogation from paragraph 2, competent authorities may require an institution with large and concentrated commodity derivative portfolios to consider additional characteristics other than the nature of the underlying commodity instrument for the purpose of establishing the commodity reference types of a commodity hedging set in accordance with paragraph 2.

EBA shall develop draft regulatory technical standards to specify in greater detail what constitutes a large and concentrated commodity derivative portfolio as referred in the first subparagraph.

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.

4. Institution shall calculate the commodity risk category add-on for hedging set j shall be determined as follows:

$AddOn_j^{Com} =$

$$\epsilon_j * \left[\left(\rho^{Com} \cdot \sum_k AddOn(Type_k^j)\right)^2 + (1-(\rho^{Com})^2) \cdot \sum_k \left(AddOn(Type_k^j)\right)^2\right]^{\frac{1}{2}}$$

where:

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

ϵ_j = the hedging set supervisory factor coefficient of hedging set "j"determined in accordance with the applicable value specified in Article 280;

$AddOn(Type_k^j)$ = the add-on of commodity reference type k determined in accordance with paragraph 5;

ρ^{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 (e)(i) of Article 277b(1), $SF_k^{Com} = 40\%$; otherwise, $SF_k^{Com} = 18\%$;

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

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

Article 280f
Other risks category add-on

6. For the purposes of Article 278, for a given netting set, institutions shall calculate the other risk category add-on as follows:

$$AddOn^{Other} = \sum_{j} AddOn_j^{Other}$$

where:

j = the index that denotes the other risk hedging sets established in accordance with Article 277a(1)(f) and 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.

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

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

where:

ϵ_j = the hedging set supervisory factor coefficient of hedging set j determined in accordance with the applicable value specified in Article 280;

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

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

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

(78) Section 4 of Chapter 6 of Title II in Part Three is replaced by the following:

SECTION 4
SIMPLIFIED STANDARDISED APPROACH FOR COUNTERPARTY CREDIT RISK METHOD

Article 281
Calculation of the Exposure value

1. Unless specified otherwise in paragraph 2, institution shall calculate the exposure value of a netting set in accordance with Section 3 of this Chapter.

2. For the purposes of calculating the exposure value, an institution shall apply the following:

(a) institutions shall not apply the treatment referred to in Article 274(6):

(b) institutions shall replace paragraph 1 of Article 275 with the following:

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

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

(c) institutions shall replace paragraph 2 of Article 275 with the following:

For netting sets of transactions that are traded on a recognised exchange, or netting sets of transactions that are centrally cleared in accordance 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) institutions shall replace paragraph 3 of Article 275 with 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) institutions shall not establish specific hedging sets in accordance with Article 277a(2). Therefore, all the hedging sets will 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:

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

(g) institutions shall replace paragraph 1 of Article 279a with the following:

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

$$\delta = \begin{cases} 1, \textit{ if the transaction is a long position in the primary risk driver;} \\ -1, \textit{ if the transaction is a short position in the primary risk driver;} \end{cases}$$

(h) institutions shall replace the formula used to compute the supervisory duration factor in Article 279b(1)(a) with the following formula:

$$supervisory\ duration\ factor = E - S \quad ;$$

(i) institutions shall replace paragraph 1 of Article 279c with the following:

The maturity factor shall be calculated as follows:

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

(ii) (b) for transactions included in netting sets referred to in paragraphs 2 and 3 of Article 275, MF = 0.42;

(j) institutions shall replace the formula used to compute the effective notional of hedging set j in Article 280a(3) with the following formula:

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

(k) institutions shall replace the formula used to compute the credit risk category add-on for hedging set j of the credit risk category in Article 280c(3) with the following formula:

$$AddOn_j^{Credit} = \sum_j |AddOn(Entity_j)|;$$

(l) institutions shall replace the formula used to compute the equity risk category add-on for hedging set j of the equity risk category in Article 280d(3) with the following formula:

$$AddOn_j^{Equity} = \sum_j |AddOn(Entity_j)|;$$

(m) institutions shall replace the formula used to compute the commodity risk category add-on for hedging set "j" of the commodity risk category in Article 280e(3) with the following formula:

$$AddOn_j^{Com} = \sum_j |AddOn(Type_k^j)|.$$

(79) Section 5 of Chapter 6 of Title II in Part Three 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 is 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 in accordance 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 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 determine 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 according to point (b):

(b) the potential future exposure of a single transaction is its notional amount multiplied by:

(i) 0.5% times the residual maturity of the transaction for interest-rate contracts;

(ii) 4% for contracts concerning foreign-exchange rates;

(iii) 18% for contracts concerning gold;

(c) the notional amount referred to in point (b) shall be determined in accordance with points (b) and (c) of paragraph 1 and paragraphs 2 and 3 of Article 279b, 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 interest-rate contracts in accordance with point (b)(ii), an institution may choose to use the original maturity instead of the residual maturity of the contracts.".

(80) Article 283 is replaced by the following:

Article 283
Permission to use the Internal Model Method

1. Provided that the competent authorities are satisfied that the requirement in paragraph 2 have been met by an institution, they shall permit that institution to use the Internal Model Method (IMM) to calculate the exposure value for any of the following transactions:

(a) transactions in Article 273(2)(a);

(b) transactions in Article 273(2)(b), (c) and (d);

(c) transactions in Article 273(2)(a) to (d),

Where an institution is permitted to use the IMM to calculate exposure value for any of the transactions mentioned in points(a) to (c) of the first subparagraph, it may also use the IMM for the transactions in Article 273(2)(e).

Notwithstanding the third subparagraph of Article 273(1), an institution may choose not to apply this method to exposures that are immaterial in size and risk. In such case, an institution shall apply one of the methods set out in Sections 3 to 5 to these exposures where the relevant requirements for each approach are met.

2. Competent authorities shall permit institutions to use IMM for the calculations referred to in paragraph 1 only if the institution has demonstrated that it complies with the requirements set out in this Section, and the competent authorities verified that the systems for the management of CCR maintained by the institution are sound and properly implemented.

3. The competent authorities may permit institutions for a limited period to implement the IMM sequentially across different transaction types. During this period of sequential implementation institutions may use the methods set out in Section 3 or Section 5 for transaction type for which they do not use the IMM.

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 or Section 5. Those methods may be used in combination on a permanent basis within a group.

5. An institution which is permitted in accordance with paragraph 1 to use the IMM shall not revert to the use of the methods set out in Section 3 or Section 5 unless it is permitted by the competent authority to do so. Competent authorities shall give such permission if the institution demonstrates good cause.

6. If an institution ceases to comply with the requirements laid down in this Section, it shall notify the competent authority and do one of the following:

(a) present to the competent authority a plan for a timely return to compliance:

(b) demonstrate to the satisfaction of the competent authority that the effect of non-compliance is immaterial."

(81) 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."

(82) Article 299 is replaced by the following:

Article 299
Items in the trading book

1. For the purposes of the application of this Article, Annex II shall include a reference to derivative instruments for the transfer of credit risk as mentioned in point (8) of Section C of Annex I to Directive 2004/39/EC.

2. When calculating risk-weighted exposure amounts for counterparty risk of items in the trading book, institutions shall comply with the following principles:

(a) institutions shall not use the Financial Collateral Simple Method set out in Article 222 for the recognition of the effects of financial collateral;

(b) in the case of repurchase transactions and securities or commodities lending or borrowing transactions booked in the trading book, institutions may recognise as eligible collateral all financial instruments and commodities that are eligible to be included in the trading book;

(c) for exposures arising from OTC derivative instruments booked in the trading book, institutions may recognise commodities that are eligible to be included in the trading book as eligible collateral;

(d) for the purposes of calculating volatility adjustments where such financial instruments or commodities which are not eligible under Chapter 4 are lent, sold or provided, or borrowed, purchased or received by way of collateral or otherwise under such a transaction, and an institution is using the Supervisory Volatility Adjustments Approach under Section 3 of Chapter 4, institutions shall treat such instruments and commodities in the same way as non-main index equities listed on a recognised exchange;

(e) where an institution is using the Own Estimates of Volatility adjustments Approach under Section 3 of Chapter 4 in respect of financial instruments or commodities which are not eligible under Chapter 4, it shall calculate volatility adjustments for each individual item. Where an institution has obtained the approval to use the internal models approach defined in Chapter 4, it may also apply that approach in the trading book;

(f) in relation to the recognition of master netting agreements covering repurchase transactions, securities or commodities lending or borrowing transactions, or other capital market driven transactions, institutions shall only recognise netting across positions in the trading book and the non-trading book when the netted transactions fulfil the following conditions:

(i) all transactions are marked to market daily;

(ii) any items borrowed, purchased or received under the transactions may be recognised as eligible financial collateral under Chapter 4 without the application of points (c) to (f) of this paragraph;

(g) where a credit derivative included in the trading book forms part of an internal hedge and the credit protection is recognised under this Regulation in accordance with Article 204, institutions shall apply one of the following approaches:

(iii) treat it as if there were no counterparty risk arising from the position in that credit derivative;

(iv) consistently include for the purpose of calculating the own funds requirements for counterparty credit risk all credit derivatives in the trading book forming part of internal hedges or purchased as protection against a CCR exposure where the credit protection is recognised as eligible under Chapter 4.

(83) In Article 300(1) the following are added after point (4):

"(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 direct clearing member, but is itself a client of a clearing member or another clearing client;

(8) "higher-level client" means the entity providing clearing services;

(9) "lower-level client" means the entity clearing transactions 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.".

(84) 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 deposits 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 for trade exposures arising from those transactions and a 0% risk weight to default fund contributions covering only those transactions. Where default fund contributions cover any of the contracts listed in the first subparagraph in addition to cash transactions, institutions shall apply the treatment in Article 307 to those contributions.

2. For the purposes of this Section, initial margin shall not include contributions to a CCP for mutualised loss sharing arrangements but includes 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 respectively the institution acting as a clearing member or client from withdrawing such excess collateral. 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.".

(85) Article 302(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.".

(86) Article 303 is replaced by the following:

"*Article 303*
Treatment of clearing members' exposures to CCPs

1. Where an institution acts as a clearing member, either for its own purposes or as a financial intermediary between a client and a CCP, the institution 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 is 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."

(87) Article 304 is replaced by the following:

"Article 304
Treatment of clearing members' exposures to clients

1. Where an institution acts as a clearing member and, in that capacity, acts as a financial intermediary between a client and a CCP, the institution 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, as applicable.

2. Where an institution acting as a clearing member enters into a contractual arrangement with a client of another clearing member that facilitates, in accordance with Article 48(5) and (6), of Regulation (EU) No 648/2012, the transfer of positions and collateral referred to in Article 305(2)(b) of this Regulation for that client, and that contractual agreement gives rise to a contingent obligation for that institution, that institution may attribute an exposure value of zero to that contingent obligation.

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 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;

(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.

6. An institution acting as a clearing member may use the reduced exposure at default resulting from the calculations in paragraphs 3 to 5 for the purposes of calculating its own funds requirements for CVA risk in accordance with Title VI.

7. Where a clearing member collects collateral from a client for a CCP-related transaction and this collateral is passed on to the CCP, the clearing member may recognise this collateral to reduce its exposure to the client for that CCP-related transaction.

In case of multi-level client structures the treatment set out in the first subparagraph may be applied at each level of the structure."

(88) Article 305 is replaced by the following:

"*Article 305*
Treatment of clients' exposures

1. Where an institution is a client, it shall calculate the own funds requirements for its CCP-related transactions with its clearing member in accordance with Sections 1 to 8 of this Chapter, with Section 4 of Chapter 4 of this Title and with Title VI, as applicable.

2. Without prejudice to the approach specified in paragraph 1, where an institution is a client, it may calculate the own funds requirements for its trade exposures for CCP-related transactions with its clearing member in accordance with Article 306 provided that all the following conditions are met:

(a) the positions and assets of that institution related to those transactions are distinguished and segregated, at the level of both the clearing member and the CCP, from the positions and assets of both the clearing member and the other clients of that clearing member and as a result of that distinction and segregation those positions and assets are bankruptcy remote in the event of the default or insolvency of the clearing member or one or more of its other clients;

(b) laws, regulations, rules and contractual arrangements applicable to or binding that institution or the CCP facilitate the transfer of the client's positions relating to those contracts and transactions and of the corresponding collateral to another clearing member within the applicable margin period of risk in the event of default or insolvency of the original clearing member. In such circumstance, the client's positions and the collateral shall be transferred at market value unless the client requests to close out the position at market value;

(c) the client has conducted sufficient legal review, which it has kept up to date, that concludes that, in the event of legal challenge, the relevant courts and administrative authorities would find 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;

(d) the CCP is a QCCP.

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.

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 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 paragraph 1 of that Article with a 4 % risk weight.

4. In the case of a multi-level client structure, an institution that is a lower-level client that accesses 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 each paragraph are met at every level of the structure."

(89) Article 306 is replaced by the following:

"*Article 306*

Own funds requirements for trade exposures

1. An institution shall apply the following treatment to its trade exposures with CCPs:

(a) it shall apply a risk weight of 2 % to the exposure values of all its trade exposures with QCCPs;

(b) it shall apply the risk weight used for the Standardised Approach to credit risk as set out in Article 107(2)(b) to all its trade exposures with non-qualifying CCPs;

(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 obligated 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;

(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 obligated 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) to the trade exposure with the CCP that corresponds to that CCP-related transaction.

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 becomes insolvent, an institution may attribute an exposure value of zero to the counterparty credit risk exposures for those assets.

3. An institution shall calculate exposure values of its trade exposures with a CCP in accordance with Sections 1 to 8 of this Chapter and with Section 4 of Chapter 4, as applicable.

4. An institution shall calculate the risk weighted exposure amounts for its trade exposures with CCPs for the purposes of Article 92(3) as the sum of the exposure values of its trade exposures with CCPs, calculated in accordance with paragraphs 2 and 3 of this Article, multiplied by the risk weight determined in accordance with paragraph 1 of this Article."

(90) 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."

(91) Article 308 is replaced by the following:

"Article 308

Own funds requirements for pre-funded contributions to the default fund of a QCCP

1. The exposure value for an institution's pre-funded contribution to the default fund of a QCCP (DFi) shall be the amount paid in or the market value of the assets delivered by that institution reduced by any amount of that contribution that the QCCP has already used to absorb its losses following the default of one or more of its clearing members.

2. An institution shall calculate the own funds requirement (Ki) to cover the exposure arising from its pre-funded contribution (DFi) 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 CCP communicated to the institution by the CCP;

DF_{CM} = the sum of pre-funded contributions of all clearing members of the CCP communicated to the institution by the CCP 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 an institution's pre-funded contribution for the purposes of Article 92(3) as the own funds requirement (K_{CMi}) determined in accordance with paragraph 2 multiplied by 12,5."

(92) 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 (Ki) for the exposures arising from its pre-funded contributions to the default fund of a non-qualifying CCP (DF_i) and from unfunded contributions (UC_i) to such CCP:

$$K_i = DF_i + UC_i.$$

2. An institution shall calculate the risk weighted exposure amounts for exposures arising from an institution's pre-funded contribution for the purposes of Article 92(3) as the own funds requirement (K) determined in accordance with paragraph 1 multiplied by 12,5."

(93) 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."

(94) Chapter 1 of Title IV in Part Three, 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 determine 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) from the date specified in Article 521, the standardised approach set out in Chapter 1a of this Title;

   (b) from the date specified in Article 521, the internal model approach set out in Chapter 1b of this Title for the positions assigned to trading desks for which the institution has been granted a permission by competent authorities to use this approach as set out in Article 325ba;

   (c) until the date specified in Article 521, the simplified standardised approach referred to in paragraph 4. After this date, only institutions that meet the conditions defined in paragraph 1 of Article 325a may use this approach to determine the own funds requirements for market risks.

   (d) until the date specified in Article 521, the simplified internal model approach set out in Chapter 5 of this Title for those risk categories for which the institution has been granted the permission to use this approach in accordance with Article 363;

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

   (a) the own funds requirements for position risks set out in Chapter 2 of this Title;

   (b) the own funds requirements for foreign exchange risks set out in Chapter 3 of this Title;

   (c) the own funds requirements for commodity risks set out in Chapter 4 of this Title;

3. An institution may use in combination the approach set out in points (a) and (b) of paragraph 1 on a permanent basis within a group provided that the own funds requirements for market risks calculated under the approach set out in point (a) does not exceed 90% of the total own funds requirements for market risks. Otherwise, the institution shall use of the approach set out in point (a) of paragraph 1 for all the positions subject to the own funds requirements for market risks.

4. An institution may use in combination the approach set out in points (c) and (d) of paragraph 1 on a permanent basis within a group as set out in Chapter 5.

5. An institution shall not use any of the approaches set out in points (a) and (b) of paragraph 1 in combination with the approach set out in point (c).

6. Institutions shall not use the approach set out in point (b) of paragraph 1 for instruments in the trading book that are securitisation positions or positions included in the correlation trading portfolio as defined in paragraphs 7 to 9 of this Article.

7. For the purposes of calculating the own funds requirements for CVA risks using the advanced method set out in Article 383, institutions may continue to use the simplified internal model approach set out in Chapter 5 of this Title after the date specified in Article 521 at which institutions shall cease to use this approach for the purposes of calculating the own funds requirements for market risks.

8. EBA shall develop 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 [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 article 10 to 14 of Regulation (EU) No 1093/2010.

Article 325a

Conditions for using the Simplified Standardised Approach

1. Institutions may determine the own funds requirements for market risks with the approach referred to in point (c) of paragraph 1 of Article 325 provided that the size of the institution's on- and off-balance sheet business subject to market risks is equal to or less than the following thresholds on a monthly basis observation:

(a) 10 % of the institution's total assets;

(b) EUR 300 million.

2. Institutions shall determine the size of on- and off-balance sheet subject to market risks on a given date 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 generating foreign-exchange and commodity risks shall be included;

(c) all positions shall be valued at their market prices on that date, except positions referred to in point (b). If the market price of a position is not available on a given date, institutions shall take the most recent market value for this position:

(d) all the non-trading book positions generating commodity risks shall be considered as an overall net foreign exchange position and valued in accordance with Article 352

(e) all the 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 where they determine, or cease to determine, as applicable, the own fund requirements for market risks according to this Article.

4. Where an institution no longer meets any of the conditions of paragraph 1, it shall immediately notify the competent authority.

5. The institution shall cease to determine the own fund requirements for market risks according to this Article within three months of either of the following situations happening:

(a) the institution does not meet any of the conditions of paragraph 1 for three consecutive months; or

(b) the institution does not meet any of the conditions of paragraph 1 during more than 6 out of the last 12 months;

6. After ceasing to determine the own fund requirements for market risks according to this Article, an institution shall only be permitted to determine the own fund requirements for market risks according to 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.

7. Institutions shall not enter into a position for the only purpose of complying with any of the conditions at the monthly observation dates.

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

1. Any position which an institution has deliberately taken in order to hedge against the adverse effect of foreign exchange rates on its ratios defined in accordance with Article 92(1) may, subject to permission by the competent authorities, be excluded from the calculation of own funds requirements for market risks in accordance with the following requirements:

(a) the exclusion is limited to the largest of the amounts defined in (i) and (ii):

(i) the amount of investments in affiliated entities denominated in foreign currencies but which are not consolidated with the institution;

(ii) the amount of investments in consolidated subsidiaries denominated in foreign currencies.

(b) the exclusion from the calculation of own funds requirements for market risks shall be made for at least six months;

(c) the institution has provided to the competent authorities the characteristics of the position, a justification that the position has been entered into for the purpose of hedging partially or totally against the adverse effect of the exchange rate on its ratios defined in accordance with Article 92(1) and the amounts of that position that shall be excluded from the own funds requirements for market risk in accordance with point (a).

2. Any exclusion of positions from the own funds requirements for market risks in accordance with paragraph 1 shall be applied consistently, with the exclusionary treatment of the hedge remaining in place for the life of the assets or other items. Competent authorities shall approve any subsequent changes by the institution to the amounts that shall be excluded from the own funds requirements for market risks in accordance with paragraph 1.

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

"Chapter 1a
The standardised approach

SECTION 1
GENERAL PROVISIONS

Article 325d
Scope and structure of the standardised approach

An institution shall calculate the own funds requirements for market risk with the standardised approach as the sum of the following three components:

(a) the own funds requirement under the sensitivities based method, which captures the risk of changes in the value of an instrument due to potential shocks to the different risk factors to which it is exposed;

(b) the default risk own funds requirement, which captures the jump-to-default risk of its positions;

(c) the own funds requirements for residual risks, which is only applicable in the cases where the sensitivities based method does not to capture all the relevant elements of risk.

SECTION 2
SENSITIVITIES-BASED METHOD OWN FUNDS REQUIREMENT

Article 325e
Definitions

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

(1) "Risk factor" means any driver of the value of an instrument described in subsection 1 of section 3 of this Chapter. For the purposes of market risk own funds requirements, the applicable risk factors shall only be those that are included in the institution's pricing model for a given instrument.

(2) "Risk class" means a broad category of risk factors with similar features. For the purposes of this Chapter there are seven risk classes: general interest rate risk, credit spread risk: non-securitisation, credit spread risk: securitisations (non-correlation trading portfolio), credit spread risk: securitisations (correlation trading portfolio), equity risk, commodity risk and foreign exchange risk.

(3) "Sensitivity" means the relative change in the value of an instrument, according to the institution's pricing model, as a result of a change in the value of one of the relevant risk factors. Sensitivities calculations for each type of risk factor are described in subsection 2 of section 3 of this Chapter.

(4) "Bucket" means a sub-category of positions within one risk class with a similar risk profile to which a common risk-weight is assigned as defined in subsection 1 of section 3 of this Chapter.

(5) "Risk weight" means the amount representing a shock in a risk-factor, by which sensitivities to risk factors must be multiplied.

Article 325f
Components of the sensitivities-based method

1. The own funds requirement under the sensitivities-based method is the result of the aggregation of three types of own fund requirements: those for delta, vega and curvature risk, which shall be aggregated according to the process in Article 325i:

   (a) Delta risk is the risk of changes in the value of an instrument due to movements in its non-volatility related risk factors and assuming a linear pricing function.

(b) Vega risk is the risk of changes in the value of an instrument due to movements in its volatility-related risk factors.

(c) Curvature risk is the risk of changes in the value of an instrument due to movements in the main non-volatility related risk-factors not captured under the linearity assumption of delta risk.

2. Each instrument with optionality shall be subject to delta, vega and curvature risks. Instruments without optionality shall only be subject to delta risk.

A non-exhaustive list of instruments with optionality includes: calls, puts, caps, floors, swaptions, barrier options and exotic options. Instruments whose cash flows can be written as a linear function of the underlying's notional value shall be considered as instruments without optionality.

Embedded options, such as prepayment or behavioural options, shall be considered as standalone options for the purposes of calculating the own funds requirements for market risks.

Article 325g

Own funds requirements for delta and vega risk

1. For the purposes of calculating own funds requirements for delta and vega risk, the respective delta and vega risk factors described in subsection 1 of section 3 of this Chapter shall be used.

2. Institutions shall apply the process set out in paragraph 3 to 8 to calculate own funds requirements for delta and vega risk respectively.

3. For each risk class, the sensitivity of all instruments in scope of the delta or vega own funds requirements to each of the applicable delta or vega risk factors included in that risk class shall be calculated 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 then be assigned to one of the buckets 'b' within that risk class.

5. Within each bucket 'b', 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. Net sensitivities to each risk factor (s_k) within that 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:

7. $WS_k = RW_k \cdot s_k$The weighted sensitivities to the different risk factors within that bucket shall be aggregated according to 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 (ρ_{kl}), prescribed in section 6, shall be used.

8. The bucket-specific sensitivity (K_b) shall be calculated for each bucket within a risk class by performing the process described in points (c) to (e). Once the bucket-specific sensitivity has been calculated for all buckets, weighted sensitivities to all

risk factors across buckets shall be aggregated according to the formula below, using the corresponding correlations γ_{bc} for weighted sensitivities in different buckets prescribed in section 6, giving rise to the risk-class specific delta or vega own funds requirement:

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

where $S_b = \sum_k WS_k$ for all risk factors in bucket b and $S_c = \sum_k WS_k$ in bucket c. If these 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 $S_b = \max\left[\min\left(\sum_k WS_k, K_b\right), -K_b\right]$ for all risk factors in bucket b and $S_c = \max\left[\min\left(\sum_k WS_k, K_c\right), -K_c\right]$ 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 by performing the process from (a) to (f).

Article 325h

Own funds requirements for curvature risk

1. Institutions shall apply the process set out in paragraphs 2 to 6 to calculate own funds requirements for curvature risk:

2. Using the sensitivities calculated in accordance with Article 325g(2)(a), for each risk class, a net curvature risk requirement CVR_k for each risk factor (k) included in that risk class shall be calculated according to the formula below.

$$CVR_k = -min\left\{\sum_i \left[V_i\left(x_k^{(RW^{(curvature)}+)}\right) - V_i(x_k) - RW_k^{(curvature)} \cdot s_{ik}\right], \sum_i \left[V_i\left(x_k^{(RW^{(curvature)}-)}\right) - V_i(x_k) + RW_k^{(curvature)} \cdot s_{ik}\right]\right\}$$

where:

i = the index that denotes an instrument subject to curvature risks associated with risk factor k;

x_k = the current level of risk factor k;

$V_i(x_k)$ – the value of an instrument i as estimated by the pricing model by using the current value of risk factor k;

$V_i\left(x_k^{(RW^{(curvature)}+)}\right)$ and $V_i\left(x_k^{(RW^{(curvature)}-)}\right)$ = the value of an instrument i after x_k is shifted upward and downward respectively according to the corresponding risk weights;

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$RW_k^{(curvature)}$ = the risk weight for curvature risk factor k for instrument i determined in accordance with section 6. Whereas in the case of equity and foreign exchange risk factors, curvature risk factors consist of scalar variables, and risk-weights are applied to that scalar, in the case of GIRR, CSR and commodity risk, risk factors consist of vectors and risk-weights are applied to each of the components of the vector.

s_{ik} = the delta sensitivity of instrument i with respect to the delta risk factor that corresponds to curvature risk factor k. Whereas in the case of equity and FX risk factors, curvature risk factors consist of scalar variables, and sensitivities are calculated in the same way as for delta risk factors, in the case of GIRR, CSR and commodity risk, risk factors consist of vectors and sensitivities shall be calculated as the change in the value of the instrument, according to its pricing model, as a result of 1 basis point shift in each of the components of the vector.

3. Each of the net curvature risk requirements CVR_k shall then be assigned to one of the buckets (b) within that risk class.

4. All the net curvature risk requirements CVR_k within each bucket (b) shall then be aggregated according to the formula below, where the corresponding prescribed correlations ρ_{kl} among pairs of risk factors k,l within each bucket shall be used, giving rise to the bucket-specific curvature risk own funds requirement:

$$K_b = \sqrt{max\left(0, \sum_k max(CVR_k, 0)^2 + \sum_k \sum_{k \neq l} \rho_{kl}\, CVR_k CVR_l\, \psi(CVR_k\, , CVR_l)\right)}$$

where:

$\psi(CVR_k\, , CVR_l)$ = a function that takes the value 0 if CVR_k and CVR_l both have negative signs. In all other cases, $\psi(CVR_k\, , CVR_l)$ takes the value of 1.

5. The net curvature risk own funds requirements shall then be aggregated across buckets within each risk class according to the formula below, where the corresponding prescribed correlations γ_{bc} for sets of net curvature risk requirements belonging to different buckets shall be used. This gives rise to the risk-class specific curvature risk own funds requirements.

$$Risk\ class\ specific\ curvature\ risk\ own\ funds\ requirements = \sqrt{\sum_b K_b^2 + \sum_b \sum_{c \neq b} \gamma_{bc}\, S_b S_c\, \psi(S_b,\ S_c)}$$

where:

$S_b = \sum_k CVR_k$ for all risk factors in bucket b, and $S_c = \sum_k CVR_k$ in bucket c;

$\psi(S_b,\ S_c)$ is a function that takes the value 0 if S_b and S_c both have negative signs. In all other cases, $\psi(S_b,\ S_c)$ takes the value of 1.

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Where these values for S_b and S_c produce a negative number for the overall sum of $\sum_b K_b^2 + \sum_b \sum_{c \neq b} \gamma_{bc} S_b S_c \psi(S_b, S_c)$

the institution shall calculate the curvature risk charge using an alternative specification whereby $S_b = max[\min(\sum_k CVR_k, K_b), -K_b]$ for all risk factors in bucket b and $S_c = max[\min(\sum_k CVR_k, K_c), -K_c]$ for all risk factors in bucket c.

6. The risk class specific curvature risk own funds requirements shall be calculated for each risk class by performing the process from (a) to (d).

Article 325i

Aggregation of risk-class specific own funds requirements for delta, vega and curvature risks

1. Institutions shall apply the process set out in paragraphs 2 to 5 to aggregate risk-class specific own funds requirements for delta, vega and curvature risks.

2. The process to calculate delta, vega and curvature risk-class specific own funds requirements described in Articles 330 and 331 shall be performed three times per risk-class. Each time, a different set of correlations parameters ρ_{kl} (correlation between risk factors within a bucket) and γ_{bc} (correlation between buckets within a risk class) shall be used. Each of these three sets correspond to a different scenario, as follows:

   (a) the "medium correlations" scenario, whereby the correlation parameters ρ_{kl} and γ_{bc} remain unchanged from those specified in section 6.

   (b) the "high correlations" scenario, whereby the correlation parameters ρ_{kl} and γ_{bc} that are specified in section 6 shall be uniformly multiplied by 1,25, with ρ_{kl} and γ_{bc} subject to a cap at 100%.

   (c) the "low correlations" scenario, whereby the corresponding prescribed correlations given in section 6 shall be uniformly multiplied by 0,75.

3. All the risk-class specific own funds requirements resulting from each scenario shall be aggregated independently for delta, vega and curvature risk by a simple summation, giving rise to three different, scenario-specific, portfolio level own funds requirements for delta, vega and curvature risk respectively.

4. The final portfolio level delta, vega or curvature own fund requirements, respectively, shall be the largest of the three scenario-specific portfolio level own fund requirements for delta, vega or curvature risk calculated in accordance with paragraph 3.

5. The sensitivities-based method own fund requirement shall be the sum of the three final portfolio-level delta, vega and curvature own funds requirements.

Article 325j

Treatment of index instruments, multi-underlying options

1. Institutions shall use a look through approach for index instruments and multi-underlying options where all the constituents of the index or the option, as applicable, have delta risk sensitivities of the same sign. The sensitivities to

constituent risk factors from index instruments and multi-underlying options are allowed to net with sensitivities to single name instruments without restrictions, except for positions of in the correlation trading portfolio.

2. Multi-underlying options with delta risk sensitivities of different signs shall be exempted from delta and vega risk but shall be subject to the residual risk add-on.

Article 325k
Treatment of collective investment undertakings

1. Institutions shall calculate the own funds requirements of a trading book position in a collective investment undertaking ('CIU') using one of the following approaches:

(a) Where the institution is aware of the underlying investments of the CIU or the index instrument on a daily basis, the institution shall look through to those underlying investments and calculate the own funds requirements for market risk for this position in accordance with the approach set out in Article 325j(1).

(b) When daily prices for the CIU may be obtained but the institution is not aware of the mandate of the CIU, it shall consider the CIU position as single equity instrument for the purposes of the sensitivities based-method and assign it the risk weight of the equity risk bucket "other sector".

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

(a) the depository of the CIU provided that the CIU exclusively invests in securities and deposits all securities at this depository;

(b) for other CIUs, the CIU management company, provided that the CIU management company meets the criteria set out in Article 132(3)(a).

3. EBA shall develop regulatory technical standards to specify in more detail how institutions shall calculate the own funds requirements for market risks in accordance with this Chapter for a CIU position for which daily prices for the CIU may be obtained and the institution is aware of the mandate of the CIU.

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 article 10 to 14 of Regulation (EU) No 1093/2010.

Article 325l
Underwriting positions

1. Institutions may use the treatment 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 multiplicative 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	100%
working day 1	90%
working days 2 to 3	75%
working day 4	50%
working day 5	25%
after working day 5	0%

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. The institutions shall notify to the competent authorities the use they make of this Article.

SECTION 3
RISK FACTOR AND SENSITIVITY DEFINITIONS

SUBSECTION 1
RISK FACTOR DEFINITIONS

Article 325m
General interest rate risk risk-factors

1. For all GIRR risk factors, including inflation risk and cross-currency basis-risk, there will be one bucket per currency, each containing different types of risk factor. The delta GIR risk factors applicable to interest rate-sensitive instruments shall be the 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. Assignment of risk factors to the specified vertices shall be performed by linear interpolation or 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. The risk-free rates per currency shall be obtained from money market instruments held in the trading book which have the lowest credit risk, such as overnight index swaps.

3. When that is not possible, 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.

When data on market-implied swap curves described in subparagraph (a)(2) is insufficient, the risk-free rates may be derived from the most appropriate sovereign bond curve for a given currency.

When risk factors derived according to the procedure in this subparagraph are used as risk factors of sovereign debt instruments, the sovereign debt instrument shall not be exempted from credit spread risk own funds requirements. In those cases, when 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 GIRR and to CSR risk classes.

4. In the case of GIRR risk factors, as described in section 6, each currency will constitute a separate bucket. Risk factors within the same bucket but with different maturities shall be assigned a different risk weight, as described in section 6.

For debt instruments whose cash flows are functionally dependent on inflation rates, additional risk factors for inflation risk shall be applied. These 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 inflation rates are used as variables by the pricing model of that instrument. Each currency shall constitute a different bucket.

5. The sensitivity of the instrument to this risk factor shall be calculated as the change in the value of the instrument, according to its pricing model, as a result of 1 basis point shift in each of the components of the vector. As in the case of risk-free rates, each currency shall constitute a separate bucket. However, within each bucket, inflation shall be treated as a single risk factor, regardless the number of components of each vector. As a consequence, all sensitivities to inflation within a bucket, calculated as described above, shall be offset, giving rise to a single net sensitivity per bucket.

6. Debt instruments that involve payments in different currencies will also be subject to cross-currency basis risk between these two currencies. For the purposes of the sensitivities based method, risk factors shall be the cross-currency basis risk of each currency over either the US dollar or the euro. Cross currency bases that do not relate to either basis over USD or basis over EUR must be computed either on "basis over US dollar" or "basis over EUR" but not both.

In the same way as the inflation risk factor, 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 cross-currency basis rates are used as variables by the pricing model of 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 1 basis point shift in each of the components of the vector. As in the other GIRR risk factors, each currency shall constitute a separate bucket. Within each bucket there will be two possible distinct risk factors: basis over the euro and basis over the USD, regardless the number of components of each cross-currency basis vector. Since offsetting shall take place only among sensitivities to the same risk factor, the maximum number of net sensitivities per bucket will be two.

7. The Vega GIRR risk factors applicable to options with GIR sensitive underlyings are 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 on bucket per currency.

For netting purposes, implied volatilities linked to the same risk-free rates and mapped to the same maturities shall be considered the same risk factor, as in paragraph 1 (a) of this article. Otherwise, they shall be considered different risk factors.

In order to map implied volatilities to the above maturities, the following shall apply:

(a) when the maturity of the option is aligned with the maturity of the underlying, a single risk factor shall be considered, which shall be mapped according to that maturity.

(b) when the maturity of the option is shorter than the maturity of the underlying, two different risk factors shall be considered as follows:

(i) the first one shall be mapped according to the maturity of the option;

(ii) the other shall be mapped according to the residual maturity of the underlying of the option at the expiry date of the option.

8. The Curvature GIRR risk factors 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 different maturities of risk-free rates are used as variables by the pricing model of that instrument.

9. The sensitivity of the instrument to each risk factor used in the curvature risk formula s_{k} shall be calculated as specified Article 325h. Vectors corresponding to different yield curves and with a different number of components shall be considered as the same risk factor for the purposes of curvature risk, as long as they correspond to the same currency, and sensitivities thereof shall be able to offset. Therefore, there shall be only one net sensitivity per bucket.

There is no curvature risk charge for inflation and cross currency basis risks.

Article 325n

Credit spread risk non-securitisation risk-factors

1. The delta credit spread risk factors applicable to non-securitisations credit spread sensitive instruments are their issuer credit spread rates, inferred from the relevant debt instruments and CDS, and mapped to 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. There shall be one risk factor per issuer and maturity, regardless of whether those rates are inferred from debts instruments or CDSs. The buckets shall be

sectorial buckets, as defined in section 6, and each shall include all risk factors allocated to the relevant sector.

2. The Vega CSR non-securitisations risk factors applicable to options with credit spread sensitive underlyings are the implied volatilities of the underlying's issuer credit spread rates proxied as described in paragraph 1 of this article, which shall be mapped to the following maturities according to 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 applied as for delta CSR of non-securitisations.

3. The Curvature non-securitisation credit spread risk factors 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 different maturities of credit spread rates are used as variables in the pricing model of the institution for that instrument. The same buckets shall be applied as for delta CSR of non-securitisations.

4. 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. Vectors inferred either from relevant debt instruments or CDSs and possibly having a different number of components shall be considered as the same risk factor for the purposes of credit spread risk, as long as they correspond to the same issuer.

Article 325o
Credit spread risk securitisation risk-factors

1. For securitisation positions that belong to the correlation trading portfolio, as defined in paragraphs 6 to 9 of Article 104, institutions shall use the correlation trading portfolio securitisations credit spread risk-factors defined in paragraph 3. For securitisation positons which do not belong to the correlation trading portfolio, institutions shall use the securitisations non-correlation trading portfolio credit spread risk factors.

2. The buckets applicable to credit spread risk of securitisations correlation trading portfolio shall the same as for credit spread risk of non-securitisations, described in section 6. The buckets applicable to credit spread risk of securitisation non correlation trading portfolio shall be specific to this risk-class category, as described in section 6.

3. The correlation trading portfolio (CTP) securitisations credit spread risk-factors are the following:

(a) Delta CSR securitisation (CTP) risk factors are all the relevant credit spread rates of the issuers of the securitisations' underlyings, inferred from the relevant debt instruments and CDS, and for each of the following maturities: 0.5 years, 1 year, 3 years, 5 years, 10 years.

(b) The Vega CSR securitisation (CTP) risk factors applicable to options with CTP securitisations as underlyings are the implied volatilities of the credit spreads of the issuers of the securitisations' underlyings, proxied as described in point a of this paragraph, which shall be mapped to the following maturities according to the maturity of the corresponding option subject to own funds requirements: 0.5 years, 1 year, 3 years, 5 years, 10 years.

(c) Curvature CSR CPT risk factors are the relevant credit spread yield curves of the issuer of the securitisations' undelyings expressed as a vector of credit spread rates for different maturities, proxied as indicated in paragraph a of this paragraph. For each instrument, the vector shall contain as many components as different maturities of credit spread rates are used as variables by the pricing model of that instrument.

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 on own fund requirements for curvature risk. Vectors inferred either from relevant debt instruments or CDSs and possible having a different number of components shall be considered as the same risk factor for the purposes of credit spread risk, as long as they correspond to the same issuer.

The non-CTP securitisations CSR risk factors shall refer to the spread of the tranche rather than the spread of the underlying instruments. They are the following:

(a) Delta CSR securitisation non-CTP risk factors are the relevant tranche credit spread rates, mapped to each of the following maturities, according to the maturity of the tranche: 0.5 years, 1 year, 3 years, 5 years, 10 years.

(b) Vega CSR (non-CTP) securitisation risk factors applicable to options with non-CTP securitisation as underlyings are the implied volatilities of the credit spreads of the non-CTP securitisation tranches, each of them mapped to the following maturities according to the maturity of the option subject to own funds requirements: 5 years, 1 year, 3 years, 5 years, 10 years

(c) Curvature CSR securitisation (non-CTP) risk factors options with non-CTP securitisation as underlyings are the same as those defined in point (a) of this paragraph. All these risk factors are applied a common risk weight, as defined in Section 6.

Article 325p
Equity risk-factors

1. The buckets for all equity risk factors shall be those sectorial buckets defined in section 6.

2. The equity delta risk factors are all the equity spot prices and all the equity repurchase agreement rates or 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 different maturities of repo rates are used as variables by the pricing model of that instrument. The sensitivity of the instrument to this risk factor shall be calculated as the change in the value of the instrument, according to its pricing model, as a result of 1 basis point shift in each of the components of the vector. Offsetting shall take place among sensitivities to the repo rate risk factor of the same equity security. regardless the number of components of each vector.

3. The equity vega risk factors applicable to options with equity sensitive underlyings are the implied volatilities of equity spot prices, which shall be mapped to the following maturities according to the maturities of the corresponding options subject to own funds requirements: 0.5 years, 1 year, 3 years, 5 years, 10 years. There is not vega risk capital charge for equity repo rates.

4. The equity curvature risk factors applicable to options with equity sensitive underlyings are all the equity spot prices, regardless the maturity of the corresponding options. There is no curvature risk charge for equity repo rates.

Article 325q
Commodities risk-factors

1. The buckets for all commodity risk factors shall be those sectorial buckets defined in section 6.

2. The commodity delta risk factors applicable to commodity sensitive instruments are all the commodity spot prices per commodity type and per each of the two contract grades: basic or par grade. Two commodity prices on the same type of commodity, with the same maturity and with the same type of contract grade shall only be considered as the same risk factor when the set of legal terms with respect to the delivery location are the same. Otherwise, they shall be considered as two different risk factors.

3. The commodity vega risk factors applicable to options with commodity sensitive underlyings are the implied volatilities of commodity prices per commodity type, which shall be mapped to the following maturity steps according to the maturities of the corresponding options subject to own funds requirements: 0.5 years, 1 year, 3 years, 5 years, 10 years. Since no differentiation between commodity prices by maturity of the underlying, grade or delivery location shall be done, sensitivities to the same commodity type and allocated to the same maturity step shall be considered as a single risk factor and therefore, offsetting among them shall be applicable.

4. The commodity curvature risk factors applicable to options with commodity sensitive underlyings are 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 prices of that commodity are used as variables by the pricing model of that instrument. No differentiation between commodity prices by grade or delivery location shall be done

   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 on own fund requirements for curvature risk. Vectors having a different number of components shall be considered as the same risk factor for the purposes of commodity risk, as long as they correspond to the same commodity type.

Article 325r
Foreign exchange risk risk-factors

1. The foreign exchange delta risk factors applicable to foreign exchange sensitive instruments are 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 hence a single a net sensitivity.

2. The foreign exchange vega risk factors applicable to options with foreign exchange sensitive underlyings are the implied volatilities of exchange rates between the currency pairs defined in paragraph 1; which shall be mapped to the following maturities according to 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 applicable to options with foreign exchange sensitive underlyings are the same as those define in paragraph 1

4. No distinction is required 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. Delta GIRR sensitivities are the following:

(a) institutions shall calculate the sensitivities to risk factors consisting of risk-free rates as the change in the market value of the instrument (V_i (.)), according to its pricing model, as a result of a 1 basis point shift in the corresponding risk-free rate for maturity t (r_t) in a given currency, divided by 0.0001 (i.e. 0.01%). In notation form:

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

where:

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

Vi (.) = the pricing function of instrument i;

x,y = other variables in the pricing function.

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

$$s_{x_j} = \frac{V_i(\bar{x}_{ji} + 0.0001\,\overline{I_m}, y, z \ldots) - V_i(\bar{x}_{ji}, y, z \ldots)}{0.0001}$$

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 equal to the number of inflation or cross-currency related variables used in the pricing model of instrument i;

$\overline{I_m}$ = the unity matrix of dimension (1 x m);

Vi (.) = the pricing function of the instrument i;

y, z = other variables in the pricing model

2. Institutions shall calculate delta CSR sensitivities for all securitisations and non-securitisation instruments ($s_{cs_{kt}}$)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;

Vi (.) = the pricing function of instrument i;

x,y = other variables in the pricing function.

3. Institutions shall calculate delta equity sensitivities as follows:

(a) the sensitivities to risk factors k (s_k) consisting on 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_k is the value of the spot price of that equity security; and

V_i (.) is the pricing function of instrument i.

x,y are other variables in the pricing model

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

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

where:

k = the index that denotes the equity;

$\bar{x}_{ki}$ = a vector of m components representing the repo term restructure for a specific equity k with m equal to the number of repo rates corresponding to different maturities used in the pricing model of instrument i;

$\overline{I_m}$ = the unity matrix of dimension (1 x m);

Vi (.) = the pricing function of the instrument i;

y, z = other variables in the pricing model of instrument i.

4. The delta Commodity sensitivities to each risk factor k (s_k) shall be calculated as follows:

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

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.

5. The delta foreign exchange sensitivities to each foreign exchange risk factor k (s_k) shall be calculated as follows:

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

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.

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:

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

where:

k = a specific vega risk factor, consisting of an implied volatility;

vol_k = the value of that risk factor, which should be given as a percentage;

x,y = other variables in the pricing function.

2. In the case of risk classes where vega risk factors have a maturity dimension, but the rules to map the risk factors are not applicable because the option does not have a maturity, these risk factors shall be mapped to the longest prescribed maturity. These options shall also be subject to the residual risks add-on.

3. With regards to options that do not have a strike or barrier and options that have multiple strike or barriers, the mapping to strike sand maturity used internally by the institution to price the option shall be applied. These options shall also be subject to the residual risks add-on.

4. No vega risk shall be computed for securitisation tranches included in the correlation trading portfolio in accordance with Article 325 that do not have an implied volatility. Delta and curvature risk charges shall however be computed for these securitisation tranches.

Article 325u

Requirements on sensitivity computations

1. Sensitivities shall be derived from the institution's pricing model used in the profit and loss reporting.

2. When computing delta sensitivities for instruments subject to optionality, institutions shall assume that the implied volatility remains constant.

3. When computing a vega GIRR or CSR sensitivity, the pricing models from which sensitivities are derived shall assume that the underlying of the option follows either a lognormal or a normal distribution. When computing a vega Equity, Commodity or foreign exchange sensitivity, the pricing models from which sensitivities are derived shall assume that the underlying follows either a lognormal or a normal distribution.

4. All sensitivities must be computed excluding credit valuation adjustments.

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 an 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) it references an exotic underlying;

   (b) it bears other risks than the one .

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 one of the following conditions:

   (a) it is listed on a recognised exchange;

   (b) it is eligible for central clearing in accordance with Regulation (EU) 648/2012;

(c) it perfectly offsets the market risks of another position of the trading book. In this case, the two perfectly matching trading book positions shall be exempted from the own fund requirement for residual risks.

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

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 article 10 to 14 of Regulation (EU) No 1093/2010.

SECTION 5
THE DEFAULT RISK CHARGE

Article 325w
Definitions and general provisions

1. Default risk own funds requirements apply to cash debt and equity instruments, as well as to derivative instruments having the former instruments as underlyings or 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. The default risk requirements shall be calculated separately for each of the following types of instruments: non-securitisations, securitisations non-correlation trading portfolio and securitisations correlation trading portfolio. The final default risk own funds requirements for an institution will be the simple summation of these three components.

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

(a) An institution shall have a short exposure to default risk exposure when the default of an issuer or group of issuers leads to a gain for the institution, regardless the type of instrument or transaction creating the exposure.

(b) An institution shall have a long exposure to default risk exposure when the default of an issuer or group of issuers leads to a loss for the institution, regardless 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 the default of the obligor would produce on a specific institution, 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 amounts representing the estimated probabilities of default of each obligor, according to its creditworthiness;

SUBSECTION 1

DEFAULT RISK CHARGE FOR NON-SECURITISATIONS

Article 325x

Gross Jump to default amounts

1. An iterative process shall be applied to calculate own funds requirements for default risk.

2. Institutions shall first calculate the gross JTD amounts for each long exposure to debt instruments according to the following formula :

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

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.

3. Institutions shall then calculate gross JTD amounts for each short exposure to debt instruments according to the following formula:

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

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 decreases with a negative sign.

4. Applicable LGD rates for debt instruments 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 defined within Article 129, shall be assigned an LGD of 25%.

5. Notional values in the case of cash debt instruments shall be the face value of the debt instrument. Notional values in the case of derivative instruments on an underlying debt security shall be the face value of the underlying debt instrument.

6. In the case of exposures to equity instruments the following formulas shall be used, instead of those in paragraph 3.

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

$$JTD_{short} = max\{LGD \cdot V + P\&L_{short} + Adjustment_{short}\}$$

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.

7. Equity instruments shall be assigned an LGD of 100%.

8. 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, alternative methodologies shall be used to estimate the Gross JTD amounts, which shall meet the definition of Gross JTD in paragraph 3 of article 325t.

9. EBA shall develop draft regulatory technical standards to specify in more details how institutions shall calculate JTD amounts for different types of instruments in accordance with this Article.

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 article 10 to 14 of Regulation (EU) No 1093/2010.

Article 325y
Net Jump to Default amounts

1. Net Jump to Default amounts shall be determined by offsetting short and long exposures. Offsetting is only possible among exposures to the same obligor where short exposures have the same or lower seniority than long exposures.

2. Offsetting can be either full or partial depending on the maturities of the offsetting exposures:

(a) Full offsetting shall take place when all offsetting exposures have maturities of one year or more.

(b) Partial offsetting shall take place when at least one of the offsetting exposures has maturity of less than one year. In this 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. When no offsetting is possible gross JTD amounts 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 these 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 according to their credit quality as specified in the table 2 below:

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 receive a 0% default risk weight for the default risk own fund requirements.

3. The weighted net JTD shall be then allocated to buckets. The three buckets for this purpose are corporates, sovereigns, and local governments/municipalities.

4. Weighted net JTD amounts shall be aggregated within each bucket according to the following formula:

$$max\left\{\left(\sum_{i \in Long} RW_i \cdot net\,JTD_i\right) - WtS \cdot \left(\sum_{i \in Short} RW_i \cdot |net\,JTD_i|\right);\ 0\right\}$$

where

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

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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:

$$WtS = \frac{\sum net\ JTD_{long}}{\sum net\ JTD_{long} + \sum|net\ JTD_{short}|}$$

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 they are allocated. The results are the bucket-specific default risk own fund requirements.

5. The final default risk own fund requirements for non-securitisations shall be calculated as a simple sum of the bucket-level own fund requirements, since no hedging is recognised between different buckets.

SUBSECTION 2
DEFAULT RISK CHARGE FOR SECURITISATIONS (NON-CORRELATION TRADING PORTFOLIO)

Article 325aa
Jump to default amounts

1. Gross Jump to default amounts for securitization exposures shall be the fair values of the securitisation exposures.

2. Net Jump to default amounts shall be determined by offsetting long and short gross Jump to default amounts. Offsetting is only possible among securitisation exposures with the same underlying asset pool and belonging to the same tranche. No offsetting is permitted between securitisation exposures with different underlying asset pools, even if the attachment and detachment points are the same.

3. When, 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. When, 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. When underlying names are used in this way, they must be removed from the non-securitisation default risk treatment.

5. The same rules on full or partial offsetting as in the case of default risk of non-securitisations shall apply, as established in Article 325y, both for 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 would apply to the relevant securitisation exposure, including STS securitisations, in the non-trading book in accordance with the hierarchy of approaches in set out in Title II, Chapter 5, section 3, and irrespective of the type of counterparty.

2. Without prejudice to paragraph 1, a maturity of one year shall be assumed for all tranches when calculating risk weights 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) 1 common bucket for all corporates, regardless the region.

   (b) 44 different buckets which correspond to 1 bucket per region for each of the 11 asset classes defined. The 11 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, banks shall rely on a classification commonly used in the market. The bank must assign each securitisation exposure to one and only one of the buckets above. Any securitisation exposure that a bank 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 paragraph 2 of article 325z, giving rise to the default risk own fund requirement for each bucket.

7. The final default risk own fund requirement for non-securitisations shall be calculated as a simple sum of the bucket-level own fund requirements, since no hedging is recognised between different buckets.

SUBSECTION 3

DEFAULT RISK CHARGE FOR SECURITISATIONS (CORRELATION TRADING PORTFOLIO)

Article 325ac

Scope

1. For the correlation trading portfolio (CTP), the capital charge includes the default risk for securitisation exposures and for non-securitisation hedges. These hedges are to be removed from the default risk non-securitisation calculations. There must be no diversification benefit between the default risk charge for non-securitisations, default

risk charge for securitisations (non-correlation trading portfolio) and default risk charge for the securitisation correlation trading portfolio.

2. For traded non-securitisation credit and equity derivatives. JTD amounts by individual constituent issuer legal entity should 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 the fair values of these exposures.

2. Nth-to-default products should be treated as tranched products with attachment and detachment points defined as:

(a) attachment point = (N – 1) / Total Names

(b) detachment point = N / Total Names

where "Total Names" is 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 is only possible among exposures that are otherwise identical except for maturity:

(a) For index products, offsetting is possible across maturities among the same index family, series and tranche, subject to specifications for exposures of less than one year set out 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 zero recovery. In such cases, the sum Gross Jump to default amounts of single name equivalent exposures obtained through decomposition must be equal to the Gross Jump to default amount of the undecomposed exposure.

(b) Offsetting through decomposition as set out is subparagraph (a) is not allowed for re-securitisations.

(c) For indices and index tranches, offsetting is 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 untranched position in the index series.

(ii) decomposition means replicating an index by a securitisation whose underlying pool of exposures 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 is allowed and the Net Jump to default amount must 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 tranched products, the default risk weights corresponding to their credit quality as specified in Article 348(1) and (2);

(b) for non-tranched products, by the default risk weights referred to in Article 325y (1).

2. Risk-weighted net JTD amounts shall be assigned to buckets that correspond to an index. A non-exhaustive list of indices is: CDX North America IG, iTraxx Europe IG, CDX HY, iTraxx XO, LCDX (loan index), iTraxx LevX (loan index), Asia Corp, Latin America Corp, Other Regions Corp, Major Sovereign (G7 and Western Europe), Other Sovereign.

3. Weighted net JTD amounts shall be aggregated within each bucket according to 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 the currencies not included in the most liquid currency subcategory as referred to in point (b) of paragraph 5 of Article 325be, the risk weights of the risk-free rate risk factors shall be the following:

Table 3

Maturity	0.25 year	0.5 year	1 year	2 year	3 year
Risk weight (percentage points)	2.4%	2.4%	2.25%	1.88%	1.73%

Maturity	5 year	10 year	15 year	20 year	30 year
Risk weight (percentage points)	1.5%	1.5%	1.5%	1.5%	1.5%

2. A common risk weight of 2.25% is set both for all inflation and cross currency basis risk factors.

3. For the currencies included in the most liquid currency subcategory as referred to in point (b) of paragraph 5 of Article 325be, the risk weights of the risk-free rate risk factors shall be the risk weights referred to in Table 3 of paragraph 1 divided by $\sqrt{2}$.

Article 325ag
Intra bucket correlations for general interest rate risk

1. Between interest rate risk factors within the same bucket, same assigned maturity but corresponding to different curves correlation ρ_{kl} is set at 99.90%.

Between interest rate risk factors within the same bucket, corresponding to the same curve, but having different maturities, correlation is set at

$$max\left[e^{\left(-\theta\cdot\frac{|T_k-T_l|}{min(T_k;T_l)}\right)};40\%\right]$$

where:

T_k (respectively T_l) = the maturity that relates to the risk free rate;

θ = 3%.

2. Between interest rate risk factors within the same bucket, corresponding to different curves and having different maturities, the correlation ρ_{kl} is equal to the correlation parameter specified in paragraph 2 multiplied by 99.90%.

3. Between risk-free rates risk factors and inflation risk factors, the correlation set at 40%.

4. Between cross-currency basis risk factors and any other general interest rate risk factors, including another cross-currency basis risk factor, the correlation is set at 0%.

Article 325ah

Correlations across buckets for general interest rate risk

The parameter γ_{bc} = 50% must be used to aggregate risk factors belonging to different buckets.

Article 325ai

Risk weights for credit spread risk (non-securitisations)

1. Risk weights are the same for all the maturities (0.5 years, 1 year, 3 years, 5 years, 10 years) within each bucket.

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	2.0%
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	3.0%
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, credit institutions must rely on a classification that is commonly used in the market for grouping issuers by industry sector. Credit institutions must assign each issuer to one and only one of the sector buckets in the table under point (a). Risk positions from any issuer that a credit institution cannot assign to a sector in this fashion must be assigned to the "other sector" (i.e. 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 ρ_{kl} is set as follows:

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

where:

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

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

$\rho_{kl}^{(basis)}$ is equal to 1 if the two sensitivities are related to same curves, and 99.90% otherwise.

2. The correlations above do not apply to the "other sector" bucket (i.e. bucket 18). The within "other sector" bucket capital requirement for the delta risk aggregation formula shall be equal to the simple sum of the absolute values of the net weighted sensitivities allocated to this bucket:

$$K_{b(bucket\ 16)} = \sum_k |WS_k|$$

Article 325ak

Correlations across buckets for credit spread risk (non-securitisations)

1. The correlation parameter γ_{bc} that applies to the aggregation of sensitivities between different buckets is set as follows:

$$\gamma_{bc} = \gamma_{bc}^{(rating)} \cdot \gamma_{bc}^{(sector)}$$

where:

$\gamma_{bc}^{(rating)}$ is equal to 1 where the two buckets b and c 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;

$\gamma_{bc}^{(sector)}$ is equal to 1 if the two buckets have the same sector, and to the following numbers 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 "other sector" bucket level capital will be added to the overall risk class level capital, with no diversification or hedging effects recognised with any bucket.

Article 325al

Risk weights for credit spread risk securitisations (correlation trading portfolio)

Risk weights are the same for all the maturities (0.5 years, 1 year, 3 years, 5 years, 10 years) within each bucket.

Table 6

Bucket number	Credit quality	Sector	Risk weight (percentage points)
1	All	Central government, including central banks, of Member States of the Union	4%
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	4%
3		Regional or local authority and public sector entities	4%
4		Financial sector entities including credit institutions incorporated or established by a central government, a regional government or a local authority and promotional lenders	8%
5		Basic materials, energy, industrials, agriculture, manufacturing, mining and quarrying	5%
6		Consumer goods and services, transportation and storage, administrative and support service activities	4%
7		Technology, telecommunications	3%
8		Health care, utilities, professional and technical activities	2%
9		Covered bonds issued by credit institutions established in Member States of the Union	3%
10		Covered bonds issued by credit institutions in third countries	6%
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	13%
12		Regional or local authority and public sector entities	13%
13		Financial sector entities including credit institutions incorporated or established by a central government, a regional government or a local authority and promotional lenders	16%
14		Basic materials, energy, industrials, agriculture, manufacturing, mining and quarrying	10%
15		Consumer goods and services, transportation and storage, administrative and support service activities	12%
16		Technology, telecommunications	12%
17		Health care, utilities, professional and technical activities	12%
18	Other sector		13%

Article 325am

Correlations for credit spread risk securitisations (correlation trading portfolio)

1. The delta risk correlation ρ_{kl} is derived the same way as in Article 325aj, except that, for the purposes of this paragraph, ρ_{kl} $^{(basis)}$ is equal to 1 if the two sensitivities are related to same curves, and 99.00% otherwise.

2. Otherwise, the correlation γ_{bc} is derived in the same way as in Article 325ak.

Article 325an

Risk weights for credit spread risk securitisations (non-correlation trading portfolio)

1. Risk weights are the same for all the maturities (0.5 years, 1 year, 3 years, 5 years, 10 years) within each bucket.

Table 7

Bucket number	Credit quality	Sector	Risk weight (percentage points)
1	Senior & Credit quality step 1 to 3	RMBS - Prime	0.9%
2		RMBS - Mid-Prime	1.5%
3		RMBS - Sub-Prime	2.0%
4		CMBS	2.0%
5		ABS - Student loans	0.8%
6		ABS - Credit cards	1.2%
7		ABS - Auto	1.2%
8		CLO non-correlation trading portfolio	1.4%
9	Non-senior & Credit quality step 1 to 3	RMBS - Prime	1.125%
10		RMBS - Mid-Prime	1.875%
11		RMBS - Sub-Prime	2.5%
12		CMBS	2.5%
13		ABS - Student loans	1%
14		ABS - Credit cards	1.5%
15		ABS - Auto	1.5%
16		CLO non-correlation trading portfolio	1.75%
17	Credit quality step 4 to 6	RMBS - Prime	1.575%
18		RMBS - Mid-Prime	2.625%
19		RMBS - Sub-Prime	3.5%
20		CMBS	3.5%
21		ABS - Student loans	1.4%
22		ABS - Credit cards	2.1%
23		ABS - Auto	2.1%
24		CLO non-correlation trading portfolio	2.45%
25	Other sector		3.5%

2. To assign a risk exposure to a sector, credit institutions must rely on a classification that is commonly used in the market for grouping issuers by industry sector. Credit

institutions must assign each tranche to one of the sector buckets in the table under paragraph 1. Risk positions from any tranche that a credit institution cannot assign to a sector in this fashion must be assigned to the "other sector" (i.e. bucket 25).

Article 325ao
Intra bucket correlations for credit spread risk securitisations (non-correlation trading portfolio)

1. Between two sensitivities WS_k and WS_l within the same bucket, the correlation parameter ρ_{kl} is set as follows:

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

where:

$\rho_{kl}^{(tranche)}$ is equal to 1 where the two names of sensitivities k and l are within the same bucket an drelated to the same securitisation tranche (more than 80% overlap in notional terms), and 40% otherwise;

$\rho_{kl}^{(tenor)}$ is equal to 1 if the two vertices of the sensitivities k and l are identical, and to 80% otherwise;

$\rho_{kl}^{(basis)}$ is equal to 1 if the two sensitivities are related to same curves, and 99.90% otherwise.

2. The correlations above do not apply to the "other sector" bucket (i.e. bucket 16). The within "other sector" bucket capital requirement for the delta risk aggregation formula would be equal to the simple sum of the absolute values of the net weighted sensitivities allocated to this bucket:

$$K_{b(bucket\ 25)} = \sum_k |WS_k|$$

Article 325ap
Correlations across buckets for credit spread risk securitisations (non-correlation trading portfolio)

1. The correlation parameter γ_{bc} applies to the aggregation of sensitivities between different buckets. It is set at 0%.

2. This "other sector" bucket level capital will be added to the overall risk class level capital, with no diversification or hedging effects recognised with any bucket.

Article 325aq
Risk weights for equity risk

1. The risk weights for the sensitivities to equity and equity repo rates are set out in the following table:

Table 8

Bucket number	Market capitalisation	Economy	Sector	Risk weight for equity spot price (percentage	Risk weight for equity repo rate (percentage

				points)	points)
1	Large	Emerging market economy	Consumer goods and services, transportation and storage, administrative and support service activities, healthcare, utilities	55%	0.55%
2			Telecommunications, industrials	60%	0.60%
3			Basic materials, energy, agriculture, manufacturing, mining and quarrying	45%	0.45%
4			Financials including government-backed financials, real estate activities, technology	55%	0.55%
5		Advanced economy	Consumer goods and services, transportation and storage, administrative and support service activities, healthcare, utilities	30%	0.30%
6			Telecommunications, industrials	35%	0.35%
7			Basic materials, energy, agriculture, manufacturing, mining and quarrying	40%	0.40%
8			Financials including government-backed financials, real estate activities, technology	50%	0.50%
9	Small	Emerging market economy	All sectors described under bucket numbers 1, 2, 3 and 4	70%	0.70%
10		Advanced economy	All sectors described under bucket numbers 5, 6, 7 and 8	50%	0.50%
11	Other sector			70%	0.70%

2. For the purposes of this Article, small and large market capitalisations shall be defined in accordance with the regulatory technical standards mandated to the EBA in Article 325be.

3. EBA shall develop draft regulatory technical standards to specify what constitutes emerging and advanced economies for the purpose of this Article.

   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.

4. To assign a risk exposure to a sector, credit institutions must rely on a classification that is commonly used in the market for grouping issuers by industry sector. Credit institutions must assign each issuer to one of the sector buckets in the table under paragraph 1 and they must assign all issuers from the same industry to the same sector. Risk positions from any issuer that a credit institution cannot assign to a sector in this fashion must be assigned to the "other sector" (i.e. bucket 11). For multinational or multi-sector equity issuers, the allocation to a particular bucket must be done according to the most material region and sector in which the issuer operates.

Article 325ar
Intra bucket correlations for equity risk

1. The delta risk correlation parameter ρ_{kl} is 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. Otherwise, the correlation parameter ρ_{kl} between two sensitivities WS_k and WS_l to equity spot price within the same bucket are defined in (i) to (iv) below:

   (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 ρ_{kl} between two sensitivities WS_k and WS_l to equity repo rate within the same bucket is also defined according to paragraph (b)

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 ρ_{kl} is set at the correlations specified in paragraphs (b) multiplied by 99.90%.

5. The correlations above do not apply to the "other sector" bucket (i.e. bucket 11). The within "other sector" bucket capital requirement for the delta risk aggregation formula would be equal to the simple sum of the absolute values of the net weighted sensitivities allocated to this bucket:

$$K_{b(bucket\ 11)} = \sum_k |WS_k|$$

Article 325as
Correlations across buckets for equity risk

1. The correlation parameter γ_{bc} applies to the aggregation of sensitivities between different buckets. It is set at 15% if bucket b and bucket c fall within bucket numbers 1 to 10.

2. This "other sector" bucket level capital will be added to the overall risk class level capital, with no diversification or hedging effects recognised with any bucket.

Article 325at
Risk weights for commodity risk

The risk weights for the sensitivities to commodities are set out in the following table:

Table 9

Bucket number	Bucket name	Risk weight (percentage points)
1	Energy - Solid combustibles	30%
2	Energy - Liquid combustibles	35%
3	Energy - Electricity and carbon trading	60%
4	Freight	80%
5	Metals – non-precious	40%
6	Gaseous combustibles	45%
7	Precious metals (including gold)	20%
8	Grains & oilseed	35%
9	Livestock & dairy	25%
10	Softs and other agriculturals	35%
11	Other commodity	50%

Article 325au
Intra bucket correlations for commodity risk

1. For the purpose of correlation recognition, any two commodities are considered distinct commodities if there exists in the market two contracts differentiated only by the underlying commodity to be delivered against each contract. For example, in bucket 2 ("Energy – Liquid Combustibles") WTI and Brent would typically be treated as distinct commodities.

2. Between two sensitivities WS_k and WS_l within the same bucket, the correlation parameter ρ_{kl} is set as follows:

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

where:

$\rho_{kl}^{(commodity)}$ is 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 (c) otherwise;

$\rho_{kl}^{(tenor)}$ is equal to 1 if the two vertices of the sensitivities k and l are identical, and to 99% otherwise;

$\rho_{kl}^{(basis)}$ is equal to 1 if 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 $\rho_{kl}^{(commodity)}$ are:

Table 10

Bucket number	Bucket name	Correlation ($\rho_{(commodity)}$)
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%

Article 325av
Correlations across buckets for commodity risk

The correlation parameter γ_{bc} applying to the aggregation of sensitivities between different buckets is set at:

(a) 20% if bucket b and c fall within bucket numbers 1 to 10;

(b) 0% if either bucket b or c is bucket number 11.

Article 325aw
Risk weights for foreign exchange risk

A unique risk weight of 30% shall apply to all sensitivities to foreign exchange.

Article 325ax
Correlations for foreign exchange risk

A uniform correlation parameter γ_{bc} equal to 60% shall apply to the aggregation of sensitivities to foreign exchange.

SUBSECTION 2
VEGA RISK WEIGHTS AND CORRELATIONS

Article 325ay
Vega risk weights

1. The delta buckets defined 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 this risk factor k, which represents the implicit volatility of an underlying, as described in the section on vega risk factors definitions.

3. This share shall be made dependent on the presumed liquidity of each type of risk factor, according to the following formula:

$$RW_k = (Value\ of\ risk\ factor\ k)x\ \min\left[RW_\sigma \cdot \frac{\sqrt{LH_{risk\ class}}}{\sqrt{10}}; 100\%\right]$$

where:

RW_σ is set at 55%;

$LH_{risk\ class}$ is the regulatory liquidity horizon to be prescribed in the determination of each vega risk factor k. $LH_{risk\ class}$, according to 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

Article 325az
Vega correlations

4. Between vega risk sensitivities within the same bucket of the GIRR risk class, the correlation parameter ρ_{kl} is set as follows:

$$\rho_{kl} = min\left[\rho_{kl}^{(option\ maturity)} \cdot \rho_{kl}^{(underlying\ maturity)}; 1\right]$$

where:

$\rho_{kl}^{(option\ maturity)}$ is equal to $e^{-\alpha \cdot \frac{|T_k - T_l|}{min(T_k;T_l)}}$ where α is set at 1%, T_k and T_l are the maturities of the options for which the vega sensitivities are derived, expressed as a number of years;

$\rho_{kl}^{(underlying\ maturity)}$ is equal to $e^{-\alpha \cdot \frac{|T_k^U - T_l^U|}{min(T_k^U;T_l^U)}}$, where α is set at 1%, T_k^U and T_l^U 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.

5. Between vega risk sensitivities within a bucket of the other risk classes, the correlation parameter ρ_{kl} is set as follows:

$$\rho_{kl} = min\left[\rho_{kl}^{(DELTA)} \cdot \rho_{kl}^{(option\ maturity)}; 1\right]$$

where:

$\rho_{kl}^{(DELTA)}$ is equal to the delta intra bucket correlation corresponding to the bucket to which vega risk factors k and l would be allocated to.

$\rho_{kl}^{(option\ maturity)}$ is defined as in paragraph 1.

6. With regard to vega risk sensitivities between buckets within a risk class (GIRR and non-GIRR), the same correlation parameters for γ_{bc} as specified for delta correlations for each risk class in Section 4, are to be used in the vega risk context (e.g. γ_{bc} = 50% is to be used for aggregation of vega risk sensitivities across different GIRR buckets).

7. There is no diversification or hedging benefit recognised in the standardised approach between vega and delta risk factors. Vega and delta risk charges are aggregated by simple summation.

Chapter 1b
The internal model approach

SECTION 1
PERMISSION AND OWN FUNDS REQUIREMENTS

Article 325ba
Permission to use internal models

1. After having verified an institution's 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 portfolio of all positions attrbitued to trading desks that fulfil the following requirements:

(a) the trading desks have been established in accordance with Article 104b to the satisfaction of competent authorities:

(b) the trading desks have met the P&L attribution requirement set out in Article 325bh for the immediately preceding 12months;

(c) the trading desks have met the backtesting requirements referred to in paragraph 1 of Article 325bg for the immediately preceding 250 business days;

(d) for trading desks that include 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.

2. For each trading desk for which institutions have been granted the permission referred to in paragraph 1 to use their internal models, institutions shall also report to the competent authorities:

   (a) the unconstrained expected shortfall measure 'UESt' that would be calculated in accordance with paragraph 5 for all the positions in the trading desk. These calculations shall be determined on a weekly basis and reported to the competent authorities on a monthly basis.

   (b) the own funds requirements for market risks that would be calculated in accordance with Chapter 1a of this Title had the institution not been granted the permission to use its internal models for this trading desk. For the purposes of these calculations, all the positions attributed to this trading desk shall be considered on a standalone basis as a separate portfolio. These calculations shall be determined and reported to the competent authorities on a monthly basis.

3. When a trading desk of an institution that has been granted the permission referred to in paragraph 1 no longer meets any of the requirements set out in paragraph 1, the institution shall immediately notify their competent authorities and shall no longer apply the provisions set out in this Chapter to all the positions attributed to this trading desk. As a result, the institution shall calculate the own funds requirements for market risks in accordance the approach set out Chapter 1a for all the positions attributed to this trading desk at the earliest reporting date and until the institution demonstrates to the competent authorities that the trading desk fulfils all the requirements set out in paragraph 1.

4. By the way of derogation from paragraph 3, the competent authorities may, under certain 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. When competent authorities exercise this discretion, they shall notify the EBA and justify their choice.

5. For positions attributed to trading desks for which an institution has not been granted the permission referred to in paragraph 1 to use its internal models, the own funds requirements for market risk shall be calculated by that institution in accordance with Chapter 1a of this Title. For the purpose of this calculation, all these 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 means the unconstrained expected shortfall measure calculated in accordance with Article 325bc for all the positions assigned to this trading desk considered on a standalone basis as a separate portfolio. By the way of derogation from Article 325bd, institutions shall fulfil the following requirements in calculating this unconstrained expected shortfall measure for each trading desk:

   (a) the stress period used in the calculation of the partial expected shortfall number PES_t^{FC} for a given trading desk shall be the stress period identified in accordance with point (c) of paragraph 1 of Article 325bd for the purpose of determining 'PES_t^{FC}' all the trading desks for which institutions have been granted the permission referred to in paragraph 1;

(b) in the calculating of 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 paragraph 1 of Article 325bd for the purpose of determining 'PES_t^{RS}' 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 the institution has received permission to use, the extension of the use of internal models that the institution has received permission to useand to the choice of the subset of modellable risk factors paragraph 2 of Article 325bd require a separate permission by the competent authority.

Institutions shall notify the competent authorities of all other extensions and changes to the use of those internal models that 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 that is used 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 370:

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.

9. EBA shall develop draft regulatory technical standards to specify in greater details the 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 [six 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 325bb
Own funds requirements when using internal models

1. An institution using an internal model shall fulfil an own funds requirement calculated for the portfolio of all positions attributed to trading desks for which the institution has been granted the permission to use an internal model in accordance with paragraph 1 of Article 325ba expressed as the sum of points (a) and (b):

(a) the higher of the following values:

(i) its previous day's expected shortfall risk measure calculated in accordance with Article 325bc (ES_{t-1});

(ii) an average of the daily expected shortfall risk measure calculated in accordance with Article 325bc on each of the preceding sixty business days (ES^{avg}), multiplied by the multiplication factor (m_c) in accordance with Article 325bg;

(b) the higher of the following values:

(i) its previous day's stress scenario risk measure calculated in accordance Section 5 of this Title (SS_{t-1});

(ii) an average of the daily stress scenario risk measure calculated in accordance with Section 5 of this Title on each of the preceding sixty business days (SS^{avg}).

2. 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 this number over the preceding 12 weeks.

SECTION 2
GENERAL REQUIREMENTS

Article 325bc
Expected shortfall risk measure

1. At a given date t and for a given portfolio of trading book positions, the expected shortfall risk measure 'ES_t' referred to in Article 325bb(1)(a) shall be calculated 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 13 of Article 325be;

UES_t = the unconstrained expected shortfall measure defined as:

$$UES_t = PES_t^{RS} * max\left(\frac{PES_t^{FC}}{PES_t^{RC}}, 1\right)$$

UES_t^i = the unconstrained expected shortfall measure for broad risk factor category 'i' and defined as:

$$UES_t^i = PES_t^{RS,i} * max\left(\frac{PES_t^{FC,i}}{PES_t^{RC,i}}, 1\right)$$

ρ = the supervisory correlation factor across broad risk categories; ρ = 50%;

PES_t^{RS} = the partial expected shortfall number that is determined for all the positions in

the portfolio in accordance with paragraph 2 of Article 325bd;

PES_t^{RC} = the partial expected shortfall number that is determined for all the positions in the portfolio in accordance with paragraph 3 of Article 325bd:

PES_t^{FC} = the partial expected shortfall number that is determined for all the positions in the portfolio in accordance with paragraph 4 of Article 325bd:

$PES_t^{RS,i}$ = the partial expected shortfall number for broad risk factor category 'i' that is determined for all the positions in the portfolio in accordance with paragraph 2 of Article 325bd;

$PES_t^{RC,i}$= the partial expected shortfall number for broad risk factor category 'i' that is determined for all the positions in the portfolio in accordance with paragraph 3 of Article 325bd;

$PES_t^{FC,i}$ = the expected shortfall number for broad risk factor category 'i' that is determined for all the positions in the portfolio in accordance with paragraph 4 of Article 325bd.

2. In determining each partial expected shortfall number for the purpose of calculation the expected shortfall risk measure, 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.

3. 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 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;

Article 325bd
Partial expected shortfall calculations

1. Institutions shall calculate all the partial expected shortfall numbers referred to in paragraph 1 of Article 325bc with the following requirements:

(a) daily calculations of the partial expected shortfall numbers;

(b) at 97.5th percentile, one tailed confidence interval;

for a given portfolio of trading book positions, institution shall calculate the partial expected shortfall number ES_t at time t according to 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_j = the length of liquidity horizons 'j' as expressed in days in Table 1;

T = the base time horizon; T= 10 days;

$PES_t(T)$ = 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 to 4 for each partial expected shortfall number referred to in paragraph 2 of Article 325bc.

$PES_t(T, j)$ = 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 to 4 for each partial expected shortfall number referred to in paragraph 2 of Article 325bc and which effective liquidity horizon, as determined in accordance with paragraph 2 of Article 325be, is equal or longer than LH_j.

Table 1

Liquidity horizon 'j'	**Length of liquidity horizon 'j' (in days)**
1	10
2	20
3	40
4	60

5	120

2. For the purposes of calculating the partial expected shortfall numbers PES_t^{RS} and $PES_t^{RS,i}$ referred to in paragraph 2 of Article 325bc, institutions shall meet, in addition to the requirements set out in paragraph 1, 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 at time t:

$$\frac{1}{60} * \sum_{k=0}^{59} \frac{PES_{t-k}^{RC}}{PES_{t-k}^{FC}} \geq 75\%$$

where the sum is taken over the preceding 60 business days.

Where an institution no longer meets this condition, it shall immediately notify the competent authorities and update the subset of modellable risk factors within two weeks so that the above condition is met. If, after two weeks, the institution has failed to update the subset of modellable risk factors to meet the above condition, it shall decide to revert to the approach set out in Chapter 1a to calculate the own fund requirements for market risks for some trading desks so long as the above condition is not met.

(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 purpose 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}. Institution shall review the identification of this stress period at least on a monthly basis and shall notify the outcome of this review to the competent authorities. For the purpose of identifying this stress period, institutions shall use, to the satisfaction of the competent authorities, an observation period starting at least from 01 January 2007.

(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 purpose of point (c);

3. For the purposes of calculating the partial expected shortfall numbers PES_t^{RC} and $PES_t^{RC,i}$ referred to in paragraph 2 of Article 325bc, institutions shall meet, in addition to the requirements set out in paragraph 1, 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 to historical data from the preceding 12-months period. This data shall be updated at least on a monthly basis.

4. For the purposes of calculating the partial expected shortfall numbers PES_t^{FC} and $PES_t^{FC,i}$ referred to in paragraph 2 of Article 325bc, institutions shall meet, in addition to the requirements set out in paragraph 1, 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. This data shall be updated at least on a monthly basis. Competent authorities may require an institution to use historical data from a shorter period than the preceding 12-months period, but no shorter than the preceding 6-months period, where there is a significant upsurge in the price volatility of a material number of modellable risks factors of institution's portfolio which are not in the subset of risk factors referred to in point (a) of paragraph 2. Competent authorities shall notify this decision to the EBA and provide a justification for it.

5. In calculating a given partial expected shortfall number referred to in paragraph 2 of Article 325bc, institutions shall keep constant the values of the modellable risks factors for which they have not been required to apply scenarios of future shocks for this partial expected shortfall number in paragraphs 2 to 4, as applicable.

Article 325be
Liquidity horizons

1. Institutions shall map each risk factor of positions attributed to trading desks for which it have been granted the permission or are in the process of been granted the permission, as applicable, to use their internal models for calculating the own funds requirements for market risks in accordance with this Chapter to one of the broad risk factor categories listed in Table 13 and, within this broad risk factor category, one of the broad risk factor subcategories listed in that Table.

2. The liquidity horizon of a risk factor shall be the liquidity horizon of the corresponding broad risk factor subcategories 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 13 by one of the liquidity horizons listed in Table .... with a longer length. In this case, the longer liquidity horizon applies to all the modellable risk factor of the positions attributed to this trading desk mapped to this broad risk subcategory for the purpose of calculating the partial expected shortfall numbers in accordance with point (c) of paragraph 1 of Article 325bd.

An institution shall notify to the competent authorities the trading desks and the broad risk subcategories for which it applies the treatment referred to in the first subparagraph.

4. For the purposes of calculating the partial expected shortfall numbers in accordance with point (c) of paragraph 1 of Article 325bd, the effective liquidity horizon 'EffectiveLH' of a given modellable risk factor of a given trading book position is defined as follows:

$$EffectiveLH = \begin{cases} SubCatLH & \text{if } Mat > LH_6 \\ min\left(SubCatLH, \min_j\{LH_j/LH_j \geq Mat\}\right) & \text{if } LH_1 \leq Mat \leq LH_6 \\ LH_1 & \text{if } Mat < LH_1 \end{cases}$$

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;

$\min_j\{LH_j/LH_j \geq Mat\}$ = the length of one of the liquidity horizons listed in Table ... which is the nearest above the maturity of the trading book position.

5. The 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 included in the the most liquid currency pairs subcategory in the foreign exchange broad risk factor category of Table 13.

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 details:

   (a) how institutions shall map trading book positions 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 [six 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	1	10
	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

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	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 or are in the process of been granted the permission, as applicable, to use their internal models for calculating the own funds requirements for market risks in accordance with this Chapter

2. An institution shall consider a risk factor of a trading book position as modellable where all the following conditions are met:

(a) the institution has identified at least 24 verifiable prices which contain this risk factor over the preceding 12-months period;

(b) there are no more than one month between the dates of two consecutive observations of verifiable prices identified by the institution in accordance with point (a);

(c) there is a clear and apparent relationship between the value of the risk factor and each verifiable price identified by the institution in accordance with point (a).

3. For the purpose of paragraph 1, a verifiable price means any of the following:

(a) the market price of an actual transaction for which the institution was one of the parties;

(b) the market price of an actual transaction that was entered into by third parties and for which price and trade date are publicly available or have been provided by a third party;

(c) the price obtained from a committed quote provided by a third party.

4. For the purposes of points (b) and (c) of paragraph 3, institutions may consider a price or a committed quote provided by a third party as a verifiable price provided that the third party agrees to provide evidence of the transaction or commited quote to competent authorities upon request.

5. An institution may identify a verifiable price for the purpose of point (a) of paragraph 2 for more than one risk factor.

6. Institutions shall consider risk factors derived from a combination of modellable risk factors as modellable.

7. Where a risk factor is considered as modellable in accordance with paragraph 1, institutions may use data other than the verifiable prices they used to prove that the risk factor is modellable in accordance with paragraph 2 to calculate the scenarios of future shocks applied to this risk factor for the purposes of calculating the partial expected shortfall referred to in Article 365 as long as these data inputs fulfils the relevant requirements of Article 325bd.

8. Institutions shall considered as non-modellable a risk factor that does not fulfil all the conditions set out in paragraph 2 and shall calculate an own funds requirements for this risk factor in accordance with Article 325bl.

9. Institutions shall consider risk factors derived from a combination of modellable and non-modellable risk factors as non-modellable.

10. By the way of derogation from paragraph 2, an institution may consider, for less than a one-year time period and to the satisfaction of the competent authorities, non-modellable a risk factor for which all the conditions of paragraph 2 are met.

Article 325bg
Regulatory back testing and multiplication factors

1. For a given date, an institution's trading desk meets the backtesting requirements for the purpose of paragraph 1 of Article 325ba when, for this trading desk, the number of overshootings for the most recent 250 business days do not exceed all the following limits:

(a) 12 overshootings for the value-at-risk number calculated at a 99th percentile one tailed-confidence internal on the basis of back-testing on hypothetical changes in the portfolio's value;

(b) 12 overshootings for the value-at-risk number calculated at a 99th percentile one tailed-confidence internal on the basis of back-testing on actual changes in the portfolio's value;

(c) 30 overshootings for the value-at-risk number calculated at a 97,5th percentile one tailed-confidence internal on the basis of back-testing on hypothetical changes in the portfolio's value;

(d) 30 overshootings for the value-at-risk number calculated at a 97,5th percentile one tailed-confidence internal on the basis of back-testing on 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 of hypothetical and actual changes in the portfolio's value composed of all the positions attributed to the trading desk. An overshooting is a one-day change in this portfolio's value that exceeds the related value-at-risk number calculated by the institution's internal model in accordance with the following provisions:

(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 paragraph (3) of Article 325bh 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 to historical data from the preceding 12-months period. This 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 used for the calculation of the expected shortfall risk measure referred to in Article 325bb(1)(a).

3. In counting daily overshootings in accordance with paragraph 2, institutions shall apply the following provisions:

(a) back-testing on 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 on 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, commissions, and net interest income.

(c) an overshooting shall be counted each 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 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 to use its internal models in accordance with paragraph 1 of Article 325ba in accordance with paragraphs 5 and 6 .This calculation shall be updated at least on a monthly basis.

5. The multiplication factor (m_c) shall be the sum of the value of 1.5 and an addon between 0 and 0.5 in accordance with Table 1. This addon shall depend on the number of overshootings for 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) for the portfolio referred to in paragraph 4. For the purpose of determining the addon, the following provisions apply:

(a) an overshooting is 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 provisions:

(i) a one-day holding period;

(ii) a 99th percentile, one tailed confidence interval;

(iii) scenarios of future shocks shall apply to the risk factors of the trading desks' positions referred to in paragraph (3) of Article 325bh 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 to historical data from the preceding 12-months period. This data shall be updated at least on a monthly basis;

(v) unless stated otherwise in this Article, the institution's internal model shall be based on the same modelling assumptions as used for the calculation of the expected shortfall risk measure referred to in Article 325bb(1)(a).

(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	addon
Fewer than 5	0,00
5	0,20
6	0,26
7	0,33
8	0,38
9	0,42
10 or more than 10	0,50

6. The competent authorities may in individual cases limit the addon to that resulting from overshootings under hypothetical changes, where the number of overshootings under actual changes does not result from deficiencies in the internal model.

7. In order to allow competent authorities to monitor the appropriateness of the multiplication factor or a trading desk's compliance with the backtesting requirements referred to in paragraph 1 on an ongoing basis, institutions shall notify promptly, and in any case no later than within five working days, the competent authorities of overshootings that result from their back-testing programme and provide an explanation for them.

8. By the way of derogation from paragraphs 2 and 5, where a one-day change in the portfolio's value of an institution exceeds the related value-at-risk number calculated by the institution's internal model and that the institution provides the competent authorities with a justification that this excess is attributable to a non-modellable risk factor for which the stress scenario risk measure calculated in accordance with Article 325bl is higher than the positive difference between its portfolio's value and the related value-at-risk number, the institution may not count an overshooting for this day, to the satisfaction of the competent authorities.

9. EBA shall develop draft regulatory technical standards to specify in greater details the definitions of actual and hypothetical changes in a portfolio's value for the purpose of this Article.

EBA shall submit those draft regulatory technical standards to the Commission by [six 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
P&L attribution

1. For a given month, an institution's trading desk meets the P&L attribution requirements for the purpose of paragraph 1 of Article 325ba when, this 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 from 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 which are deemed appropriate for verifying the institution's compliance with the backtesting requirement as set out in Article 325bg.

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

   (a) the definition of the P&L attribution requirement in light of international regulatory developments;

   (b) the definitions of 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 [six 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. An internal risk-measurement model used to calculate the own fund requirements for market risks referred to in Article 325bb shall meet all of the following requirements:

   (a) the model shall capture a sufficient number of risk factors, which shall include at least the risk factors defined in subsection 1 of section 3 of Chapter 1a unless the institution demonstrates to the competent authorities that the omission of these risk factors do not have a material impact in the results of the P&L attribution as referred to in Article 325bh. Where a risk factor is incorporated into the institution's pricing model but not into the risk-measurement model, the institution shall be able to justify such an omission to the satisfaction of the competent authority.

   (b) the model shall capture nonlinearities for options and other products as well as correlation risk and basis risk. Where proxies for risk factors are used they shall show a good track record for the actual position held.

   (c) the 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. For material exposures to interest-rate risk in the major currencies and markets, the yield curve shall be divided into a minimum of six maturity segments, to capture the variations of volatility of rates along the yield curve and the number of risk factors used to model the yield curve shall be proportionate to the nature and complexity of the institution's trading strategies The model shall also capture the risk of less than perfectly correlated movements between different yield curves:

(d) the 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. If an institution is not aware of the foreign exchange positions of a CIU, this position shall be carved out from the internal models approach and treated in accordance with Chapter 1a of this Title;

(e) the model shall use a separate risk factor at least for each of the equity markets in which the institution holds significant positions. The sophistication of the modelling technique shall be proportional to the materiality of the institutions' activities in the equity markets. The model shall incorporate at least one risk factor that captures systemic movements in equity prices and its dependancy with the individual risk factors for each equity markets For material exposures to equity markets, the model shall incorporate at least one idyosyncratic risk factor for each equity exposure.

(f) the model shall use a separate risk factor at least for each commodity in which the institution holds significant positions unless the institution has a small aggregate commodity position as 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 shall be appropriately conservative and shall be used only where available data is insufficient, including during the period of stress.

(h) For material exposures to volatility risks in instruments with optionality, the model shall capture the dependancy of 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 paragraph 1 of Article 325bc, across broad risk factor categories only if the institution's approach for measuring correlations is sound, consistent with the applicable liquidity horizons, and implemented with integrity.

Article 325bj
Qualitative requirements

1. Any internal model used for purposes of this Chapter shall be conceptually sound and implemented with integrity and, in particular, all of the following qualitative requirements shall be met:

(a) any internal 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) the institution shall have a risk control unit that is independent from business trading units and reports directly to senior management. The unit shall be responsible for designing and implementing any internal model used for purposes of this Chapter. The unit shall conduct the initial and on-going validation of any internal model used for purposes of this Chapter, being responsible for the overall risk management system. The unit shall produce and analyse daily reports on the output of any internal model used for calculating capital requirements for market risks, and on the appropriate 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 both reductions of positions taken by individual traders as well as in the institution's overall risk exposure;

(d) the institution shall have sufficient numbers of staff skilled in the use of sophisticated internal models, and including those used for purposes of this Chapter, in the trading, risk-control, audit and back-office areas;

(e) the institution shall have established procedures for monitoring and ensuring compliance with a documented set of internal policies and controls concerning the overall operation of its internal models, and including those used for purposes of this Chapter;

(f) any internal model used for purposes of this Chapter shall have a proven track record of reasonable accuracy in measuring risks;

(g) the institution shall frequently conduct a rigorous programme of stress testing, including reverse stress tests, which encompasses any internal model used for purposes of this Chapter. The results of these stress tests shall be reviewed by senior managementat least monthly and comply with the policies and limits approved by the institution's management body. Institutions shall take appropriate actions when the results of the 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 the internal models used for purposes of this Chapter, either as part of its regular internal auditing process,or by mandating a third-party undertaking 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 institutitons and which has sufficient skilled staff with knowledge in the market risks of trading activities.

2. The review referred to in point (h) of paragraph 1 shall include both the activities of the business trading units and of the independent risk-control unit. At least once a year, the institution shall conduct a review of its overall risk-management process. The review shall consider 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 process 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 risk-measurement model, the accuracy and appropriateness of the risk-measurment system and the validation of any significant changes in the risk-measurement process;

(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, the accuracy and appropriateness for generating data proxies where available data is insufficient

(f) the verification process the institution employs to evaluate the consistency, timeliness and reliability of data sources used to run internal models, including the independence of such data sources;

(g) the verification process the institution uses to evaluate back-testing and P&L attribution that are conducted to assess the models' accuracy.

(h) where the review is perform by a third-party undertaking, the verification that the internal validation process set out in Article 325bk fulfils its objectives.

3. As techniques and best practices evolve, institutions shall apply those new techniques and practices in any internal model used for purposes of this Chapter.

Article 325bk
Internal Validation

Institutions shall have processes in place to ensure that all their internal models used for purposes of this Chapter have been adequately validated by suitably qualified parties independent of the development process to ensure that they are conceptually sound and adequately capture all material risks. The validation shall be conducted when the internal model is initially developed and when any significant changes are made to the internal model. The validation shall also be conducted on a periodic basis but especially where there have been any significant structural changes in the market or changes to the composition of the portfolio which might lead to the internal model no longer being adequate. Internal model validation shall not be limited to back-testing and P&L attribution requirements, but shall, at a minimum, also include the following:

(a) tests to demonstrate that any assumptions made within the internal model are appropriate and do not underestimate or overestimate the risk;

(b) in addition to the regulatory back-testing programmes, institutions shall carry out their own internal model validation tests, including back-testing, in relation to the risks and structures of their portfolios;

(c) the use of hypothetical portfolios to ensure that the internal model is able to account for particular structural features that may arise, for example material basis risks and concentration risk or the risks associated to the use of proxies.

Article 325bl
Stress scenario risk measure calculation

1. At time 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:

$$SS_t = \sqrt{\sum_m ICSS_t^m(t) + \sum_l SS_t^l(t)}$$

Where:

m = the index that denotes all the non-modellable risk factors of the positions in the portfolio which have been mapped to the credit spread broad risk factor category in accordance with paragraph 1 of Article 325be and for the institution has demonstrated to the competent authorities that these 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 of the non-modellable risk factor 'm' as defined in paragraph 3;

SS_t^l = the stress scenario risk measure of the non-modellable risk factor 'l' as defined in paragraph 3;

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 include this risk factor when an extreme scenario of future shock is applied to this risk factor.

3. Institution shall determine appropriate extreme scenarios of future shock for all the modellable risk-factors to the satisfaction of competent authorities.

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 factor and how the extreme scenario of future shock shall apply to the risk factor;

(b) a regulatory extreme scenario of future shock for each broad risk factor subcategory listed in Table 3 of Article 325be which institutions may use when they cannot determine extreme scenario of future shock in accordance with point (a) or which competent authorities may require the institution to apply when they are not satisfied with the extreme scenario of future shock

In developing these draft regulatory technical standards, the EBA shall take into consideration, to the extent possible, that the level of own funds requirements for market risk of a non-modellable risk factor as set out in thie 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 be modellable.

EBA shall submit those draft regulatory technical standards to the Commission by [six 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 2
INTERNAL MODEL FOR DEFAULT RISK

Article 325bm
Scope of the internal default risk model

1. All the institution's positions in traded debt or equity instruments which have been attributed to trading desks for which the institution uses an internal model for calculating the own funds requirements for market risks in accordance with paragraph 1 of Article 325ba and which contain at least one risk factor mapped to the broad risk categories "Equity" or "Credit spread" in accordance with paragraph 1 of Article 325be shall be subject to an own funds requirement calculated with the institution's internal default risk model in accordance with this Section which is incremental to the risks captured by the own funds requirements referred to in paragraph 1 of Article 325bb.

2. There shall be one issuer of traded debt or equity instruments related to at least one risk factor of each of the positions referred to in paragraph 1.

Article 325bn
Requirements to have an internal default risk model

1. Competent authorities shall be grant permission to an institution to use the internal default risk model set out in this Section to calculate the own funds requirement referred to Article 325bb(2) for all trading book positions referred to in Article 325bm and that are attributed to a trading desk that meets the following requirements:

(a) the institution has developed an internal default risk model which fulfils the requirements in Articles 325bo to 325bq for the positions of this trading desk which are in scope of the internal default risk model;

(b) the internal default risk model referred to in point (a) meets the requirements for internal models set out in Articles 325bj to 325bk.

2. EBA shall issue guidelines [two years after the entry into force of this Regulation] on the requirements in Articles 325bo to 325bq.

3. Where an institution's trading desk for which at least one of the trading book positions referred to in Article 325bm has been 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 fund requirements for default risk using an internal default risk model

1. Institutions shall calculate the own funds requirement 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 requirement shall be equal to a value-at-risk number which measures potential losses in the market value of the portfolio due to default of the issuers related to the portfolio's positions at the 99,9 % confidence interval over a time horizon of one year;

(b) the loss referred to in point (a) means a direct or indirect loss in the market value of a position resulting from the default of the issuer and which is incremental to any losses already taken into account in the current valuation of the position. For equity positions, the default of the related issuer shall lead the price of its equity dropping to zero;

(c) the institutions shall determine default correlations between different issuers based on a conceptually sound methodolgy and using objective historical data of market credit spreads and 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 consistent with a one-year time horizon;

(d) the internal model shall be based on a one-year constant position assumption.

2. Institutions shall calculate the own funds requirement referred to in paragraph 1 at least on a weekly basis.

3. By the 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 equity positions. In this case, the calculation of default correlations and default probabilities shall be consistent with a time horizon of sixty days.

Article 325bp
Recognition of hedges in the internal default risk model

Hedges may be incorporated into an institution's internal model to capture the default risks. Positions may be netted when long and short positions refer to the same financial instrument. 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, may only be recognised by explicitly modelling gross long and short positions in the different instruments, including modelling of basis risks between different issuers. Institutions shall reflect the impact of material risks 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 by product, seniority in the capital structure, internal or external rating, maturity, vintage and other differences in the instruments. An institution shall reflect 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 the internal default risk model

1. The internal default risk model shall simulate scenarios of model capable of modelling the default of individual issuers as well as the simultaneous default of multiple issuers and reflect the impacts of these defaults in the market values of the positions included in its scope in accordance with Article 325bm. For this purpose, the default of each individual issuer shall be modelled using at least two systematics risk factors and at least one idyosyncratic risk factor.

2. The internal default risk model shall reflect the economic cycle, including the dependance between recovery rates and the systematic risk factors.

3. The internal model to capture the default risks shall reflect the nonlinear impact of options, other positions with material nonlinear behaviour with respect to price changes. The institution shall also have due regard to the amount of model risk inherent in the valuation and estimation of price risks associated with such products.

4. The internal model shall be based on data that are objective and up-to-date.

5. For the purposes of simulating the default of issuers in the internal default risk model, institutions shall meet the following requirements for their estimates of default probabilities:

   (a) default probabilities are floored at 0.03%;

   (b) default probabilities shall be based on a one-year time horizon, unless stated otherwise;

   (c) default probabilities shall not be solely derived from current market data;

   (d) where an institution has been granted the permission to estimates default probabilities in accordance with Section 1, Chapter 3, Title II, Part 3, it shall use the methodology set out in this Section to calculate default probabilities;

   (e) where the condition set out in point (d) is not met, the institution shall develop an internal methodology to determine default probabilities or use default probabilities provided by external sources. In both situations, default probabilities shall be consistent with the requirements set out in this Article.

6. For the purposes of simulating the default of issuers in the internal default risk model, institutions shall meet the following requirements for their estimates of loss given default:

(a) loss given default estimates are floored at 0%;

(b) loss given default estimates shall reflect the seniority of each position;

(c) where an institution has been granted the permission to estimate loss given default in accordance with Section 1, Chapter 3, Title II, Part 3, it shall use the methodology set out in this Section to calculate loss given default estimates;

(d) where the condition set out in point (c) is not met, the institution shall develop an own methodology to determine loss given default estimates or use loss given default estimates provided by external sources. In both situations, loss given default estimates 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 purposes of this Chapter, inclusively for purposes of the risk measurement system, an institution shall in particular do all of the following:

(a) validate that its modelling approach for correlations and price changes is appropriate for its portfolio, including the choice and weights of its systematic risk factors;

(b) perform a variety of stress tests, including sensitivity analysis and scenario analysis, to assess the qualitative and quantitative reasonableness of the internal model, particularly with regard to the treatment of concentrations. Such tests shall not be limited to the range of events experienced historically;

(c) apply appropriate quantitative validation including relevant internal modelling benchmarks.

8. The internal model shall appropriately reflect issuer concentrations. Concentrations that can arise within and across product classes under stressed conditions shall also be reflected.

9. The internal model shall be consistent with the institution's internal risk management methodologies for identifying, measuring, and managing trading risks.

10. Institutions shall have in place clearly defined policies and procedures for determining the default correlation assumptions between different issuers in accordance with paragraph 2 of Article 325bo.

11. Institutions shall document their internal models so that its correlation and other modelling assumptions are transparent to 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.".

(96) In Title IV of Part Three Chapter 2 is re named as follows:

"Chapter 2
Own funds requirements for position risks under the simplified standardised approach".

(97) In Title IV of Part Three Chapter 3 is re named as follows:

"Chapter 3
Own funds requirements for foreign-exchange risk under the simplified standardised approach".

(98) In Title IV of Part Three Chapter 4 is re named as follows:

"Chapter 4
Own funds requirements for position risks under the simplified standardised approach".

(99) In Title IV of Part Three Chapter 5 is re named as follows:

"Chapter 5
Own funds requirements using the simplified internal models approach".

(100) 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:"

(101) The definition of EAD_i^{total} in Article 384(1) is replaced by the following:

" EAD_i^{total} = the total counterparty credit risk exposure value of counterparty "i" (summed across its netting sets) including the effect of collateral in accordance with the methods set out in Sections 3 to 6 of Title II, Chapter 6 as applicable to the calculation of the own funds requirements for counterparty credit risk for that counterparty."

(102) Article 390 is replaced by the following:

"Article 390
Calculation of the exposure value

1. The exposures to a group of connected clients shall be calculated by adding together the exposures to individual clients in that group.

2. The overall exposures to individual clients shall be calculated by adding together 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 position is junior to the long position or the positions 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 exposures arising from 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 arising from these contracts allocated to the trading book shall also fulfil the requirements of Article 299.

5. Institutions shall add 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 shall be added to the exposures to the 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 five working days following payment or delivery of the securities, whichever 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;

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(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 disclosed solvency ratio.

7. In order to determine the overall exposure to a client or a group of connected clients, in respect of clients to which the institution has exposures through transactions referred to in points (m) and (o) of Article 112 or through other transactions where there is an exposure to underlying assets, an institution shall assess its underlying exposures taking into account the economic substance of the structure of the transaction and the risks inherent in the structure of the transaction itself, in order to determine whether it constitutes an additional exposure.

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

(a) the conditions and methodologies used to determine the overall exposure to a client or a group of connected clients in respect of the types of exposures referred to in paragraph 7;

(b) the conditions under which the structure of the transaction referred to in paragraph 7 does not constitute an additional exposure.

EBA shall submit those draft regulatory technical standards to the Commission by 1 January 2014.

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

9. 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 moths 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.".

(103) Article 391 is replaced by the following:

"Article 391
Definition of an institution for large exposures purposes

1. For the purposes of calculating the value of exposures in accordance with this Part the term 'institution' shall include a private or public undertaking, including its branches, which, were it established in the Union, would fulfil the definition of the term 'institution' and has been authorised in a third country that applies prudential supervisory and regulatory requirements at least equivalent to those applied in the Union.

2. For the purposes of paragraph 1, the Commission may adopt, by way of implementing acts, and subject to the examination procedure referred to in Article 464(2), a decision as to whether a third country applies supervisory and regulatory arrangements at least equivalent to those applied in the Union.".

(104) Article 392 is replaced by the following:

"Article 392
Definition of large exposure

An institution's exposure to a client or group of connected clients shall be considered a large exposure where its value is equal to or exceeds 10 % of its Tier 1 capital.".

(105) In Article 394(1) the following subparagraph is inserted after the last subparagraph :

"Institutions shall also report to the competent authorities exposures whose exposure value is larger than or equal to EUR 300 million but less than 10 % of the institution's Tier 1 capital."

(106) In Article 394 paragraph 2 is replaced by the following:

"2. An institution shall report the following information to the competent authorities, in addition to reporting the information referred to in paragraph 1, in relation to its 10 largest exposures on a consolidated basis to shadow banking entities which carry out baking activities outside a regulated framework, including large exposures exempted from the application of Article 395(1):

(a) the identification 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, when 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 purpose of Article 395(1)."

(107) In Article 394 the following paragraph 5 is added:

"5. EBA shall develop draft regulatory technical standards to specify the entities that fall into the definition of shadow baking entities for the purpose of paragraph 2.

In developing those draft regulatory technical standards, EBA shall take into account international developments and internationally agreed standards on shadow banking.

EBA shall submit those draft regulatory technical standards to the Commission by [one year 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.'

(108) Article 394 is replaced by the following:

"Article 394
Reporting requirements

1. Institutions shall report the following information about every large exposure, including large exposures exempted from the application of Article 395(1) to their competent authorities:

   (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 its 20 largest exposures on a consolidated basis, excluding those exempted from the application of Article 395(1) 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 to institutions on a consolidated basis, including large exposures exempted from the application of Article 395(1):

   (a) the identity of the client or the group of connected clients to which an institution has a large exposure;

   (b) the exposure value before taking into account the effect of the credit risk mitigation, where applicable;

   (c) where used, the type of funded or unfunded credit protection;

   (d) the exposure value after taking into account the effect of the credit risk mitigation calculated for the purpose of Article 395(1), where applicable.

3. The information referred to in paragraphs (1) and (2) shall be reported to competent authorities with the following frequency:

   (a) small institutions as defined in Article 430a shall report on an annual basis;

   (b) other institutions shall report no less frequently than on a semi-annual basis.

4. EBA shall develop draft implementing technical standards to specify the following:

   (a) the uniform formats for the reporting referred to in paragraph 3 and the instructions for using those formats;

   (b) the frequencies and dates of the reporting referred to in paragraph 3;

   (c) the IT solutions to be applied for the reporting referred to in paragraph 3.

   The reporting requirements specified in the draft implementing technical standards shall be proportionate, having regard to the institutions' size and complexity and the nature and level of risk of their activities.

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

(109) Article 395(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 the 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 taking into account the effect of credit risk mitigation in accordance with Articles 399 to 403 shall not exceed a reasonable limit in terms of the 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. This 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-SIIs in accordance with Article 131 of Directive 2013/36/EU shall not incur an exposure, after taking into account the effect of the credit risk mitigation in accordance with Articles 399 to 403, to another institution identified as G-SIIs in accordance with Article 131 of Directive 2013/36/EU the value of which exceeds 15 % of its Tier 1 capital. This limit shall apply no later than within 12 months since an institution is identified as G-SIIs in accordance with Article 131 of Directive 2013/36/EU.

Where the amount of EUR 150 million is higher than 25 % of the institution's Tier 1 capital the value of the exposure, after taking into account the effect of credit risk mitigation in accordance with Articles 399 to 403 shall not exceed a reasonable limit in terms of the 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. This limit shall not exceed 100 % of the institution's Tier 1 capital.".

(110) Article 395(5) is replaced by the following:

"5. The limits laid down in this Article may be exceeded for the exposures on the institution's trading book if the following conditions are met:

(a) the exposure on 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 on the trading book;

(b) the institution meets an additional own funds requirement on the excess in respect 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 occurred, the trading-book exposure to the client or group of connected clients in question shall 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.

In each case in which the limit has been exceeded, the institution shall report the amount of the excess and the name of the client concerned and, where applicable, the name of the group of connected clients concerned, without delay to the competent authorities.".

(111) In Article 396 paragraph 1 is replaced by the following:

"1. If, in an exceptional case, exposures exceed the limit set out in Article 395(1), the institution shall report the value of the exposure without delay to the competent authorities which may, where the circumstances warrant it, allow the institution a limited period of time in which to comply with the limit.

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.

Where a competent authority permits 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 and carry out this plan within the period agreed with the competent authority.".

(112) In Article 396 the following paragraph 3 is added:

"3. For the purpose of paragraph 1, the EBA shall issue guidelines specifying:

(a) the exceptional cases in which the limit can be exceeded;

(b) the time considered appropriate for returning to compliance;

(c) the measures to be taken by competent authorities 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.'

(113) In Article 397, Column 1 of Table 1 the term 'eligible capital' is replaced by the term 'Tier 1 capital'.

(114) Article 399 is replaced by the following:

"Article 399
Eligible credit mitigation techniques

1. An institution shall use a credit risk mitigation technique in the calculation of an exposure when it has used this technique to calculate capital requirements for credit risk according to 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.

2. Subject to paragraph 3 of this Article, where, under Articles 400 to 403 the recognition of funded or unfunded credit protection is permitted, this shall be subject to compliance with the eligibility requirements and other requirements set out in Part Three, Title II, Chapter 4.

Where an institution uses the standardised approach for credit risk mitigation purposes, Article 194(3)(a) does not apply for the purpose of this paragraph.

3. Credit risk mitigation techniques which are available only to institutions using one of the IRB approaches are not eligible to reduce exposure values for large exposure purposes except for exposures secured by immovable properties according to Article 402.

4. Institutions shall analyse, to the extent possible, their exposures to collateral issuers, providers of unfunded credit protection and underlying assets pursuant to Article 390(7) for possible concentrations and where appropriate take action and report any significant findings to their competent authority.".

(115) In Article 400(1) point (j) is replaced by the following:

'(j) trade exposures and default fund contributions to qualified central counterparties;'

(116) In Article 400(1) the following point (l) is added:

"(l) Holdings by resolution entities of the instruments and eligible own funds instruments referred to in Article 45(3)(g) of Directive 2014/59/EU issued by other entities belonging to the same resolution group.".

(117) In Article 400(2) point (k) is deleted.

(118) In Article 400 paragraph 3 is replaced by the following:

"3. Competent authorities may only make use of the exemption provided for in paragraph 2 where the following conditions are met:

(a) the specific nature of the exposure, the counterparty or the relationship between the institution and the counterparty eliminate or reduce the risk of the exposure; and

(b) any remaining concentration risk can be addressed by other equally effective means such as the arrangements, processes and mechanisms provided for in Article 81 of Directive 2013/36/EU.

Competent authorities shall inform EBA 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 the EBA with the reasons justifying the use of the exemption.".

(119) In Article 400 the following paragraph 4 is added:

"4. The simultaneous application of more than one of the exemptions provided for in paragraphs 1 and 2 to the same exposure is not permitted.".

(120) 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 according to Part Three, Title II, Chapter 4.

2. For the purpose of the first paragraph institutions shall use the Financial Collateral Comprehensive Method regardless of the method used for calculating own funds requirements of credit risk.

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 such 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 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 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.".

(121) In Article 403, paragraph 1 is replaced by the following:

"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 purpose 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.".

(122) In Part Six, the heading of Title I is replaced by the following:

"TITLE I DEFINITIONS AND LIQUDITY REQUIREMENTS".

(123) Article 411 is replaced by the following:

"Article 411
Definitions

For the purposes of this Part, the following definitions apply:

(1) 'financial customer' means a customer, including 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 vehicle ("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 deposits' means a liability to a natural person or to an SME (small or medium-sized enterprise), 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) of this Regulation, and where the aggregate deposits by such SME or company on the basis of a group of connected clients as defined in point (39) number of Article 4(1) of this Regulation do not exceed EUR 1 million;

(3) 'personal investment company' ("PIC") means an undertaking or a trust whose owner or beneficial owner, respectively, is 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 these are connected to the main purpose of managing the owners' wealth;

(4) 'deposits 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 where the institution is not subject to any legal, contractual, regulatory or other restriction preventing it from liquidating, selling, transferring, assigning or, generally, disposing of such assets via active outright sale or repurchase agreement. The following assets shall be deemed 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. This 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) No 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. For these purposes, non-mandatory overcollateralisation shall mean any amount of assets which the institution is not obliged to attach to the covered bonds by virtue of legal or regulatory requirements, contractual commitments or for reasons of market discipline, including in particular where:

(i) the assets are provided in excess of the minimum legal, statutory or regulatory overcollateralisation requirement applicable to the covered bonds under the national law of a Member State or a third country;

(ii) the assets are not required for the covered bonds to maintain the current credit assessment pursuant to the methodology of a nominated ECAI;

(iii) the assets are not required for material credit enhancement purposes;

(6) 'asset coverage requirement' means the ratio of assets to liabilities as determined for credit enhancement purposes in relation to covered bonds by the national law of a Member State or a third country;

(7) 'margin loans' means collateralised loans extended to customers for the purpose of taking leveraged trading positions;

(8) 'derivative contracts' means derivatives contracts listed in Annex II to this Regulation and credit derivatives.

(9) '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 may be a significant risk that the credit institution becomes unable to meet its commitments as they fall due within the next 30 calendar days;

(10) 'level 1 assets' means assets of extremely high liquidity and credit quality as referred to in the second subparagraph of Article 416(1) of this Regulation;

(11) '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) No 2015/61;

(12) 'liquidity buffer' means the amount of liquid assets that an institution holds in accordance with Title II of Delegated Regulation (EU) No 2015/61;

(13) 'net liquidity outflows' means the amount which results from deducting an institution's liquidity inflows from its liquidity outflows:

(14) 'reporting currency' means the currency in which the liquidity items referred to in Titles II, III and IV of this Part shall be reported to the competent authorities in accordance with Article 415(1) of this Regulation;".

(124) Article 412(2) is replaced by the following:

"2. Institutions shall not count double liquidity outflows, liquidity inflows and liquid assets.".

(125) Article 412(4) is replaced by the following:

"4. The provisions set out in Title II shall apply exclusively for the purposes of specifying reporting obligations set out in Article 415 for investment firms other than systemic investment firms pending the report from the Commission in accordance with Article 508(3).".

(126) In article 412, the following new paragraph 4a is inserted after paragraph 4:

"4a. The provisions of the delegated act specifying in detail the general requirement set out in paragraph 1 of this Article and adopted in application of Article 460(1) of this Regulation shall apply to credit institutions and systemic investment firms pending the report from the Commission in accordance with Article 508(3).".

(127) 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 purposes of specifying reporting obligations set out in Article 415 for investment firms other than systemic investment firms pending the report from the Commission in accordance with Article 508(3) and for all institutions until reporting obligations set out in Article 415 for the stable funding requirement defined in Title IV are specified and introduced in the Union.

3. 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 are specified and introduced in the Union in accordance with Articles 508(3) and 510 of this Regulation.

4. The provisions set out in Title IV shall apply for the purposes of specifying the stable funding requirement set out in paragraph 1 of this Article and reporting obligations

set out in Article 415 of this Regulation for credit institutions and systemic investment firms.".

(128) Article 414 is replaced by the following

"Article 414
Compliance with liquidity requirements

Where an institution 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, it shall immediately notify the competent authorities and shall submit without undue delay to the competent authorities a plan for the timely restoration of compliance with Article 412 or Article 413(1). Until compliance has been restored, the institution shall report the items referred to in Title II, III or IV, as appropriate, daily by the end of each business day unless the competent authority authorises a lower reporting frequency and a longer reporting delay. Competent authorities shall only grant such authorisations based on the individual situation of an institution and taking into account the scale and complexity of the institution's activities. They shall monitor the implementation of the restoration plan and shall require a more speedy restoration if appropriate.".

(129) In Article 415, paragraphs 1 and 2 are replaced by the following:

"1. Credit institutions and systemic investment firms shall report in a single currency, regardless of their actual denomination, to the competent authorities the items referred to in Title IV. Until reporting obligation and reporting format for the stable funding requirement defined in Title IV are specified and introduced in the Union, credit institutions and systemic investment firms shall report in a single currency, regardless of their actual denomination, to the competent authorities the items referred to in Title III.

Investment firms other than systemic investment firms shall report in a single currency, regardless of their actual denomination, to the competent authorities the items referred to in Titles II and III and in Annex III to this Regulation and their components, including the composition of their liquid assets in accordance with Article 416, pending the report from the Commission in accordance with Article 508(3).

The reporting frequency shall not be less than monthly for items referred to in Title II and Annex III to this Regulation and not less than quarterly for items referred to in Titles III and IV.

2. An institution shall report separately to the competent authorities of the home Member State, in the reporting currency under paragraph 1 of this article, the items referred to in paragraph 1 denominated in the currency below:

(a) when it has aggregate liabilities denominated in a currency different from the reporting currency under paragraph 1 amounting to or exceeding 5 % of the institution's or the single liquidity sub-group's total liabilities, excluding regulatory capital and off-balance sheet items; or

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(b) when it has a significant branch in accordance with Article 51 of Directive 2013/36/EU in a host Member State using a currency different from the reporting currency under paragraph 1 of this Article; and

(c) in the reporting currency under paragraph 1 of this Article.".

(130) In Article 416, point (e) of paragraph 3 is replaced by the following:

"(e) they are listed on recognised exchange or they are tradable on active outright sale or via a simple repurchase agreement on repurchase markets. These criteria shall be assessed separately for each market.".

(131) In Article 422, paragraph 4 is replaced by the following:

"4. Clearing, custody or cash management or other comparable services referred to in points (a) and (d) of paragraph 3 only covers such services to the extent that they are rendered in the context of an established relationship on which the depositor has substantial dependency. They shall not merely consist in 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 these 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.".

(132) In Article 423, paragraphs 2 and 3 are replaced by the following:

"2. Institutions shall notify to the competent authorities all contracts entered into the contractual conditions of which lead, within 30 days following a material deterioration of its credit quality, to liquidity outflows or additional collateral needs. If the competent authorities consider such 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 corresponding 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 corresponding to collateral needs that would result from the impact of an adverse market scenario on the institution's derivatives transactions if material.

EBA shall develop draft regulatory technical standards to determine the conditions of application in relation to the notion of materiality and methods for the measurement of this 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.".

(133) 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 such an SSPE to purchase assets, other than securities, from clients that are not financial customers shall be multiplied by 10 % to the extent that it exceeds the amount of assets currently purchased from clients and where the maximum amount that can be drawn is contractually limited to the amount of assets currently purchased.".

(134) In Article 425, point (c) of paragraph 2 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 bank to withdraw and request payment within 30 days;".

(135) In Part Six, the following new Title IV is inserted after Article 428 :

"TITLE IV THE NET STABLE FUNDING RATIO FOR INSTITUTIONS

CHAPTER 1 The net stable funding ratio

Article 428a
Application on a consolidated basis

When the net stable funding ratio defined in this Title applies on a consolidated basis in accordance with Article 11(3) of this Regulation, all of the following provisions shall apply:

(a) required stable funding factors in a subsidiary undertaking in a third country which are subject under the national law of that third country setting out the net stable funding requirement to higher percentages than those specified in Chapter 4 of this Title shall be subject to consolidation in accordance with the higher rates specified in the national law of the third country;

(b) available stable funding factors in a subsidiary undertaking in a third country which are subject under the national law of that third country setting out the net stable funding requirement to lower percentages than those specified in Chapter 3 of this Title shall be subject to consolidation in accordance with the lower rates specified in the national law of the third country;

(c) third country assets which meet the requirements laid down in Title II of Delegated Regulation (EU) No 2015/61 and which are held by a subsidiary undertaking in a third country shall not be recognized as liquid assets for consolidated purposes where they do not qualify as liquid assets under the national law of the third country setting out the liquidity coverage requirement;

(d) investment firms other than systemic investment firms within the group shall be subject to Article 428b of this Regulation on a consolidated basis and to Article 413 of this Regulation in relation to the definition of long term obligations and stable funding instruments for both individual and consolidated purposes. Other than as specified in this point, investment firms other than systemic investment firms shall remain subject to the detailed net stable funding requirement for investment firms as laid down in the national law of Member States pending the report from the Commission in accordance with Article 508(3).

Article 428b
The net stable funding ratio

1. The detailed net stable funding requirement in accordance with 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 its required stable funding as referred to in Chapter 4 of this

Title over a one year period 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%.

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 of this Regulation shall apply. The institution shall aims at restoring its net stable funding ratio to the level referred to in paragraph 2. The competent authority shall assess the reasons for non-compliance with the level referred to in paragraph 2 before taking, if appropriate, any supervisory measures.

4. Institutions shall calculate and monitor their net stable funding ratio, in the reporting currency, for all transactions irrespective of their actual currency denomination and for transactions denominated in each of the currencies subject to separate reporting in accordance with Article 415(2) of this Regulation.

5. Institutions shall ensure that the currency denomination of their liabilities is consistent with 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 may be subject to separate reporting in accordance with Article 415(2) of this Regulation.

In determining the level of any restriction on currency mismatch that may be applied in accordance with this Article, competent authorities shall at least have regard to:

(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 be deemed to 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 otherwise specified, assets, liabilities and off-balance sheet items shall be taken into account on a gross basis.

2. For the purposes of calculating the net stable funding ratio, institutions shall apply the appropriate available and required stable funding factors set out in Chapters 3 and 4 of this Title respectively to the accounting value of their liabilities, assets and off-balance sheet items unless otherwise specified.

3. Institutions shall not count double required stable funding and available stable funding.

428d
Derivatives transactions

1. Institutions shall apply the provisions of this Article to calculate the amount of required stable funding for derivatives contracts in accordance with Chapter 4 of this Title.

2. By way of derogation from Article 428c(1) of this Regulation, 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 Articles 295 to 297 of this Regulation. Otherwise, the accounting value of derivative positions shall be taken into account on a gross basis and those derivatives positions shall be treated as their own netting set for the purposes of Chapter 4 of this Title.

3. For the purposes of this Title, the market value of a netting set refers to the sum of the market values of all the transactions included in the netting set.

4. All derivative contracts referred to in points (a) to (e) of paragraph 2 of Annex II to this Regulation that involve a full exchange of principal amounts on the same date shall be calculated on a net basis across currencies, including for the purposes of reporting in a currency that may be subject to a separate reporting in accordance with Article 415(2) of this Article, even where those transactions are not included in the same netting set that fulfils the requirements set out in Articles 295 to 297 of this Regulation.

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 under Chapter 3 of this Title.

6. Competent authorities may decide, in agreement with the ECB or the relevant central bank of a Member State, to waive the impact of derivatives contracts on the calculation of the net stable funding ratio, including through required stable funding factors defined in Chapter 4 of this Title and through provisions and losses, where:

   (a) these contracts have a residual maturity of less than six months;

(b) the counterparty is the ECB or the central bank of a Member State; and

(c) the derivatives contracts serve the purposes of the monetary policy of the ECB or the central bank of a Member State.

If a subsidiary undertaking in a third country benefits from this waiver under the national law of that third country setting out the net stable funding requirement, they shall be subject to consolidation in accordance with the waiver specified in the national law of the third country. They shall otherwise not benefit from this waiver.

428e

Assets lending and borrowing, including in secured lending and capital market-driven transactions

1. By way of derogation from Article 428c(1) of this Regulation, assets and liabilities resulting from secured lending and capital market-driven transactions as defined in points (2) and (3) of Article 192 of this Regulation with a single counterparty shall be calculated on a net basis provided that they respect the netting conditions set out in Article 429b(2) of this Regulation.

2. When an institution reuses or repledges an asset that was borrowed, including in secured lending and capital market-driven transactions as defined in points (2) and (3) of Article 192 of this Regulation, and that is accounted for off balance sheet, the residual maturity of the transaction through which the asset is borrowed, used to determine the required stable funding factor to be applied under Section 2 of Chapter 4 of this Title, shall be defined as the residual maturity of the transaction where the asset is reused or repledged.

Article 428f

Interdependent assets and liabilities

1. Subject to prior approval of competent authorities, institutions may consider an asset interdependent with a liability provided that all of the following conditions aimed at ensuring that institutions act solely as pass-through units to channel the funding from the liability into the corresponding interdependent asset, are met:

(a) the individual interdependent assets and liabilities shall be clearly identifiable and have the same principal amount;

(b) the asset and interdependent liability shall have substantially matched maturities, meaning that the liability cannot mature while the asset remains on the balance sheet, with a maximum delay of 20 days between the maturity of the asset and the one of the liability;

(c) the interdependent liability shall be requested pursuant to a legal, regulatory or contractual commitment and shall be directly linked to the asset, meaning that the liability shall not be used to fund other assets and the principal payments flows from the asset shall not be used for other purposes than repaying the interdependent liability; and

(d) the counterparties for each pair of interdependent assets and liabilities shall not be the same.

2. Assets and liabilities directly linked to the following products or services shall be deemed to meet the conditions of paragraph 1 of this Article 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 provides loans to promote public interest objectives and where the scheme of transfer of deposits to the centralised fund occurs at least on 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) No 2015/61 for institutions acting as simple intermediaries that do not support any funding risk;

(c) covered bonds as referred to in Article 52(4) of Directive 2009/65/EC or meeting the requirements to be eligible for the treatment set out in paragraphs (4) or (5) of Article 129 of this Regulation, where the underlying loans are fully matched funded with the covered bonds or where there exists non-discretionary extendable maturity triggers on the covered bond by 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 ; and

(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) of this Regulation, to a network that would be eligible for the waiver provided for in Article 10 of this Regulation or to a cooperative network in a Member State, the sight deposits that the institution maintains with the central institution that are considered as liquid assets for the depositing institution in accordance with Article 16 of Regulation (EU) No 2015/61 shall:

(a) be subject to the appropriate required stable funding factor to be applied under Section 2 of Chapter 4 of this Title for the depositing institution, depending on their treatment as Level 1, Level 2A or Level 2B assets in accordance with Article 16 of Delegated Regulation (EU) No 2015/61 and on the relevant haircut applied to them for the calculation of the liquidity coverage ratio;

(b) be subject to 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 Article 428g and from Chapters 3 and 4 of this Title, competent authorities may authorise the application of a higher available stable funding factor or a lower required stable funding factor on a case-by-case basis to liabilities, assets and committed credit or liquidity facilities when all of the following conditions are fulfilled:

(a) the counterparty is the parent or a subsidiary of the institution or another subsidiary of the same parent or linked to the institution by a relationship within the meaning of Article 12(1) of Directive 83/349/EEC or a member of the same institutional protection scheme referred to in Article 113(7) of this Regulation or the central institution or an affiliate of a network or 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 symmetric to the higher available stable funding factor or a lower available stable funding factor symmetric to 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 in paragraph 1, the following additional criteria (a) to (c) 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.

(d) The competent authorities shall work together in full consultation in accordance with Article 20(1)(b) of this Regulation 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

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 of this Chapter, unless otherwise specified. The total amount of available stable funding is the sum of the weighted amounts of liabilities and regulatory capital.

Article 428j
Residual maturity of a liability or regulatory capital

1. Unless otherwise specified, 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 consider existing options to determine the residual maturity of a liability or regulatory capital based on the assumption that investors 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, in particular considering market expectations that they should redeem certain liabilities before their maturity.

3. 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 to determine the available stable funding factors to be applied under Section 2 of this Chapter.

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:

   (a) deferred tax liabilities, which shall be treated according to the nearest possible date on which such liabilities could be realised;

   (b) minority interests, which shall be treated according to the term of the instrument.

   Deferred tax liabilities and minority interests shall be subject to a 0% available stable funding factor if their effective residual maturity is less than six months, to a 50% available stable funding factor if their effective residual maturity is between six months and less than one year or to a 100% available stable funding factor if their effective residual maturity 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 application of Article 428f of this Regulation;

(c) liabilities with a residual maturity of less than six months provided by:

(i) the European Central Bank 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 of this Regulation.

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.

4. For the purposes of the calculation referred to in the first subparagraph, the following requirements shall apply:

(a) variation margins 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 qualifies as Level 1 assets under Title II of Delegated Regulation (EU) No 2015/61, excluding extremely high quality covered bonds referred to in point (f) of Article 10(1) of Delegated Regulation (EU) No 2015/61, 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.

Article 428l
50% Available Stable Funding Factor

The following liabilities shall be subject to a 50% available stable funding factor:

(a) deposits received that fulfil the criteria for operational deposits set out in Article 27 of Delegated Regulation (EU) No 2015/61;

(b) liabilities with a residual maturity of less than one year provided by:

[redacted]the central government of a Member State or a third country;

[redacted]regional governments or local authorities in a Member State or a third country;

[redacted]public sector entities in a Member State or a third country;

[redacted]multilateral development banks and international organisations referred to in Articles 117(2) and 118 of this Regulation respectively;

[redacted]credit institutions referred to in point (e) of Article 10(1) of Delegated Regulation (EU) No 2015/61;

[redacted] non-financial corporate customers;

[redacted] credit unions authorised by a competent authority, personal investment companies and clients that are deposit brokers to the extent that they do not fall under point (a) of this paragraph;

(c) liabilities with a residual contractual maturity between six months and less than one year provided by:

[redacted] the European Central Bank or the central bank of a Member State;

[redacted] the central bank of a third country;

[redacted] financial customers;

(d) any other liabilities with a residual maturity between six months and less than one year not referred to in Articles 428m to 428o of this Regulation.

Article 428m
90% Available Stable Funding Factor

Sight retail deposits 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) No 2015/61 shall be subject to a 90% available stable funding factor.

Article 428n
95% Available Stable Funding Factor

Sight retail deposits 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) No 2015/61 shall be subject to a 95% available stable funding factor.

Article 428o
100% Available Stable Funding Factor

The following liabilities and capital items and instruments shall be subject to a 100% available stable funding factor:

(a) the Common Equity Tier 1 items of the institution before the adjustments required pursuant to Articles 32 to 35 of this Regulation, the deductions pursuant to Article 36 of this Regulation and the exemptions and alternatives laid down in Articles 48, 49 and 79 of this Regulation have been applied;

(b) the Additional Tier 1 items of the institution before the deduction of the items referred to in Article 56 of this Regulation and the application of Article 79 of this Regulation;

(c) the Tier 2 items of the institution before the deductions referred to in Article 66 of this Regulation and the application of Article 79 of this Regulation 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;

(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 of this Regulation.

CHAPTER 4
Required Stable Funding

SECTION 1
GENERAL PROVISIONS

Article 428p
Calculation of the amount of required stable funding

1. 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 under Section 2 of this Chapter, unless otherwise specified. The total amount of required stable funding is the sum of the weighted amounts of assets and off-balance sheet items.

2. Assets that institutions have borrowed, including in secured lending and capital market-driven transactions as defined in points (2) and (3) of Article 192 of this Regulation, 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.

3. Assets that institutions have lent, including in secured lending and capital market driven transactions as defined in points (2) and (3) of Article 192 of this Regulation, that remain on their balance sheet and over which they retain beneficial ownership, shall be considered as encumbered assets for the purposes of this Chapter and 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.

4. Institutions shall exclude assets associated with collateral recognised as variation margins posted in accordance with point (b) of Article 428k(3) and Article 428ag(3) of this Regulation or as initial margins posted or as contributions to the default fund of a CCP in accordance with points (a) and (b) of Article 428af of this Regulation from other parts of calculation of the amount of required stable funding in application of this Chapter in order to avoid any double-counting.

5. 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 such 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.

6. The competent authorities may determine required stable funding factors to be applied to off-balance sheet exposures that are not referred to in this Chapter in order to ensure that institutions hold an appropriate amount of available stable funding for the portion of these exposures that may be expected to require funding within the one-year horizon of the net stable funding ratio. To determine these factors, competent authorities shall particularly take into account material reputational damage for the institution that could result from not providing such funding.

The competent authorities shall at least once a year report to EBA the types of off-balance sheet exposures for which they have determined required stable funding factors and shall include in that report an explanation of the methodology applied to determine these factors.

Article 428q
Residual maturity of an asset

1. 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, unless otherwise specified.

2. For assets that are encumbered, the maturity used to determine the appropriate required stable funding factors to be applied under Section 2 of this Chapter shall be the longest between the residual maturity of the asset and of the transaction being the source of encumbrance. Where an asset has less than six months remaining in the encumbrance period, it shall be subject to the required stable funding factor to be applied under Section 2 of this Chapter to the same asset held unencumbered.

3. Institutions shall treat assets segregated in accordance with regulatory requirements for the protection of customer trading assets in accordance with the underlying exposure but they shall subject these 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.

4. Institutions shall take options into account when calculating the residual maturity of an asset based on the assumption that the issuer 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.

5. 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 under 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) No 2015/61, excluding extremely high quality covered bonds referred to in point (f) of Article 10(1) of Delegated Regulation (EU) No 2015/61, regardless of compliance with the operational requirements set out in Article 8 of Delegated Regulation (EU) No 2015/61;

   (b) unencumbered shares or units in CIUs eligible to a 0% haircut for the calculation of the LCR in accordance with point (a) of Article 15(2) of Delegated Regulation (EU) No 2015/61, regardless of compliance with the operational requirements and of the requirements on the composition of the liquidity buffer set out in Articles 8 and 17 of Delegated Regulation (EU) No 2015/61 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 a liability in application of Article 428f of this Regulation.

2. By way of derogation from point (c) of paragraph 1 of this Article, competent authorities may decide, in agreement with the ECB or the relevant central bank of a Member State, 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 subsidiary undertakings in a third country, if 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, they shall be subject to consolidation in accordance with the higher required stable funding factor specified in the national law of the third country.

Article 428s
5% Required Stable Funding Factor

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 to a 5% haircut for the calculation of the LCR in accordance with point (b) of Article 15(2) of Delegated Regulation (EU) No 2015/61, regardless of compliance with the operational requirements and of the requirements on the composition of the liquidity buffer set out respectively in Articles 8 and 17 of Delegated Regulation (EU) No 2015/61 respectively;

(b) assets that have a residual maturity of less than six months resulting from secured lending and capital market-driven transactions as defined in points (2) and (3) of Article 192 of this Regulation with financial customers, where they are collateralised by assets that qualify as Level 1 assets under Title II of Delegated Regulation (EU) No 2015/61, excluding extremely high quality covered bonds referred to in point (f) of Article 10(1) of Delegated Regulation (EU) No 2015/61, and the institution would be legally entitled and operationally able to reuse them for the life of the transaction, regardless of whether the collateral has already been reused. Institutions shall take these assets into account on a net basis if Article 428e(1) of this Regulation applies;

(c) the undrawn portion of irrevocable and conditionally revocable committed credit as well as liquidity facilities as they are understood to be meant in Article 31(1) of Delegated Regulation (EU) No 2015/61;

(d) trade finance off-balance sheet related products as referred to in Article 429(10) and Annex I to this Regulation with a residual maturity of less than six months.

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) No 2015/61 shall be subject to a 7% required stable funding factor, regardless of compliance with the operational requirements and of the requirements on the composition of the liquidity buffer set out in Articles 8 and 17 of Delegated Regulation (EU) No 2015/61 respectively.

Article 428u
10% Required Stable Funding Factor

1. The following assets and off-balance sheet items shall be subject to a 10% required stable funding factor:

    (a) assets that have a residual maturity of less than six months resulting from secured lending and capital market-driven transactions as defined in points (2) and (3) of Article 192 of this Regulation with financial customers, other than those referred to in point (a) of Article 428s of this Regulation. These assets shall be taken into account on a net basis if Article 428e(1) of this Regulation applies;

(b) assets that have a residual maturity of less than six months resulting from transactions with financial customers other than those referred to in point (a) of Article 428s and 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 429(10) and Annex I to this Regulation with a residual maturity between six months and less than one year.

2. For all netting sets of derivative contracts not subject to margin agreements under which institutions post variation margins to their counterparties, institutions shall apply a 10% required stable funding factor to the absolute market value of netting sets of derivative contracts, gross of collateral posted, where those netting sets have a negative market value.

Article 428v
12% Required Stable Funding Factor

Unencumbered shares or units in CIUs eligible to a 12% haircut for the calculation of the LCR in application of point (c) of Article 15(2) of Delegated Regulation (EU) No 2015/61 shall be subject to a 12% required stable funding factor, regardless of compliance with the operational requirements and of the requirements on the composition of the liquidity buffer set out in Articles 8 and 17 of Delegated Regulation (EU) No 2015/61 respectively.

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 application of Article 11 of Delegated Regulation (EU) No 2015/61, regardless of compliance with the operational requirements and of the requirements on the composition of the liquidity buffer set out in Articles 8 and 17 of Delegated Regulation (EU) No 2015/61 respectively;

(b) trade finance off-balance sheet related products as referred to in Article 429(10) and Annex I to this Regulation with a residual maturity of one year or more.

Article 428x
20% Required Stable Funding Factor

1. Unencumbered shares or units in CIUs eligible to a 20% haircut for the calculation of the LCR in application of point (d) of Article 15(2) of Delegated Regulation (EU) No 2015/61 shall be subject to a 20% required stable funding factor, regardless of compliance with the operational requirements and of the requirements on the composition of the liquidity buffer set out in Articles 8 and 17 of Delegated Regulation (EU) No 2015/61 respectively.

2. For all netting sets of derivative contracts subject to margin agreements under which institutions post variation margins to their counterparties, institutions shall apply a 20% required stable funding factor to the absolute market value of netting sets of derivative contracts, gross of collateral posted, where those netting sets have a negative market value.

3. By way of derogation from paragraph 2 of this Article, an institution may replace the stable funding requirement set out in paragraph 2 for all netting sets of derivative contracts subject to margin agreements under which an institution posts variation margins to its counterparty by an amount of required stable funding calculated as the absolute amount of the difference between:

(a) the sum of all the risk category Addon[a] calculated in accordance with Article 278(1) of this Regulation for all netting sets with negative market value, gross of collateral posted, and which are subject to a margin agreement under which the institution posts variation margin to its counterparty;

(b) the sum of all the risk category Addon[a] calculated in accordance with Article 278(1) of this Regulation for all netting sets with positive market value, gross of collateral received, and which are subject to a margin agreement under which the institution receives variation margin from its counterparty.

For the purpose of this calculation and in order to determine the risk position of derivative contracts included in the netting sets referred to in the first sub-paragraph, institutions shall replace the maturity factor calculated in accordance with point (b) of Article 279c(1) of this Regulation by either the maturity factor calculated in accordance with point (a) of Article 279c(1) of this Regulation or by the value of 1.

4. By way of derogation from paragraph 2 of this Article, institutions that use the methods set out in Sections 4 or 5 of Chapter 6 of Title II of Part Three of this Regulation to determine the exposure value of their derivative contracts shall not apply the stable funding requirement set out in paragraph 2 of this Article to netting sets of derivative contracts subject to margin agreements under which institutions post variation margins to their counterparties and where those netting sets have a negative market value.

Article 428y
25% Required Stable Funding Factor

Unencumbered Level 2B securitisations referred to in point (a) of Article 13(14) of Delegated Regulation (EU) No 2015/61 shall be subject to a 25% required stable funding factor, regardless of compliance with the operational requirements and of the requirements on the composition of the liquidity buffer set out in Articles 8 and 17 of Delegated Regulation (EU) No 2015/61 respectively.

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) No 2015/61, regardless of compliance with the operational requirements and of the requirements on the composition of the liquidity buffer set out in Articles 8 and 17 of Delegated Regulation (EU) No 2015/61 respectively;

(b) unencumbered shares or units in CIUs eligible to a 30% haircut for the calculation of the LCR in application of point (e) of Article 15(2) of Delegated Regulation (EU) No 2015/61, regardless of compliance with the operational requirements and of the requirements on the composition of the liquidity buffer set out in Articles 8 and 17 of Delegated Regulation (EU) No 2015/61 respectively.

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) No 2015/61, regardless of compliance with the operational requirements and of the requirements on the composition of the liquidity buffer set out in Articles 8 and 17 of Delegated Regulation (EU) No 2015/61 respectively;

(b) unencumbered shares or units in CIUs eligible to a 35% haircut for the calculation of the LCR in application of point (f) of Article 15(2) of Delegated Regulation (EU) No 2015/61, regardless of compliance with the operational requirements and of the requirements on the composition of the liquidity buffer set out in Articles 8 and 17 of Delegated Regulation (EU) No 2015/61 respectively.

Article 428ab
40% Required Stable Funding Factor

Unencumbered shares or units in CIUs eligible to a 40% haircut for the calculation of the LCR in application of point (g) of Article 15(2) of Delegated Regulation (EU) No 2015/61 shall be subject to a 40% required stable funding factor, regardless of the operational requirements and of the requirements on the composition of the liquidity buffer set out in Articles 8 and 17 of Delegated Regulation (EU) No 2015/61 respectively.

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 application of Article 12 of Regulation (EU) No 2015/61, excluding Level 2B securitisations and high quality covered bonds referred to in points (a) and (e) of Article 12(1) of Delegated Regulation (EU) No 2015/61 respectively, regardless of compliance with the operational requirements and of the requirements on the composition of the liquidity buffer set out in Articles 8 and 17 of Delegated Regulation (EU) No 2015/61 respectively;

(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) No 2015/61;

(c) assets with a residual maturity of less than one year resulting from transactions with:

[redacted]the central government of a Member State or a third country;

[redacted]regional governments or local authorities in a Member State or a third country;

[redacted]public sector entities in a Member State or a third country;

[redacted]multilateral development banks and international organisations referred to in Articles 117(2) and 118 of this Regulation respectively;

[redacted]credit institutions referred to in point (e) of Article 10(1) of Delegated Regulation (EU) No 2015/61;

[redacted]non-financial corporate customers, retail customers and SMEs;

[redacted]credit unions authorised by a competent authority, personal investment companies and clients that are deposit brokers to the extent that they do not fall under point (a) of this paragraph;

(d) assets with a residual maturity between six months and less than one year resulting from transactions with :

[redacted]the European Central Bank or the central bank of a Member State;

[redacted]the central bank of a third country;

[redacted]financial customers;

(e) trade finance on-balance sheet related products with a residual maturity between six months and less than one year;

(f) assets encumbered for a residual maturity between six months and less than one year, except where they would be assigned a higher required stable funding factor under Articles 428ad to 428ag of this Regulation if they were held unencumbered. In that latter case, the higher required stable funding factor to be applied to the unencumbered asset 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 to a 55% haircut for the calculation of the LCR in application of point (h) of Article 15(2) of Delegated Regulation (EU) No 2015/61 shall be subject to a 55% required stable funding factor, regardless of compliance with the operational requirements and of the requirements on the composition of the liquidity buffer set out in Articles 8 and 17 of Delegated Regulation (EU) No 2015/61 respectively.

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) of this Regulation with a residual maturity of one year or more, provided that they are assigned a risk weight of 35% or less in accordance with Chapter 2 of Title II of Part Three of this Regulation;

(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 of this Regulation, provided that they are assigned a risk weight of 35% or less in accordance with Chapter 2 of Title II of Part Three of this Regulation.

Article 428af
85% Required Stable Funding Factor

The following assets shall be subject to a 85% required stable funding factor:

(a) any assets, including cash, posted as initial margin for derivatives contracts, unless they would be assigned a higher required stable funding factor in application of Article 428ag of this Regulation if held unencumbered. In that latter case, the higher required stable funding factor to be applied to the unencumbered asset shall apply;

(b) any assets, including cash, posted as contribution to the default fund of a CCP, unless they would be assigned a higher required stable funding factor in application of Article 428ag of this Regulation if held unencumbered. In that latter 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 Article 428r to 428ac of this Regulation, 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 of this Regulation;

(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 of this Regulation and that are not eligible as liquid assets in accordance with Articles 10 to 13 of Delegated Regulation (EU) No 2015/61;

(f) unencumbered exchange-traded equities that are not eligible as Level 2B assets in accordance with Article 12 of Delegated Regulation (EU) No 2015/61;

(g) physical traded commodities, including gold and excluding commodity derivatives.

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 of this Regulation, including loans to financial customers having a residual contractual maturity of one year or more. non-performing loans, items deducted from regulatory capital, fixed assets, non-exchange traded equities, retained interest, insurance assets, defaulted securities.

2. By way of a derogation from point (a) of paragraph 1 of this Article, assets that are encumbered for one year or more for non-standard, temporary operations conducted by the ECB or the central bank of a Member State in order to achieve its mandate in a period of market-wide financial stress or exceptional macroeconomic challenges, may receive a reduced required stable funding factor.

   Competent authorities shall determine, in agreement with the ECB or the relevant central bank of a Member State, the appropriate required stable funding factor to be applied to these encumbered assets, which shall not be lower than the required stable funding factor that would apply to these assets if they were held unencumbered under this Section.

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 of this Regulation.

   For the purposes of the calculation referred to in the first subparagraph, the following requirements shall apply:

   (a) variation margins 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 qualifies as Level 1 assets under Title II of Delegated Regulation (EU) No 2015/61, excluding extremely high quality covered bonds referred to in point (f) of Article 10(1) of Delegated Regulation (EU) No 2015/61, and that institutions would be legally entitled and operationally able to reuse;

   (b) all variation margins posted by institutions to their counterparties shall be deducted from the market value of a netting set with negative market value.".

(136) In Article 460, paragraph 1 is replaced by the following:

"1. The Commission shall be 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.".

(137) In Article 460, the following new paragraph 3 is inserted after paragraph 2:

"3. By 31 December 2022, the Commission shall be empowered to adopt a delegated act in accordance with Article 462 of this Regulation to amend the list of products or services in Articles 428f(2) of this Regulation if it deems that other products or services meet the conditions set out in Article 428f(1) of this Regulation.".

(138) In Article 510, the following paragraphs 4 and 5 are inserted after paragraph 3:

"4. EBA shall monitor the amount of required stable funding covering the funding risk linked to the derivatives contracts listed in Annex II to this Regulation and credit derivatives over the one-year horizon of the net stable funding ratio, in particular the future funding risk for these contracts in application of Article 428u(2) and in paragraphs 2 to 4 of Article 428x of this Regulation, and report to the Commission on the opportunity to adopt a more risk-sensitive measure by 31 December 2021. This report shall at least assess:

(a) the adequacy of using the standardised approach for measuring counterparty credit risk exposures set out in Section 3 of Chapter 6 of Title II of Part Three of this Regulation, or elements thereof, to calculate the future funding risk for derivatives contracts;

(b) the opportunity to distinguish between margined and unmargined derivatives contracts;

(c) the opportunity to remove or replace the requirement set out in Article 428u(2) and in paragraphs 2 to 4 of Article 428x;

(d) 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 428u(2), paragraphs 2 to 4 of Article 428x, points (a) and (b) of Article 428af and Article 428ag(3) of this Regulation, to better capture the funding risk linked to these contracts on 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.

By 31 December 2022, the Commission shall be empowered to adopt a delegated act in accordance with Article 462 of this Regulation to amend Articles 428d, 428k, 428u, 428x, 428af and 428ag of this Regulation taking into account the report referred to in subparagraph 1, any international standards that may be developed by international fora and the diversity of the banking sector in the Union.

In the absence of adoption of the delegated act referred to in the previous subparagraph or of a confirmation by the Commission of the accuracy of the requirements referred to in subparagraph 1 by 31 December 2022, the requirement set out in Article 428x(2) of this Regulation shall apply for all institutions and all derivatives contracts listed in Annex II to this Regulation and credit derivatives regardless of their characteristics and the provisions of Article 428u(2) and paragraphs (3) and (4) of Article 428x shall cease to apply.

5. EBA shall monitor the amount of stable funding required to cover the funding risk linked to secured lending and capital market-driven transactions as defined in points (2) and (3) of Article 192 and other transactions with a residual maturity of less than six months with financial customers as referred to in point (b) of Article 428s and in points (a) and (b) of Article 428u of this Regulation and report to the Commission on the appropriateness of this treatment by 31 December 2021. This report shall at least assess:

   (a) the opportunity to apply higher or lower stable funding factors to these transactions to take better account of their funding risk on a one-year horizon and of the possible contagion effects between financial institutions;

   (b) the opportunity to apply the treatment set out in point (b) of Article 428s of this Regulation to secured lending and capital market-driven transactions collateralised by other types of assets;

   (c) the adequacy of the asymmetric treatment between liabilities of a residual maturity of less than six months provided by financial customers that are subject to a 0% available stable funding factor under point (c) of Article 428k(2) and assets resulting from transactions of a residual maturity of less than six months with financial customers that are subject to a 5% or 10% required stable funding factor under point (b) of Article 428s and points (a) and (b) of Article 428u;

   (d) the impact of the introduction of higher or lower required stable funding factors for secured lending and capital market-driven transactions 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;

   (e) the impact of the proposed changes on the amount of stable funding required for institutions' transactions with a residual maturity of less than six months with financial customers, in particular for secured lending and capital market-driven transactions, and in particular where sovereign bonds are received as collateral in these transactions.

   By 31 December 2022, the Commission shall be empowered to adopt a delegated act in accordance with Article 462 of this Regulation to amend Articles 428s and 428u of this Regulation taking into account the report referred to in subparagraph 1, any international standards developed by international fora and the diversity of the banking sector in the Union.

   In the absence of adoption of the delegated act referred to in the previous subparagraph or of a confirmation by the Commission of the accuracy of the requirements referred to in subparagraph 1 by 31 December 2022, 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.".

(139) 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.

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. The total exposure measure shall be the sum of the exposure values of:

   (a) assets calculated in accordance with Article 429b(1);

   (b) derivatives 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 calculated in accordance with in accordance with Article 111(1);

   (e) pending settlements of transactions with a settlement or delivery date specified by contract that is the market standard calculated in accordance with Article429f.

   Institutions shall treat long settlement transactions in accordance with the treatment in points (a) to (c) of the first sub-paragraph that is applicable to those transactions.

   Institutions may reduce the sum referred to in the first subparagraph by the total amount of general credit risk adjustments to on- and off-balance sheet items, subject to a floor of 0.

Article 429a
Exposures excluded from the exposure measure

1. By way of derogation from point (a) of 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 point (d) of Article 36(1);

   (b) the assets deducted when determining the capital measure referred to in Article 429(3);

   (c) the 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;

(e) exposures arising from passing-through promotional loans to other credit institutions granting the promotional loan;

(f) the guaranteed parts of exposures arising from officially supported export credits, where the guarantees are provided by export credit agencies or central governments;

(g) where the institution is a clearing member of a QCCP, the trade exposures of all the following items, provided that those trade exposures are cleared with that QCCP and meet, at the same time, the conditions laid down in point (c) of Article 306(1):

   (i) contracts listed in Annex II;

   (ii) credit derivatives;

   (iii) SFTs.

(h) fiduciary assets which meet all the following conditions:

   (i) they are recognised on the institution's balance sheet by national generally accepted accounting principles, in accordance with Article 10 of Directive 86/635/EEC;

   (ii) they meet the criteria for non-recognition set out in International Accounting Standard (IAS) 39, as applicable under Regulation (EC) No 1606/2002;

   (iii) where applicable, they meet the criteria for non-consolidation set out in International Financial Reporting Standard (IFRS) 10, as applicable under Regulation (EC) No 1606/2002.

(i) the 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 (a) for the purposes of funding general interest investments;

(j) the excess collateral deposited at triparty agents that has not been lent out;

(k) 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;

(l) the securitised exposures that meet the conditions for significant risk transfer in Article 243.

2. For the purposes of point (d) of paragraph 1, public development credit institution means a credit institution that meets all the following conditions:

(a) it has been established under public law 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, on a non-competitive, not for profit 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) 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 exposures;

(d) it is precluded from accepting covered deposits as defined in point (5) of Article 2(1) of Directive 2014/49/EU or the national law of Member States implementing that Directive.

Article 429b

Calculation of the exposure value

1. Institutions shall calculate the exposure value of assets, excluding contracts listed in Annex II, credit derivatives and positions defined in Article 429e in accordance with the following principles:

(a) the exposure values of assets means exposure values in accordance with the first sentence of Article 111(1);

(b) physical or financial collateral, guarantees or credit risk mitigation purchased shall not be used to reduce exposure values of assets;

(c) assets shall not be netted with liabilities;

(d) SFTs shall not be netted.

Institutions may consider that the extinguishment of credit and debit balances of several accounts of a group of entities and their transformation into a single balance by way of a daily transfer of credit and debit balances into a single account does not violate the condition set out in point (b) of the first subparagraph.

2. By way of derogation from point (d) of paragraph 1, institutions may calculate the exposure value of cash receivable and cash payable under an SFTs 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 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 net, settle simultaneously, or the transactions are subject to a settlement mechanism that results in the functional equivalent of net settlement.

For the purposes of point (c) of the first subparagraph, a settlement mechanism results in the functional equivalent of net settlement if, 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. The failure of any single securities transaction in the settlement mechanism may delay settlement of only the matching cash leg or create an obligation to the settlement mechanism, supported by an associated credit facility. Where there is a failure of the securities leg of a transaction in such a mechanism at the end of the window for settlement in the settlement mechanism, then this transaction and its matching cash leg shall be split out from the netting set and treated gross.

3. 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 Articles 429c and 429d.

4. 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).

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.

In accordance with Article 166(9), where a commitment refers to the extension of another commitment, the lower of the two conversion factors associated with the individual commitment shall be used.

By way of derogation from the first subparagraph, the conversion factor of low risk off-balance sheet items referred to in point (d) of Article 111(1) shall be 10% .

Article 429c
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 Section 3 of Chapter 6 of Title II of Part Three.

In determining the exposure value, institutions may take into account the effects of contracts for novation and other netting agreements in accordance with Article 295. Cross-product netting shall not apply. However, institutions may net within the product category referred to in point (25)(c) of Article 272 and credit derivatives when they are subject to a contractual cross-product netting agreement referred to in Article 295(c).

Institutions shall include in the leverage ratio exposure measure sold options even when 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, when calculating the replacement cost of derivative contracts in accordance with Article 275, institutions may recognise as variation margin only collateral received in cash from their counterparties in so far as under the applicable accounting framework the variation margin has not already been recognised as a reduction of the exposure value and when all the following conditions are met:

(a) for trades not cleared through a QCCP, the cash received by the recipient counterparty is not segregated;

(b) the variation margin is calculated and exchanged at least daily based on a mark-to-market valuation of derivatives positions;

(c) the variation margin received is denominated in the currency of settlement of the derivative contract;

(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 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 in points (a) to (e) of that subparagraph, the institution shall consider that collateral as variation margin posted to the counterparty and shall include it in the calculation of replacement cost.

Where the variation margin is exchanged on the morning of the trading day following the trading day on which the derivative contract was stipulated, the condition in point (b) of the first subparagraph may be deemed to be met 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 (c) of the first subparagraph, where the derivative contract is subject to a qualifying master netting agreement, the currency of settlement means any currency specified in the derivative contract, the governing qualifying master netting agreement or the credit support annex to the qualifying master netting agreement.

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 when 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 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 contracts that are leveraged or otherwise enhanced by the structure of the transaction.

2. Institutions may reduce the exposure value calculated in accordance with paragraph 1 by the effective notional amount of purchased credit derivatives provided that all the following conditions are met:

(a) where the institution purchases a single-name credit derivative, the credit derivative purchased is on a reference obligation which ranks *pari passu* with or is junior to the underlying reference obligation of the written credit derivative. Where the credit derivative purchased is on a reference obligation which is junior to the underlying reference obligation of the written credit derivative, the institution may offset the written credit derivative with the purchased credit derivative as long as a credit event on the senior reference obligation would result in a credit event on the subordinated reference obligation;

(b) where the institution purchases a credit derivative on a pool of reference obligations, the underlying pool of reference obligations and the level of subordination in both the written and the purchased credit derivative are identical;

(c) the remaining maturity of the credit derivative purchased is equal to or greater than the remaining maturity of the written credit derivative;

(d) the credit derivative purchased is otherwise subject to the same material terms as those in the corresponding written credit derivative;

(e) the credit derivative purchased is not purchased from a counterparty considered as a connected client of the reference entity within the meaning of Part Four or from a counterparty that would expose the institution to specific wrong-way risk, as defined in point (b) of Article 291(1);

(f) 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;

(g) for tranched products, the credit derivative purchased is on a reference obligation which ranks pari passu with the underlying reference obligation of the written credit derivative.

Where an institution provides credit protection through options, the institution may reduce the effective notional amount of options, through which it sells credit protection, by the effective notional amount of purchased options, through which the institution has the right to purchase credit protection, provided that the conditions of the first subparagraph are met and the strike price of the purchased options is equal to or lower than the strike price of the written options. Institutions shall not use purchased options to reduce the effective notional amount of any other written credit derivatives.

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 leverage ratio exposure measure.

3. 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.

4. 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.

5. 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 paragraph 2 or 3 of this Article, as applicable.

2. Transactions with a counterparty which are not subject to a master netting agreement that meets the conditions laid down in Article 206 the add-on for those transactions (E_i^*) shall be determined 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;

Ci = the fair value of cash or securities received from the counterparty under transaction i.

3. Transactions with a counterparty that are subject to a master netting agreement that meets the conditions laid down in Article 206, the add-on for those transactions (E_i^*) shall be determined 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 determining 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 SFTs including those that are off-balance sheet, 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 an 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 cash in the transaction beyond the exposure covered by the add-on, it shall include in the exposure measure also the full amount of the security or 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 paragraphs (a) to (c) separately for each party involved in the transaction.

Article 429f

Exposure value of pending settlements of transactions with a settlement or delivery date specified by contract that is the market standard

1. Institutions shall include in the calculation of the exposure measure the value of financial assets purchased in transactions which are not settled and for which the settlement or delivery date is specified by contract according to the market standard.

2. Institutions may reduce the exposures identified in paragraph 1 by the value of financial assets sold in transactions which are not settled and for which the settlement or delivery date is specified by contract according to the market standard where the transactions are settled on a delivery-versus-payment basis.

   The reduction shall not result in an exposure value smaller than zero.

Article 430

Reporting requirement

1. Institutions shall submit to the competent authorities all necessary information on the leverage ratio and its components set out in Article 429. Competent authorities shall take this information into account when undertaking the supervisory review referred to in Article 97 of Directive 2013/36/EU.

   Institutions shall also submit to the competent authorities the information required for the purposes of the preparation of the reports referred to in Article 511.

Competent authorities shall submit the information received from institutions to EBA upon its request to facilitate the review referred to in Article 511.

2. For the purposes of the reporting requirement laid down in paragraph 1, the EBA shall develop draft implementing technical standards to specify the uniform reporting templates, the instructions on how to use such templates, the frequency and dates of reporting and the IT solutions. Small institutions as defined in Article 430a shall report on their leverage ratio on an annual basis.

The reporting requirements specified in the draft implementing technical standards shall be proportionate, having regard to the institutions' size and complexity and the nature and level of risk of their activities.

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.".

(140) Part Eight is replaced by the following:

"PART EIGHT
DISCLOSURE BY INSTITUTIONS

RESTREINT UE/EU RESTRICTED

TITLE I
GENERAL PRINCIPLES

Article 430a
Definitions

For the purposes of this Part and article 13 the following definitions shall apply:

(1) "significant 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 the basis of its consolidation situation exceeds EUR 30 billion;

(e) the total value of the institution's assets is equal to or larger than EUR 5 billion and the ratio of its total assets relative to the GDP of the Member State where it is established is on average more than 20 % over the immediately preceding four-year period.

(2) "significant subsidiary" means a subsidiary that qualifies as a significant 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[20] of the European Parliament and of the Council.

(4) "small institution" means an institution the value of the assets of which is less than EUR 1.5 billion over the immediately preceding four-year average period.

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.

2. Institutions shall publicly disclose any permission granted by the competent authorities under Part Three for the instruments and methodologies referred to in Title III..

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

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 internal processes, systems and controls to verify that the institutions' disclosures are appropriate and in compliance with the requirements laid down in this Part. At least one member of the management body or senior management shall attest in writing that the relevant institution has made the disclosures required under this Part in accordance with the policies and internal processes, systems and controls referred to in this paragraph.

Institutions shall also have policies in place to assess whether their disclosures convey their risk profile comprehensively to market participants. Where disclosures required under this Part do not convey the risk profile comprehensively to market participants, institutions 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. Quantitative disclosures shall be accompanied by a qualitative narrative and any other information that may be necessary in order for the users of that information to understand the quantitative information, noting in particular any significant change in that information compared to the information contained in the previous disclosure.

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 the 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 point (c) Article 435(2), 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 or where, in exceptional cases, that information may significantly affect the institution's competitive position.

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 the specific items of information are not disclosed and the reason for not disclosing it, 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 this Part in the manner set out in Articles 433a to 433c.

Annual disclosures shall be published concurrently with the date of publication of institutions' financial statements or as soon as possible thereafter.

Semi-annual and quarterly disclosures shall be published concurrently with the date of publication of the financial report 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 significant institutions

1. Significant institutions shall disclose the information outlined below with the following frequency:

(a) all the information required under this Part on an annual basis;

(b) the disclosures referred to in points (e) and (f) of Articles 439, point (1) of point (e) and point (3) of Article 442, point (e) of Article 444, point (a) and (b) of Article 448, point (k) to (m) of Article 449, point (a) and (b) of Article 451, Article 451a(2) and (3), point (f) of Article 452, point (f) of Article 453 and point (a) of Article 455(2) on a semi-annual basis;

(c) the disclosures referred in point (a) of Article 437, point (c) of Article 438, point (c) of Article 442 and the key metrics referred to in Article 451d on a quarterly basis.

2. By way of derogation from paragraph 1, significant institutions other than G-SIIs that are non-listed institutions shall disclose the information outlined below and with the following frequency:

(d) all the information required under this Part on an annual basis;

(e) the key metrics referred to in Article 451d on a semi-annual basis.

3. Significant 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 451d.

Article 433b
Disclosures by small institutions

1. Small institutions shall disclose the information outlined below with the following frequency set out therein:

(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 Article437 (a), point (c) of Article 438, points (c) and (f) of Article 439, point (c) and points (1) and (3) of point (e) 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, Article 451a(2) and (3), point (f) of Article 452, point (f) of Article 453 and point (a) of Article 455(2), where applicable.

(b) the key metrics referred to in Article 451d 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 on an annual basis:

(a) the information referred to in points (a), (e) and (f) of Article 435(1);

(b) the information referred to in points (a), (b) and (c) of Article 435(2);

(c) the information referred to in Article 450;

(d) the key metrics referred to in Article 451b.

Article 433c
Disclosures by other institutions

1. Institutions that are not subject to Articles 433a or 433b shall disclose the information outlined below and 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 451d 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 with the frequency set out therein:

(a) the information referred to in Articles 435 and 450, in point (a) of Article 437, point (c) of Article 438, points (c) and (f) of Article 439 , point (c) and (e) of point (1) and point (3) 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, Article 451a(2) and (3), point (f) of Article 452, point (f) of Article 453 and point (a) of Article 455 (2) on an annual basis;

(b) the key metrics referred to in Article 451d on a semi-annual basis.

Article 434
Means of disclosures

1. Institutions shall disclose all the information required under this Part in electronic format and in a single medium or location.Tthe single medium or location shall be a standalone document that provides a readily accessible source of prudential information for users or, a discrete section included in or appended to the institutions' financial statements or financial reports containing the required disclosures and being easily identifiable to users.

2. Institutions shall make available on their website or, in the absence of a website, in any other appropriate location in the absence of or in complement to their website, an archive of information required to be disclosed in application of this Part. That archive shall be kept accessible for a suitable 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. For the purposes of this Article financial report shall be understood within the meaning of Articles 4 and 5 in Directive 2004/109/EC[21] of the European Parliament and of the Council, including for these purposes non-listed institutions.

Article 434a
Uniform disclosure formats

1. The 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 of this Regulation. To facilitate the comparability of information,

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

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 [30 June 2019].

Power is conferrred 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

Risk management objectives and policies

1. In the manner and to the extent set out in Articles 433a to 433c , institutions shall disclose their risk management objectives and policies for each separate category of risk, including the risks referred to under this Title. These disclosures shall include:

(a) the strategies and processes to manage those categories risks;

(b) the structure and organisation of the relevant risk management function including information on its authority and statute, or other appropriate arrangements;

(c) the scope and nature of risk reporting and measurement systems;

(d) the policies for hedging and mitigating risk, and the strategies and processes for monitoring the continuing effectiveness of hedges and mitigants;

(e) a declaration approved by the management body on the adequacy of 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 with 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. In the manner and to the extent set out in Articles 433a to 433c, institutions shall disclose the following regarding governance arrangements, including regular updates on at least an annual basis:

(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

Scope of application

Institutions shall, in accordanc with Directive 2013/36/EU, disclose the following information regarding the scope of application of the requirements of this Regulation:

(a) the name of the institution to which the requirements of this Regulation applies;

(b) a reconciliation between the consolidated financial statements prepared in accordance with the applicable accounting framework and the consolidated financial statements prepared in accordance with the requirements on regulatory consolidation pursuant to Part One, Title II, Sections 2 and 3. This reconciliation shall outline the differences between the accounting and regulatory scopes of consolidation and the legal entities included within each perimeter. The outline of the legal entities included within the scope of the regulatory consolidation shall describe whether they are fully or proportionally consolidated, and the holdings in those legal entities deducted from own funds, as the case may be;

(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

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 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:

- each prudential filter applied pursuant to Articles 32 to 35;
- each deduction made pursuant to Articles 36, 56 and 66;
- 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 using elements of own funds determined on a basis other than as laid down in this Regulation,

Article 437a

Requirements on own funds and eligible liabilities

Where institutions are subject to Articles 92a or 92b, they 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);

(d) the total amount of excluded liabilities referred to in Article 72a(2).

Article 438

Capital own funds requirements and risk weighted exposure amounts

Institutions shall disclose the following information regarding their compliance with Article 92 of this Regulation and in Article 73 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 composition of the additional common equity Tier 1 own funds requirements based on the supervisory review process as referred to in point (a) of Article 104(1) of Directive 2013/36/EU;

(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 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 risk-weighted exposure amounts for each category of specialised lending set out in Table 1 of Article 153(5) and 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 when 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) for institutions authorised to use internal models, the hypothetical risk-weighted exposure amounts that would result if the applicable standardised approach was used for the relevant exposures.

Article 439

Exposure to counterparty credit risk

Institutions shall disclose the following information regarding the their exposure to counterparty credit risk as referred to in Part Three, Title II, Chapter 6:

(a) a description [changed from 'discussion' in CRR – is this significant?] 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;

(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) the gross positive fair value of derivatives and securities financing transactions contracts, netting benefits, netted current credit exposure, collateral held and net derivatives' credit exposure per type of derivative and securities financing transaction. Net credit exposure is the credit exposure on derivatives and securities financing transactions after considering both the benefits from legally enforceable netting agreements and collateral arrangements;

(f) measures 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, broken down between the replacement cost and potential future components under the methods set out in Part Three, Title II, Chapter 6, Sections 3, 4 and 5;

(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.

(h) the notional value of credit derivative hedges, and the distribution of current credit exposure by types of credit exposure;

(i) the t notional amounts and fair value of credit derivative transactions. Credit derivative transactions shall be broken down into credit derivatives used for institutions' own credit portfolio purposes and credit derivatives used for intermediation purposes, and 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 if the institution has received the permission of the competent authorities to estimate alpha in accordance with Article 284(9);

(k) for institutions using the methods set out in Part Three, Title II, Chapter 6, Sections 4 to 5, the size of on- and off-balance sheet derivative business as determined under paragraphs 1 and 2 of Article 273a, as applicable.

Article 440
Capital buffers

Institutions shall disclose the following information about 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 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
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 the score of the institutions in accordance with the identification methodology referred to in that Article.

Article 442
Credit risk

Institutions shall disclose the following information regarding the institution's exposure to credit risk and dilution risk:

(a) the definitions for accounting purposes of "past due" and "impaired";

(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 exposures and forborne 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 and net carrying amounts of both defaulted and non-defaulted exposures, the accumulated specific and general credit risk adjustments and accumulated write-offs taken against these exposures and their distribution by geographical area and industry type;

(f) any changes in the gross amount of defaulted exposures, debt securities and off-balance sheet exposures. This disclosure shall, at a minimum, include 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, and the residual maturity breakdown of loans and debt securities.

Article 443
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 the ESCB central banks.

Article 444
Use of the standardised approach

Institutions calculating the risk-weighted exposure amounts in accordance with Part Three, Title II, Chapter 2, shall disclose the following information for each of the exposure classes specified in Article 112:

(a) the names of the nominated ECAIs and ECAs and the reasons for any changes in those nominations over the disclosure period;

(b) the exposure classes for which each ECAI or ECA is used;

(c) a description of the process used to transfer the issuer and issue credit assessments 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 and the exposure values after credit risk mitigation associated with each credit quality step as set out in Part Three, Title II, Chapter 2, as well as the exposure values deducted from own funds.

Article 445

Exposure to market risk under the standardised approach

The institutions calculating their own funds requirements in accordance with Part Three, Title IV, Chapter 1a shall disclose the total capital charge, the capital charges for the measures of the sensitivities-based methods, the default risk charge and the own funds requirements for residual risks for the following instruments:

(a) non-securitisation financial instruments held in the trading book, with a breakdown of the type of risks and a separate identification of the default risk charge;

(b) securitisation instruments in the non-correlation trading portfolio, with a separate identification of the credit spread risk charge and of the default risk charge;

(c) securitisation instruments in the correlation trading portfolio, with a separate identification of the credit spread risk charge and of the default risk charge.

Article 446

Operational risk management

Institutions shall disclose information about their operational risk management including:

(a) the total losses incurred from operational risk over the last ten years, with historical losses broken down by year and separate identification of the amounts of losses exceeding EUR 1 million;

(b) the number of losses exceeding EUR 1 million, the total amounts related to those losses over the last three years, as well as the total amounts of the five largest losses;

(c) the and indicators and components for the calculation of the own fund requirements, broken down per relevant business indicator.

Article 448

Exposure to interest rate risk on positions not included in the trading book

1. 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 theirnon-trading activities referred to in Article 84 and 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 six 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 2 and in point (b) of Article 98(5a) of Directive 2013/36/, 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 reporting 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 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 and 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.

2. EBA shall develop draft regulatory technical standards to specify the common modelling and parametric assumptions that institutions shall reflect in their calculation of the net interest income 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.

3. 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.

Article 449
Exposure 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 activity:

(a) a description of their securitisation and re-securitisation activity, including the their risk management and investment objectives in connection with those activity, their role and the extent to which they use these transactions to transfer the credit risk of the securitised exposures to third parties;

(b) the type of risks they are exposed to in their securitisation and re-securitisation activity by level of seniority of the relevant securitisation positions, providing a distinction between:

   - risk retained in own-originated transactions;
   - risk incurred in relation to transactions originated by third parties.

(c) a description of their policy governing the use of hedging and unfunded protection to mitigate the risks of retained securitisation and re-securitisation positions, including identification of material hedge counterparties by relevant type of risk exposure;

(d) the approaches to calculating risk-weighted exposure amounts that the institution applies to its securitisation business including the types of securitisation positions to which each approach applies;

(e) a list of SSPEs falling into any of the following categories, with a description of the institution's types of on- and off-balance sheet exposures to them:

   - SSPEs which acquire exposures originated by the institutions;
   - SSPEs sponsored by the institutions;
   - SSPEs and other legal entities for which the institutions provides securitisation-related services, such as advisory, asset servicing or management services;

- 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 has provided support in accordance with Part Three, Title II, Chapter 5;

(g) a list of legal entities affiliated with the institutions which invest in securitisations originated by the institutions or in securitisation positions issued by SSPEs sponsored by the institutions;

(h) a summary of the their accounting policies for securitisation activity, including where relevant a distinction between securitisation and re-securitisation positions;

(i) the names of the ECAIs 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 paragraph (i) above, 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 following information:

- the carrying amount of outstanding exposures securitised by the institutions, separately for traditional and synthetic securitisations and securitisations for which the institution acts only as sponsor. For the avoidance of doubt, the reference to securitised exposures in this point shall only include those securitised exposures in relation to which the institutions have transferred significant credit risk associated in accordance with Part Three, Title II, Chapter 5;
- the aggregate amount of assets awaiting securitisation;
- the amount of exposures securitised and recognised gain or loss on sale for the current period;

(l) separately for the trading and the non-trading book activities, the following information:

- the aggregate amount of securitisation positions retained or purchased and the associated risk-weighted assets and capital requirements, broken down between traditional and synthetic securitisations and between securitisation and re-securitisation exposures and further broken down into a meaningful number of risk-weight or capital requirement bands, for each capital requirements approach used;
- the amount of retained or purchased securitisation positions, broken down between traditional and synthetic transactions

and between securitisation and re securitisation exposures that are deducted from own funds or risk-weighted at 1 250 %;

(m) for the non-trading book and regarding exposures securitised by the institutions, 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

Remuneration policy

1. In the manner and to the extent set out in Articles 433a to 433c institutions shall disclose, at least, the following information regarding the remuneration policy and practices of the institution for those categories of staff whose professional activities have a material impact on its 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 staff pay 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 such payments;

(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.

2. For significant institutions, the quantitative information on the remuneraiton 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
Leverage

1. Institutions shall disclose the following information regarding their leverage ratio calculated in accordance with Article 429, and their management of the risk of excessive leverage:

(a) the leverage ratio and how the institutions apply Article 499(2) and (3);

(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 derecognised fiduciary items in accordance with Article 429(11);

(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 shall disclose the leverage ratio without the adjustment to the leverage ratio exposure measure determined in accordance with article 429(8).

Article 451a
Liquidity requirements for credit institutions subject to Delegated Regulation (EU) No 2015/61

1. Credit institutions that are subject to Commission Delegated Regulation (EU) No 2015/61[22] shall disclose information on their liquidity risk management and information relevant for the understanding of their liquidity coverage ratio and their net stable funding ratio.

2. Credit institutions that are subject to Delegated Regulation (EU) No 2015/61 shall disclose for the last three months of the relevant disclosure period the following information regarding the liquidity coverage ratio:

(a) the averages of quarterly data based on monthly figures of the liquidity coverage ratio calculated in accordance with Delegated Regulation (EU) 2015/61;

(b) the total amount, after application of the relevant haircuts, of high quality liquid assets included in the liquidity buffer in accordance with Title II of Delegated Regulation (EU) No 2015/61 and a description of the composition of that liquidity buffer;

(c) an overview of the liquidity outflows and inflows calculated in accordance with Title III of Delegated Regulation (EU) No 2015/61 and of the net liquidity outflows.

3. Credit institutions that are subject to Title IV of Part Six of this Regulation shall disclose the following information regarding their net stable funding ratio:

(a) the net stable funding ratio calculated in accordance with Chapter 2 of Title IV of Part Six of this Regulation;

(b) a breakdown of the required stable funding calculated in accordance with Chapter 4 of Title IV of Part Six of this Regulation;

(c) a breakdown of the available stable funding calculated in accordance with Chapter 3 of Title IV of Part Six of this Regulation.

[22] 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)

Article 451b
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 of common equity Tier 1 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 institution is required to hold in accordance with Chapter 4 of Title VII of Directive 2013/36/EU;

(e) their leverage ratio as calculated in accordance with Article 429;

(f) their liquidity coverage requirement as calculated in accordance with the Commission Delegated Regulation (EU) No 2015/61;

(g) their net stable funding requirement as calculated in accordance with Article 428b;

(h) their own funds and eligible liabilities requirement as calculated in accordance with Articles 92a and 92b and broken down at the level of each resolution group where applicable.

TITLE III
QUALIFYING REQUIREMENTS FOR THE USE OF PARTICULAR INSTRUMENTS OR METHODOLOGIES

Article 452
Use of the IRB Approach to credit risk

1. Institutions calculating the risk-weighted exposure amounts under the IRB Approach shall disclose the following information:

(a) the competent authority's permission of the approach or approved transition;

(b) for each of the exposure classes, the percentage of total exposure value as defined in Article 166 determined, as applicable, under the standardised approach laid down in Part Three, Title II, chapter 2, the Internal Ratings Based approach laid down in Part Three, Title II, chapter 3 without own estimation of LGD and conversion factors or theInternal Ratings Based approach laid down in Part Three, Title II, chapter 3 where institutions are authorised to estimate LGD and conversion factors, and the part of exposure classes that are subject to a roll-out plan.

(c) an explanation and review of:

- the structure and process of internal rating systems, the main features of the approved models and the relation between internal and external ratings;
- institutions' use of internal estimates for other purposes than calculating risk-weighted exposure amounts in accordance with Part Three, Title II, Chapter 3;
- the process for managing and recognising credit risk mitigation systems;
- the role of the functions involved in the development, approval and subsequent changes of the credit risk models;
- the scope and main content of the reporting related to credit risk models.

(d) for each exposure class referred to in Article 147, the on-balance sheet exposure value and the off-balance sheet exposure value prior to applying the conversion factor, as well as the exposure values after applying the conversion factor and after credit risk mitigation and any model parameter or input relevant for understanding the risk-weighting for a sufficient number of obligor grades to allow for a meaningful differentiation of credit risk. Disclosures shall be provided separately for exposure classes where institutions use their own estimates of LGDs or conversion factors for the calculation of risk-weighted exposure amount and for exposures for which the institutions do not use those estimates.

(e) a description of the factors that impacted on the loss experience in the preceding disclosure period;

(f) the institution's estimates against actual outcomes over a longer period, with separate disclosure of the following:

- estimates of losses against actual losses in each exposure class separately for defaulted and non-defaulted exposures, with appropriate information on the observation period used for back-testing and the metrics used to determine actual losses. The information referred to in this point shall be disclosed for each of the categories of retail exposures referred to inpoint (iv) of paragraph 2 over a sufficient period to allow for a meaningful assessment of the performance of the internal rating processes for each category;
- estimates of PD against the actual default rate for each exposure class, with separate disclosure of the PD range, the average PD, the number of obligors at the end of the previous disclosure period and at the disclosure period, the number of defaulted obligors including the new defaulted obligors, and the annual average historical default rate;
- for the institutions using their own estimates of LGDs or conversion factors, LGD and conversion factor outcomes against estimates provided in the quantitative risk assessment disclosures set out in this Article.

2. The disclosure referred to in point (c) of paragraph 1 shall be provided separately for the following exposure classes:

(a) central governments and central banks;

(b) institutions;

(c) corporate, including SMEs, specialised lending and purchased corporate receivables;

(d) retail, for each of the categories of exposures to which the different correlations in Article 154(1) to (4) correspond; and

(e) equities.

Article 453
Use of credit risk mitigation techniques

The institutions applying credit risk mitigation techniques shall disclose the following information:

(a) the core features of policies and processes for, and an indication of the extent to which the entity makes use of on- and off-balance sheet netting;

(b) eligible collateral evaluation and management;

(c) a description of the main types of collateral taken by the institution;

(d) for guarantees and credit derivatives used as credit protection, the main types of guarantor and credit derivative counterparty and their creditworthiness;

(e) protection used including an analysis of any concentration that may prevent credit protection from being effective;

(f) for institutions calculating risk-weighted exposure amounts under the Standardised Approach or the IRB Approach, separately for each exposure class, the total exposure value not covered by any eligible credit protection, the total exposure value that is covered — after the application of volatility adjustments — by eligible credit protection. For the equity exposure class, this requirement applies to each of the approaches provided in Article 155;

(g) for institutions calculating risk-weighted exposure amounts under the Standardised Approach or the IRB Approach, separately for each exposure class, the secured amount of exposures that are covered by eligible credit protection;

(h) the corresponding conversion factor and of the credit risk mitigation associated with the exposure and the incidence of credit mitigation techniques with and without substitution effect – and conversion factors on the exposure;

(i) for institutions calculating risk-weighted exposure amounts under the Standardised Approach, separately for each exposure class, the risk-weighted exposure amount and the ratio between the risk-weighted exposure amount and the exposure value after the application of the corresponding conversion factor and after the application of credit risk mitigation associated with the exposure;

(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, separately for those exposure classes in which they provide their own estimates of LGD or conversion factors and for those exposures classes in which they do not.

Article 454
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 the use of insurance and other risk transfer mechanisms for the purpose of mitigating this risk.

Article 455
Use of Internal Market Risk Models

1. Institutions that, in accordance with Article 325ba, are permitted by their competent authority to use their internal models to calculate own funds requirements for market risk shall disclose the scope, the main characteristics and the key modelling choices of the different models used to calculate the risk exposure amounts for the main models used at the consolidated level in accordance with Part One, Title II. Those

institutions shall explain to what extent these models represent all the models used at the consolidated level.

2. Where applicable in accordance with Article 104b, institutions shall disclose individually for the main trading desks and on an aggregate basis for the remaining trading desks:

(a) the highest, lowest and mean value over the reporting period of the following items:

(i) unconstrained expected shortfall measure as determined in Article 325 ba(2)(a) ;

(ii) the own funds requirements for market risks that would be calculated in accordance with Chapter 1a of this Title had the institutions not been granted the permission to use their internal models for the relevant trading desk as determined in Article 325 ba(2)(b).

(b) for the expected shortfall models:

(i) the number of back-testing overshootings over the last 250 business days;

(ii) the number of P&L attribution breaches over the last 12months:

3. Institutions shall disclose separately the following elements of the own funds requirement as specified in Article 325bb: ;

(a) the unconstrained expected shortfall measure for the most recent risk measures: and

(b) the average of the previous 12 weeks' risk measures for each of the following:

(i) the expected shortfall risk measure;

(ii) the stress scenario risk measure for the non modellable risk factors:

(iii) the own funds requirement for default risk;

(iv) the subtotal of the measures listed in points (i), (ii) and (iii) for the 12 week average, the subtotal including the applicable multiplier;

(v) the total capital charge."

(141) Article 456 is replaced by the following:

"Article 456
Delegated acts

The Commission shall be empowered to adopt delegated acts in accordance with Article 462, concerning the following matters:

(a) clarification of the definitions set out in Articles 4, 5, 142, 153, 192, 242, 272, 300, 381 and 411 to ensure uniform application of this Regulation;

(b) clarification of the definitions set out in Articles 4, 5, 142, 153, 192, 242, 272, 300, 381 and 411 in order to take account, in the application of this Regulation, of developments on financial markets:

(c) amendment of the list of exposure classes in Articles 112 and 147 in order to take account of developments on financial markets;

(d) the amount specified in point (c) of Article 123, Article 147(5)(a), Article 153(4) and Article 162(4), to take into account the effects of inflation;

(e) the list and classification of the off-balance sheet items in Annexes I and II, in order to take account of developments on financial markets;

(f) adjustment of the categories of investment firms in Article 95(1) and Article 96(1) to take account of developments on financial markets;

(g) clarification of the requirement laid down in Article 97 to ensure uniform application of this Regulation;

(h) amendment of the own funds requirements as set out in Articles 301 to 311 of this Regulation and Articles 50a to 50d of Regulation (EU) No 648/2012 to take account of developments or amendments of the international standards for exposures to a central counterparty;

(i) clarification of the terms referred to in the exemptions provided for in Article 400;

(j) amendment of the capital measure and the total exposure measure of the leverage ratio referred to in Article 429(2) in order to correct any shortcomings discovered on the basis of the reporting referred to in Article 430(1) before the leverage ratio has to be published by institutions as set out in Article 451(1)(a).

(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".

(142) The following new Article 473a is inserted after Article 473:

"Article 473a
Introduction of IFRS 9

1. During the period [1 January 2019 until 31 December 2023] institutions that prepare their accounts in conformity with the international accounting standards adopted in accordance with the procedure laid down in Article 6(2) of Regulation (EC) No 1606/2002 may add to their Common Equity Tier 1 capital the amount determined in accordance with paragraph 2 of this Article multiplied by the applicable factor laid down in paragraph 3.

2. The amount referred to in paragraph 1 shall be calculated as the twelve month expected credit losses determined in accordance with paragraph 5.5.5 of Commission

Regulation (EC) No .... / 2016 ([23]) and the amount of the loss allowance for financial instruments equal to the lifetime expected losses determined in accordance with paragraph 5.5.3 of Commisison Regulation (EC) No .... / 2016 (1).

3. In calculating the amount referred to in paragraph 1, thefollowing factors apply:

(a) 1 in the period from 1 January 2019 to 31 December 2019;

(b) 0,8 in the period from 1 January 2020 to 31 December 2020;

(c) 0,6 in the period from 1 January 2021 to 31 December 2021;

(d) 0,4 in the period from 1 January 2022 to 31 December 2022;

(e) 0,2 in the period from 1 January 2023 to 31 December 2023.

Institutions shall disclose the amount that is added to their Common Equity Tier 1 capital in accordance with paragraph 1 in their disclosure of own funds.".

(143) In Article 493, the following paragraphs are added after paragraph 3:

'4. By way of derogation to Article 395, competent authorities may allow institutions to incur one of the exposures provided for in points (a)(c)(d)(e) of Article 400(1) denominated and funded in the currency of any Member States up to the following values, after taking into account the effect of the credit risk mitigation in accordance with Articles 399 to 403:

(a) 100% of the institution's Tier 1 capital until 31 December 2018;

(b) 75% of the institution's Tier 1 capital until 31 December 2019;

(c) 50% of the institution's Tier 1 capital until 31 December 2020.".

(144) 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 of 1 January 2019 until 31 December 2021, institutions identified as resolution entities that are an EU G-SII or part of an EU 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).

[23] Commission Regulation (EC) No ..../2016 of .. .. 2016 adopting certain international accounting standards in accordance with Regulation (EC) No 1606/2002 of the European Parliament and of the Council (OJ L , ..., p.).

2. By way of derogation from Article 72b(3), as of 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.

(145) 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 if 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 or subordinated loans not raised directly by an institution, as applicable shall qualify as Tier 2 instruments until 31 December 2021 only if 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 or subordinated loans are raised, as applicable, 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.".

(146) 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) five years after the date of submission of the application.

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 (Ki) in Article 308(2) with the following one:

$$K_{CM_i} = \max\left\{K_{CCP} \cdot \frac{IM_i}{DF_{CCP}+IM}; 8\% \cdot 2\% \cdot IM_i\right\}."$$

(147) Article 499 (3) is deleted.

(148) Article 501 is replaced by the following:

"Article 501
Adjustment to SME exposures

1. Risk-weighted exposure amounts for exposures to SMEs shall be adjusted in accordance with the following formulae:

(i) if E' <= EUR 1 500 000, RW* = RW · 0.7612;

(ii) if E' > EUR 1 500 000, RW* = min {RW; EUR 1 500 000} · 0.7612 + max {0; RW – 1 500 000} · 0.85;

where:

RW* = adjusted risk weighted exposure amount for an exposure to an SME:

E' = the total amount owed to the institution and parent undertakings and its subsidiaries, including any exposure in default, by the obligor client or group of connected clients, but excluding claims or contingent claims secured on residential property collateral;

RW = risk weighted exposure amount for an exposure to an SME calculated in accordance with Title II, part II and the present Article.

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. Exposures in default shall be excluded;

(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[24]. Among the criteria listed in Article 2 of the Annex to that Recommendation only the annual turnover shall be taken into account."

(149) The following new Articles are introduced after Article 501:

"Article 501a

Adjustment to capital requirements for credit risk for exposures to entities that operate or finance physical assets 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 assets 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;

(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) lenders have the benefit of security to the extent permitted by national law in all assets and contractual arrangements necessary to operate the

24 OJ L 124, 20.5.2003, p. 36.

assets referred to in point b) 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 few competitors or substantial and durable competitive advantages;

(iii) 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,

(iv) the are adequate mechanisms in place to align the interest of the equity investors with the interests of lenders;

(v) the project is highly strategic for the equity investor;

(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 [x] months on the total amount of exposures to infrastructure project entities calculated in accordance with this Article.

4. The Commission shall, by [four 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

Own funds requirements for market risks

1. Until three years after the date of application of the provisions concerning the approaches set out in Chapters 2 and 3, Title IV, Part 3 in accordance with Article 521, institutions that use these approaches to calculate the own funds requirement for market risks shall multiply their own funds requirements for market risks calculated under these approaches by a factor of 65%.

2. EBA shall monitor the appropriateness of the level of own funds requirement for market risks calculated in accordance with the approaches set out in Chapters 2 and 3, Title IV, Part 3 by institutions in the Union and report to the Commission on the opportunity to change the calibration of these approaches by [two years after the entry into force]. This report shall at least assess:

(a) for the most common financial instruments assigned to the trading book of institutions in the Union, whether the level of own funds requirements for market risks calculated by institutions in accordance with the approach set out in Chapters 2, Title IV, Part 3 is excessive as compared to the own funds requirements for market risks calculated by institutions in accordance with the approach set out in point (a) of paragraph 1 of Article 325.

(b) for the most common financial instruments assigned to the trading book of institutions in the Union, whether the level of own funds requirements for market risks calculated by institutions in accordance with the approach set out in Chapters 3, Title IV, Part 3 is excessive as compared to the own funds requirements for market risks calculated by institutions in accordance with the approach set out Chapters 7, Title IV, Part 3.

(c) for the most common financial instruments assigned to the trading book of institutions in the Union, whether the level of own funds requirement for market risks calculated by institutions in accordance with the approach set out in Chapters 2, Title IV, Part 3 is excessive as compared to the level of own funds requirement for market risks calculated by institutions in accordance with the approach set out in Chapters 3, Title IV, Part 3.

3. Before three years after the entry into force the approaches set out in Chapters 2 and 3, Title IV, Part 3 in accordance with Article 521, the Commission shall, if appropriate and taking into account the report referred to in the first subparagraph, international regulatory developments and the specificities of financial and capital markets in the Union, be empowered to adopt a delegated act in accordance with Article 462 of this Regulation to amend Chapter 1a and 1b Title IV, Part 3 of this Regulation.

4. In the absence of adoption of the delegated act referred to in the previous subparagraph before three years after the entry into force the approaches set out in Chapters 2 and 3, Title IV, Part 3 in accordance with Article 521, the treatment set out in paragraph 1 shall cease to apply.

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), 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]."

(150) Article 507 is replaced by the following:

"Article 507
Large exposures

The EBA shall monitor the use of exemptions set out in Article 400 (1) and (2) and Article 390 (6) 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.".

(151) Article 511 is deleted.

(152) The following new Article is added after Article 519:

"Article 519a
Own funds requirements for market risks

1. 1. EBA shall, by [five years after the entry into force of this Regulation], report to the Commission on the suitability of:

   (a) the methodologies used by institutions to calculate sensitivities for the purposes of calculating the own funds requirements for market risks with the standardised approach set out in Chapter 1a, Title IV, Part 3;

   (b) the use of the simplified standardised approach referred to in Article , Title IV, Part 3 to calculate the own funds requirements for market risks;

   (c) the assessment of the modellability of risk factors as set out in Article 325bf;

   (d) the conditions of Article 325bg that define compliance with the backtesting requirements.

   On the basis of this proposal, the Commission may submit a legislative proposal to amend this Regulation.

2. The report referred to in paragraph 1(a) shall take into account:

   (a) the extent to which the use of sensitivities is a source of variability in the own funds requirements for market risks calculated with the standardised approach by institutions;

   (b) the extent to which additional specifications in the assumptions of pricing models used for the calculation of sensitivities would be beneficial to ensure the appropriateness of the own funds requirements for market risks;

3. The report referred to in paragraph 1(b) shall take into account:

   (a) whether the simplified standardised approach may be kept and recalibrated to achieve a comparable level of own funds requirements as the methods;

   (b) whether the simplified standardised approach may be replaced by another new simplified method for the calculation of the own funds requirements for market risks, in light of international regulatory developments, while ensuring that any new simplified method for the calculation of the own funds requirements for market risks shall not create additional undue complexity for the institutions eligible to apply it.

4. The report referred to in paragraph 1(c) shall take into account the condition referred to in Article 325bf(1)(b) is in line with the liquidity horizon of the risk factor.

5. The report referred to in paragraph 1(d) shall take into account:

(a) the extent to which the value at risk may be replaced by a more appropriate risk measure for the purpose of backtesting the risk measure calculated in for modellable risk factors, in which case how would be re-defined the multiplication factors based on the more appropriate risk measure;

(b) whether the derogation referred to in Article 325bg(8) is appropriate.1.".

(153) In Article 521(2) the following points are added after point (c):

"(d) Chapter 1a and 1b, of Title IV, in Part III as amended through Regulation [amending Regulation] concerning the approaches to determine the own funds requirements for market risks, which shall apply as of [two years after the entry into force of the amending Regulation];

(e) Part Seven and Article 92(1)(d) as amended through Regulation [amending Regulation] concerning the leverage ratio, which shall apply as of [one year after the entry into force of the amending Regulation];

(f) Article 448 as amended through Regulation [amending Regulation] concerning exposures to interest rate risk on positions not included in the trading book, which shall apply as of [two years after the entry into force of the amending Regulation];

(g) Sections 3 to 5 of Chapter 6of Title II. of Part Three as amended through Regulation [amending Regulation] concerning the standardise approach to counterparty credit risk, which shall apply as of [one year after the entry into force of the amending Regulation];

(h) Section Nine of Chapter Six of Part Three as amended through Regulation [amending Regulation] concerning exposures to CCPs, which shall apply as of [one year after the entry into force of the amending Regulation];

(i) Articles 128, 132, 132a and 152 as amended through Regulation [amending Regulation] concerning equity investments in CIUs, which shall apply as of [one year after the entry into force of the Regulation];

(j) Title IV, of Part Six introduced through Regulation [amending Regulation] concerning the net stable funding ratio, which shall apply as of [one year after the entry into force of the amending Regulation];

(k) Articles 92a and 92b introduced through Regulation [amending Regulation], which shall apply as of 1 January 2019.

After the date specified in point (d), institutions shall no longer use the simplified internal model approach set out in point (d) of paragraph 1 of Article 325, to determine the own funds requirements for market risks.

After the date specified in point (d), institutions shall no longer use the simplified standardised approach set out in point (c) of paragraph 1 of Article 325, to determine the own funds requirements for market risks unless they meet the conditions set out in paragraph 1 of Article 325a.".

(154) Annex II is replaced with the following:

"ANNEX II
Types of derivatives

1. Interest-rate contracts:
   - (a) single-currency interest rate swaps;
   - (b) basis-swaps;
   - (c) forward rate agreements;
   - (d) interest-rate futures;
   - (e) interest-rate options;
   - (f) other contracts of similar nature.
2. 2. Foreign-exchange contracts and contracts concerning gold:
   - (a) cross-currency interest-rate swaps;
   - (b) forward foreign-exchange contracts;
   - (c) currency futures;
   - (d) currency options;
   - (e) other contracts of a similar nature;
   - (f) contracts of a nature similar to (a) to (e) concerning gold.
3. 3. Contracts of a nature similar to those in points 1(a) to (e) and 2(a) to (d) of this Annex concerning other reference items or indices. This includes as a minimum all instruments specified in points 4 to 7, 9 and 10 of Section C of Annex I to Directive 2014/65/EU not otherwise included in point 1 or 2 of this Annex."

Article 2
Amendments of Regulation (EU) No 648/2012

(155) Paragraph 2 of Article 50a is replaced by the following:

"2. A CCP shall calculate the hypothetical capital (KCCP) as follows:

$$K_{CCP} = \sum_i EAD_i \cdot RW \cdot \text{capital ratio}$$

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 %."

(156) Article 50b is replaced by the following:

"*Article 50b*
General rules for the calculation of K_{CCP}

For the purposes of the calculation laid down in Article 50a(2), the following shall apply:

(a) a CCP shall calculate the value of the exposures it has to its clearing members as follows:

(v) for exposures arising from contracts and transactions listed in points (a) and (c) of Article 301(1) of Regulation (EU) No 575/2013 it 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;

(vi) for exposures arising from contracts and transactions listed in point (b) of Article 301(1) of Regulation (EU) No 575/2013 it shall calculate the value (EADi) 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 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.

(vii) for exposures arising from transactions referred to in the second subparagraph of Article 301(1) of Regulation (EU) No 575/2013 it shall calculate the value in accordance with the formula in point (ii), and shall determine $EBRM_i$ in accordance with Part Three, Title V of that Regulation.

For the purposes of points (i) and (ii) of the first subparagraph, the exception set out in point (a) of Article 285(3) of that Regulation shall not apply.

For the purposes of point (ii) of the first subparagraph, the CCP shall use the method specified in Article 223 of that Regulation 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 Part Three, Title II of that Regulation;

(c) where a CCP has exposures to one or more CCPs it shall treat any such 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) where a CCP has in place a binding contractual 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 CCP shall consider that initial margin as prefunded contributions for the purposes of the calculation in paragraph 1 and not as initial margin;

(e) where the CCP's prefunded own resources are shared among product types, the CCP shall allocate those resources to each of the calculations, in proportion to the respective product-specific EAD;

(f) where collateral is held against an account containing more than one of the types of contracts and transactions referred to in Article 301(1), the CCP shall allocate the initial margin provided by the clearing member or client, 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;

(g) where a CCP has more than one default fund, it shall carry out the calculation for each default fund separately;

(h) where a clearing member provides client clearing services, and client transactions and collateral are held in separate sub-accounts to the clearing member's proprietary business, the CCP shall carry out the calculation of EAD_i for each sub-account separately. In those cases, the CCP 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;

(i) for the purposes of point (g), where DF_i is not split between clients' and the clearing member's proprietary business sub-accounts, the CCP 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 or for the account of the clearing member;

(j) the CCP shall not carry out the calculation in accordance with point (iii) of point (a) where the default fund covers cash transactions only."

(157) In Article 50c points (d) to (f) are deleted.

(158) In Article 50d point (d) is deleted.

(159) Paragraph 5a in Article 89 is replaced by the following:

"5a. Where a CCP referred to in Article 497 of Regulation (EU) 575/2013 does not have a default fund and it does not have in place a binding arrangement with its clearing members that allows it to use all or part of the initial margin received from its clearing members as if they were pre-funded contributions, the information it shall report in accordance with Article 50c(1) of this Regulation during the transitional period set out in Article 497 of Regulation (EU) 575/2013 shall include the total amount of initial margin it has received from its clearing members (IM)."

Article 3
Entry into force and date of application

This Regulation shall enter into force on the day following that of its publication in the Official Journal of the European Union.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the European Parliament	*For the Council*
The President	*The President*

LEGISLATIVE FINANCIAL STATEMENT

LEGISLATIVE FINANCIAL STATEMENT

1. FRAMEWORK OF THE PROPOSAL/INITIATIVE

1.1. Title of the proposal/initiative

Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) 575/2013 on prudential requirements for credit institutions and investment firms

1.2. Policy area(s) concerned in the ABM/ABB structure[25]

N.A.

1.3. Nature of the proposal/initiative

☐ The proposal/initiative relates to **a new action**

☐ The proposal/initiative relates to **a new action following a pilot project/preparatory action**[26]

☒ The proposal/initiative relates to **the extension of an existing action**

☐ The proposal/initiative relates to **an action redirected towards a new action**

1.4. Objective(s)

1.4.1. The Commission's multiannual strategic objective(s) targeted by the proposal/initiative

A Deeper and Fairer Economic and Monetary Union. See the Strategic Plan 2016 – 2020 of Directorate-General for Financial Stability, Financial Services and Capital Markets Union.

General objective of the proposal is to contribute to financial stability, reduce the likelihood and the extent of taxpayers' support in bank resolution as well as contribute to sustainable financing of the economy. For further details, see the Impact Assessment to the proposal.

For more information, see the Impact Assessment accompanying the proposal.

1.4.2. Specific objective(s) and ABM/ABB activity(ies) concerned

Specific objective No

1) enhance risk-capturing (incl. risk-sensitivity) of the prudential framework so that it better reflects all the different risks embedded in the banking activity;

2) increase proportionality of rules that lead to unnecessary administrative burden and compliance costs;

3) enhance the level playing field and reduce risk arbitrage opportunities;

[25] ABM: activity-based management; ABB: activity-based budgeting.

[26] As referred to in Article 54(2)(a) or (b) of the Financial Regulation.

4) enhance capacity of loss-absorption and recapitalisation of G-SIBs worldwide;

5) enhance legal certainty and coherence.

1.4.3. Expected result(s) and impact

Specify the effects which the proposal/initiative should have on the beneficiaries/groups targeted.

Implementing the remaining elements of the regulatory framework agreed at international level (leverage ratio, NSFR, revised market risk rules etc.) in Union law would ensure that EU institutions would i) be better capitalised, ii) have more stable sources of funding, and iii) not have excessively leveraged balance sheets and would thus be better positioned to withstand economic shocks. This would in turn reduce the risk of their failure and thus reduce the probability that they would need to be bailed-out by the public sector.

For more information, see the Impact Assessment accompanying the proposal.

1.4.4. Indicators of results and impact

Specify the indicators for monitoring implementation of the proposal/initiative.

On NSFR:

Indicator	Net Stable Funding Ratio (NSFR) for EU banks
Target	As of 2019, 99% of banks taking part to the EBA Basel III monitoring exercise meet the NSFR at 100% (65% of group 1 and 89% of group 2 banks meet the NSFR as of end-of December 2015)
Source of data	Semi-annual the EBA Basel III monitoring reports

On leverage ratio:

Indicator	Leverage ratio (LR) for EU banks
Target	As of 2019, all group 1 banks 99% of banks exceed the leverage ratio of 3% (93,4% met LR as of June 2015)
Source of data	Semi-annual EBA Basel III monitoring reports

On SMEs

Indicator	Financing gap to SMEs in the EU, i.e. difference between the need for external funds and the availability of funds
Target	<13% (last known figure – 13% as of end 2014)
Source of data	European Commission / European Central Bank SAFE Survey (data coverage limited to the euro area)

On TLAC:

Indicator	TLAC in EU G-SIBs
Target	All EU G-SIBs meet the target (>16% RWA/6% LREM as of 2019, > 18% RWA/6.75% LREM as of 2022)
Source of data	Semi-annual EBA Basel III monitoring reports

On trading book:

Indicator	Observed variability of risk-weighted assets of aggregated portfolios applying the internal models approach, measured in terms of the Coefficient of Variation, i.e. standard deviation divided by the average value.
Target	-As of 2019, variability of the ES capital charge for aggregated portfolios should be 20% lower than the current variability of the VaR capital charge*. -As of 2019, variability of the DRC capital charge for aggregated portfolios should be 30% lower than the current variability of the IRC capital charge. *Reference values for the "current variability" of VaR and IRC capital charges should be those estimated by the latest EBA "Report on variability of Risk Weighted Assets for Market Risk Portfolios", calculated for aggregated portfolios.
Source of data	EBA Report on variability of Risk Weighted Assets for Market Risk Portfolios. New values should be calculated according to the same methodology

On proportionality:

Indicator	Reduced burden from supervisory reporting and disclosure
Target	80% of smaller and less complex institutions report reduced burden
Source of data	Survey to be developed and conducted by EBA by 2022

Grounds for the proposal/initiative

1.4.5. *Requirement(s) to be met in the short or long term*

A deeper and fairer Economic and Monetary Union.

1.4.6. *Added value of EU involvement*

The objectives pursued by these measures as discussed above can be better achieved at EU level rather than by different national initiatives. National measures aimed at e.g. reducing bank's leverage, strengthening bank's stable funding and trading book capital requirements would not be as effective in ensuring financial stability as EU rules, given the freedom of banks to establish and provide services in other Member States and the resulting degree of cross-border service provision, capital flows and market integration. On the contrary, national measures could distort competition and affect capital flows. Moreover, adopting national measures would be legally challenging, given that the CRR already regulates banking matters, including leverage requirements (reporting), liquidity (LCR) and trading book requirements.

The amendment of existing CRR is thus considered to be the best alternative, as it would promote a uniform application of banking regulatory standards and ensure a level playing field throughout the EU banking system. These objectives cannot be sufficiently achieved by Member States alone. This is particularly important in the banking sector where many banks operate across the EU single market. Full cooperation and trust within the single supervisory mechanism (SSM) but also within the colleges of supervisors and competent authorities outside the SSM is essential for banks to be effectively supervised on a consolidated basis. National rules would not achieve these objectives.

1.4.7. *Lessons learned from similar experiences in the past*

N.A.

1.4.8. *Compatibility and possible synergy with other appropriate instruments*

The proposed measures amending CRR are part of a package of measures, including amendments to CRD IV and BRRD with a view to contributing to a deeper and fairer Economic and Monetary Union.

1.5. **Duration and financial impact**

☐ Proposal/initiative of **limited duration**

- ☐ Proposal/initiative in effect from [DD/MM]YYYY to [DD/MM]YYYY
- ☐ Financial impact from YYYY to YYYY

☒ Proposal/initiative of **unlimited duration**

- Implementation with a start-up period from YYYY to YYYY,
  followed by full-scale operation.

1.6. **Management mode(s) planned**[27]

☐ **Direct management** by the Commission

- ☐ by its departments, including by its staff in the Union delegations;
- ☐ by the executive agencies

☐ **Shared management** with the Member States

☒ **Indirect management** by entrusting budget implementation tasks to:

- ☐ third countries or the bodies they have designated;
- ☐ international organisations and their agencies (to be specified);
- ☐the EIB and the European Investment Fund;
- ☒ bodies referred to in Articles 208 and 209 of the Financial Regulation;
- ☐ public law bodies;
- ☐ bodies governed by private law with a public service mission to the extent that they provide adequate financial guarantees;
- ☐ bodies governed by the private law of a Member State that are entrusted with the implementation of a public-private partnership and that provide adequate financial guarantees;
- ☐ persons entrusted with the implementation of specific actions in the CFSP pursuant to Title V of the TEU, and identified in the relevant basic act.

If more than one management mode is indicated, please provide details in the 'Comments' section

Comments

N.A.

[27] Details of management modes and references to the Financial Regulation may be found on the BudgWeb site:

2. MANAGEMENT MEASURES

2.1. Monitoring and reporting rules

Specify frequency and conditions.

Article 81 of the Regulation establishing the European Banking Authority (EBA) requires the Commission every 3 years to publish a general report on the experience acquired as a result of the operation of EBA.

The proposal foresees that the Commission will evaluate the effectiveness of the proposed measures in five years since the entry into force of the measures.

2.2. Management and control system

2.2.1. Risk(s) identified

In relation to the legal, economical, efficient and effective use of appropriations resulting from the proposal it is expected that the proposal would not bring about new risks that would not be currently covered by an EBA existing internal control framework.

2.2.2. Information concerning the internal control system set up

N.A.

2.2.3. Estimate of the costs and benefits of the controls and assessment of the expected level of risk of error

N.A.

2.3. Measures to prevent fraud and irregularities

Specify existing or envisaged prevention and protection measures.

For the purposes of combating fraud, corruption and any other illegal activity, the provisions of Regulation (EC) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) shall apply to EBA without any restriction.

EBA is subject to the Interinstitutional Agreement of 25 May 1999 between the European Parliament, the Council of the European Union and the Commission of the European Communities concerning internal investigations by the European Anti-Fraud Office (OLAF) which required the adoption of appropriate provisions for all EBA staff.

Articles 64 and 65 of the Regulation establishing the European Banking Authority (EBA) set out the provisions on implementation and control of EBA budget and applicable financial rules.

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3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE

3.1. Heading(s) of the multiannual financial framework and expenditure budget line(s) affected

- Existing budget lines

In order of multiannual financial framework headings and budget lines.

Heading of multiannual financial framework	Budget line	Type of expenditure	Contribution			
	Number [Heading..]	Diff./Non-diff.[28]	from EFTA countries[29]	from candidate countries[30]	from third countries	within the meaning of Article 21(2)(b) of the Financial Regulation
1a	12.02.04 EBA	Diff.	YES	YES	NO	NO

- New budget lines requested

In order of multiannual financial framework headings and budget lines.

Heading of multiannual financial framework	Budget line	Type of expenditure	Contribution			
	Number [Heading.. ...]	Diff./Non-diff.	from EFTA countries	from candidate countries	from third countries	within the meaning of Article 21(2)(b) of the Financial Regulation
	[XX.YY.YY.YY]		YES/NO	YES/NO	YES/NO	YES/NO

28 Diff. = Differentiated appropriations / Non-diff. = Non-differentiated appropriations.
29 EFTA: European Free Trade Association.
30 Candidate countries and, where applicable, potential candidate countries from the Western Balkans.

3.2. Estimated impact on expenditure

[This section should be filled in using the **spreadsheet on budget data of an administrative nature** (second document in annex to this financial statement) and uploaded to CISNET for interservice consultation purposes.]

3.2.1. Summary of estimated impact on expenditure

EUR million (to three decimal places)

·ading of multiannual financial framework	Number	[Heading..

DG: <……>			2018	2019	2020	TOTAL
• Operational appropriations						
Number of budget line	Commitments	(1)	0.564	0.518	0.432	1.514
	Payments	(2)	0.564	0.518	0.432	1.514
Number of budget line	Commitments	(1a)				
	Payments	(2a)				
Appropriations of an administrative nature financed from the envelope of specific programmes[31]						
Number of budget line		(3)				
TOTAL appropriations for DG <……>	Commitments	=1+1a +3	0.564	0.518	0.432	1.514
	Payments	=2+2a +3	0.564	0.518	0.432	1.514

• TOTAL operational appropriations	Commitments	(4)				
	Payments	(5)				
• TOTAL appropriations of an administrative nature financed from the envelope for specific programmes		(6)				
TOTAL appropriations under HEADING <….> of the multiannual financial framework	Commitments	=4+6				
	Payments	=5+6				

<u>If more than one heading is affected by the proposal / initiative:</u>

• TOTAL operational appropriations	Commitments	(4)				

[31] Technical and/or administrative assistance and expenditure in support of the implementation of EU programmes and/or actions (former 'BA' lines), indirect research, direct research.

	Payments	(5)				
• TOTAL appropriations of an administrative nature financed from the envelope for specific programmes		(6)				
TOTAL appropriations under HEADINGS 1 to 4 of the multiannual financial framework (Reference amount)	Commitments	4+6	0.564	0.518	0.432	**1.514**
	Payments	5+6	0.564	0.518	0.432	**1.514**

ading of multiannual financial framework	5	'Administrative expenditure'

EUR million (to three decimal places)

		Year N	Year N+1	Year N+2	Year N+3	Enter as necessary to of the impa
DG: <……>						
• Human resources						
• Other administrative expenditure						
TOTAL DG <……>	Appropriations					

TOTAL appropriations under HEADING 5 of the multiannual financial framework	(Total commitments Total payments)					

EUR million (to three decimal places)

		Year N[32]	Year N+1	Year N+2	TOTAL
TOTAL appropriations under HEADINGS 1 to 5 of the multiannual financial framework	Commitments	0.564	0.518	0.432	1.514
	Payments	0.564	0.518	0.432	1.514

32 Year N is the year in which implementation of the proposal/initiative starts.

3.2.2. *Estimated impact on operational appropriations*

- ☒ The proposal/initiative does not require the use of operational appropriations
- ☐ The proposal/initiative requires the use of operational appropriations, as explained below:

Commitment appropriations in EUR million (to three decimal places)

			Year N		Year N+1		Year N+2		Year N+3		Enter as many years as necessary to show the duration of the impact (see point 1.6)							T
ind	OUTPUTS																	
	Type	Average cost	No	Cost	No	Cost	No	Cost	No	Cost	No	Cost	No	Cost	No	Cost	Total No	
)BJECTIVE No 1																		
specific objective No 1																		
OBJECTIVE No 2 ...																		
specific objective No 2																		
)TAL COST																		

Outputs are products and services to be supplied (e.g.: number of student exchanges financed, number of km of roads built, etc.).

As described in point 1.4.2. 'Specific objective(s)...'

3.2.3. *Estimated impact on appropriations of an administrative nature*

3.2.3.1. Summary

- ☒ The proposal/initiative does not require the use of appropriations of an administrative nature
- ☐ The proposal/initiative requires the use of appropriations of an administrative nature, as explained below:

EUR million (to three decimal places)

	Year N[35]	Year N+1	Year N+2	Year N+3	Enter as many years as necessary to show the duration of the impact (see point 1.6)	TOTAL
HEADING 5 of the multiannual financial framework						
Human resources						
Other administrative expenditure						
Subtotal HEADING 5 of the multiannual financial framework						
Outside HEADING 5[36] of the multiannual financial framework						
Human resources						
Other expenditure of an administrative nature						
Subtotal outside HEADING 5 of the multiannual financial framework						
TOTAL						

The appropriations required for human resources and other expenditure of an administrative nature will be met by appropriations from the DG that are already assigned to management of the action and/or have been redeployed within the

[35] Year N is the year in which implementation of the proposal/initiative starts.

[36] Technical and/or administrative assistance and expenditure in support of the implementation of EU programmes and/or actions (former 'BA' lines), indirect research, direct research

DG, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of budgetary constraints.

3.2.3.2. Estimated requirements of human resources

- ☒ The proposal/initiative does not require the use of human resources.
- ☐ The proposal/initiative requires the use of human resources, as explained below:

Estimate to be expressed in full time equivalent units

		Year N	Year N+1	Year N+2	Year N+3	Enter as many years as necessary to show the duration of the impact (see point 1.6)
• Establishment plan posts (officials and temporary staff)						
XX 01 01 01 (Headquarters and Commission's Representation Offices)						
XX 01 01 02 (Delegations)						
XX 01 05 01 (Indirect research)						
10 01 05 01 (Direct research)						
• External staff (in Full Time Equivalent unit: FTE)[37]						
XX 01 02 01 (AC, END, INT from the 'global envelope')						
XX 01 02 02 (AC, AL, END, INT and JED in the delegations)						
XX 01 04 yy [38]	- at Headquarters					
	- in Delegations					
XX 01 05 02 (AC, END, INT - Indirect research)						
10 01 05 02 (AC, END, INT - Direct research)						
Other budget lines (specify)						
TOTAL						

XX is the policy area or budget title concerned.

The human resources required will be met by staff from the DG who are already assigned to management of the action and/or have been redeployed within the DG, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of budgetary constraints.

Description of tasks to be carried out:

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[37] AC= Contract Staff; AL = Local Staff; END = Seconded National Expert; INT = agency staff; JED= Junior Experts in Delegations.

[38] Sub-ceiling for external staff covered by operational appropriations (former 'BA' lines).

RESTREINT UE/EU RESTRICTED

Officials and temporary staff

External staff

RESTREINT UE/EU RESTRICTED

3.2.4. Compatibility with the current multiannual financial framework

– ☒ The proposal/initiative is compatible the current multiannual financial framework.

– ☐ The proposal/initiative will entail reprogramming of the relevant heading in the multiannual financial framework.

Explain what reprogramming is required, specifying the budget lines concerned and the corresponding amounts.

– ☐ The proposal/initiative requires application of the flexibility instrument or revision of the multiannual financial framework.

Explain what is required, specifying the headings and budget lines concerned and the corresponding amounts.

3.2.5. Third-party contributions

– The proposal/initiative does not provide for co-financing by third parties.

– The proposal/initiative provides for the co-financing estimated below:

Appropriations in EUR million (to three decimal places)

	2018	2019	2020	Total
Specify the co-financing body	0.846	0.778	0.648	2.272
TOTAL appropriations co-financed	0.846	0.778	0.648	2.272

3.3. Estimated impact on revenue

- ☒ The proposal/initiative has no financial impact on revenue.
- ☐ The proposal/initiative has the following financial impact:
  - ☐ on own resources
  - ☐ on miscellaneous revenue

EUR million (to three decimal places)

Budget revenue line:	Appropriations available for the current financial year	Impact of the proposal/initiative[59]						
		Year N	Year N+1	Year N+2	Year N+3	Enter as many years as necessary to show the duration of the impact (see point 1.6)		
Article ….								

For miscellaneous 'assigned' revenue, specify the budget expenditure line(s) affected.

Specify the method for calculating the impact on revenue.

59 As regards traditional own resources (customs duties, sugar levies), the amounts indicated must be net amounts, i.e. gross amounts after deduction of 25 % for collection costs.

RESTREINT UE/EU RESTRICTED

ANNEX

to the Legislative Financial Statement for a proposal for the Regulation of the European Parliament and of the Council amending Directive 2013/36/EU on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms

The Commission proposal does not assign new supervisory competences to the EBA, but it includes provisions requiring the EBA to conduct reviews as well as to issue the following technical standards and guidelines:

- New RTS on pass-through models and extendable maturities;
- New Delegated Act on Derivatives future funding risk;
- New guidelines on exceptional circumstances to more positions between the two regulatory books;
- New review clause on the calculation of sensitivities under the revised standardised approach
- New RTS for the residual risk add-on in the revised standardised approach
- New RTS for the default risk charge in the revised standardised approach
- New RTS for the allocation of risk factors to Liquidity horizons;
- Update existing RTS on model assessment;
- New review clause on the calibration of market risk framework, backtesting and P&L attribution;
- Revised ITS on disclosure;
- Revised ITS on supervisory reporting;
- Two new RTSs and one guidelines on large exposure framework;
- Revised RTS and ITS for the rules on exposures to CCPs;
- Survey to be developed and conducted by EBA by 2022 - 2023 to assess the reduction of administrative burden for smaller and less complex institutions due to changes to rules on diclosure and supervisory reporting.

Regarding the timing, the additional EBA resources are required for 2018 to start the drafting the standards and guidelines. The successful and timely delivery of new technical standards will require, in particular, additional resources to be allocated to tasks on policy, legal drafting and impact assessment.

The work requires bilateral and multilateral meetings with stakeholders, analysis and assessment of options and drafting of consultation documents, public consultation of stakeholders, setting up and management of standing expert groups composed of supervisors from Member States, setting up and management of ad hoc expert groups composed of market participants and representatives of investors, analysis of the responses to consultations, drafting of cost/benefit analysis and drafting of the legal text.

To conduct these tasks, 9 ftes will be required for 2018 and 2019 and 7.5 ftes for 2020.

Assumptions for additional resources:

- Additional 9 posts (7.5 posts for 2020) required to conduct new tasks listed above are assumed to be temporary agents of functional group and grade AD7.
- Average salary costs for personnel are based on DG BUDG guidance. No salary correction coefficient is applied as the location of EBA in 2018 is currently unknown.
- Mission costs estimated at €10,000 per staff member.
- Recruiting-related costs (travel, hotel, medical examinations, installation and other allowances, removal costs, etc) estimated at €12,700 per staff member.

Cost type	Calculation	Amount (in thousands)			
		2018	2019	2020	Total
Staff expenditure					
Salaries and allowances	-9x134 (7.5x134 for 2020)	1206	1206	1005	3417
Expenditure related to recruitment	9x12.7	114.3	0	0	114.3
Mission expenses	9x10 (7.5x10 for 2020)	90	90	75	255
Total		1410.3	1296	1080	3786.3
Of which Community contribution (40%)		564.12	518.4	432	1514.52
Of which Member State contribution (60%)		846.18	777.6	648	2271.78