

**DRAFT COMPROMISE AMENDMENTS -
Proportionality: 15 June 2018**

Bold/italics text represents changes to the existing regulations on CRR II as would have been amended by the Commission proposal, **purple means change to last compromise**

DRAFT COMPROMISE A: Definition

Article 4 & Article 430a

COVERING AMs 22-25, 138, 238-241, 245-247, 936-939

In Article 4 paragraph 1 the following points are added:

“144a.”small and non-complex institution” means an institution that meets all of the following conditions, provided that it is not a large institution as defined in point 144b:

(a) the total value of its assets on an individual basis or, where applicable, on a consolidated basis in accordance with this Regulation and Directive 2013/36/EU is on average equal to or less than the threshold of EUR 5 billion over the four-year period immediately preceding the current annual disclosure period. (AM 22 Simon, AM 238 Ferber, AM 239 Beres, AM 240 Karas, AM 241 Tang & Weizsäcker, AM 937 Lamberts et. al, AM 938 Valli, AM 939 Natgegaal)

(b) the institution is subject to no obligations or is subject to simplified obligations in relation to recovery and resolution planning in accordance with Article 4 of Directive 2014/59/EU;; (AM 22 Simon, AM 238 Ferber, AM 239 Beres, AM 240 Karas, AM 241 Tang & Weizsäcker, AM 937 Lamberts et. al)

(c) its trading book business is classified as small ~~activities are classified as low~~ within the meaning of Article 94; (AM 22 Simon, AM 238 Ferber, AM 239 Beres, AM 240 Karas, AM 241 Tang & Weizsäcker, AM 937 Lamberts et. al, AM 938 Valli)

(d) the total value of its derivative positions is less than or equal to 2% of its total on- and off-balance sheet assets, whereby only derivatives which qualify as positions held with trading intent are included in calculating the derivative positions; (AM 22 Simon, AM 238 Ferber, AM 239 Beres, AM 240 Karas, AM 241 Tang & Weizsäcker, AM 937 Lamberts et. al, AM 938 Valli)

(e) the institution does not use internal models for calculating its own funds requirements (AM 22 Simon, AM 238 Ferber, AM 239 Beres, AM 241 Tang & Weizsäcker, AM 937 Lamberts et. al, AM 938 Valli)

(f) the institution has not communicated to the competent authority an objection to being classified as a small and non-complex institution; (AM 22 Simon, AM 238 Ferber, AM 239 Beres, AM 240 Karas, AM 241 Tang & Weizsäcker)

(g) the competent authority has not decided that the institution is not to be considered a small and non-complex institution based on an analysis of its size, interconnectedness, complexity or risk profile. (AM 22 Simon, AM 238 Ferber, AM 239 Beres, AM 240 Karas, AM 241 Tang & Weizsäcker)

By way of derogation from point a and provided that the competent authority considers this to be necessary, the competent authority may at its discretion lower the threshold value from EUR 5 billion to as low as EUR 1,5 billion or to as low as 1% of the gross domestic product of the Member State in which the institution is established, provided that the amount equalling 1% of the gross domestic product of the Member State in question is smaller than EUR 1,5 billion.(AM 22 Simon, AM 238 Ferber, AM 239 Beres, AM 240 Karas, AM 241 Tang & Weizsäcker, AM 937 Lamberts et. al, AM 938 Valli, AM 939 Natgegaal)

By way of derogation from point (e) the competent authority may allow the limited use of internal models for calculating the own funds requirements for subsidiaries using the internal models developed at ~~the~~ group level, provided that the group is subject to the disclosure requirements laid down in Article 433a or in Article 433c at consolidated level. (AM 240 Karas)

144b. ‘large institution’ means an institution that meets any of the following conditions:

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

(b) the institution has been identified as another 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 in which it is established, one of the three largest institutions in terms of total value of assets;

(d) the total value of the institution's assets on the basis of its consolidated situation is equal to or larger than 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 in which it is established is on average equal to or larger than 20 % over the four-year period immediately preceding the current annual disclosure period; (AM 23 Simon, AM 245 Karas, AM 936 Delvaux)

144c. ‘large subsidiary’ means a subsidiary that qualifies as a large institution ~~as defined in paragraph 1~~; (AM 24 Simon, AM 246 Karas)

144d. ‘non-listed institution’ means an institution that has not issued securities that are admitted to trading on a regulated market of any Member State, within the meaning of point 21 of Article 4(1) of Directive 2014/65/EU.” (AM 25 Simon, AM 247 Karas)

Article 430a is deleted:

Article 430a

Definitions

For the purposes of this Part and Articles 13, 99, 100, 394 and 430 the following definitions shall apply:

(1) — "~~large institution~~" means an institution that meets any of the following conditions:

(a) — ~~the institution has been identified as a global Systemically important institution ('G-SII') in accordance with Article 131(1) and (2) of Directive 2013/36/EU;~~

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

(c) — ~~the institution is, in the Member State where it is established, one of the three largest institutions by total value of assets;~~

(d) — ~~the total value of the institution's assets on the basis of its consolidation situation is equal to or larger than 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 equal to or larger than 20 % over the four-year period immediately preceding the current annual disclosure period.~~

(2) — "~~large subsidiary~~" means a subsidiary that qualifies as a large institution as defined in paragraph 1.

(3) — "~~non-listed institution~~" means an institution that has not issued securities that are admitted to trading on a regulated market of any Member State, as defined in point (21) of article 4 (1) of Directive 2014/65/EU.

(4) — "~~small institution~~" means an institution the value of the assets of which is on average equal to or less than EUR 1.5 billion over the four-year period immediately preceding the current annual disclosure period. *(AM 138 Simon)*

DRAFT COMPROMISE B: Reporting and asset encumbrance

Article 99, Article 100(1), Article 101a (new)

COVERING AMs 45-52, 228, 521-535, 1089

Article 99 is replaced by the following:

“Article 99

Reporting on own funds requirements and financial information

1. Institutions shall report to their competent authorities on the obligations laid down in Article 92 in accordance with this Article.

Resolution entities shall report to their competent authorities on the obligations laid down in Article 92a and 92b at least on a semi-annual basis.

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

(a) an institution subject to Article 4 of Regulation (EC) No 1606/2002;

(b) a credit institution that prepares its consolidated accounts in accordance with the international accounting standards pursuant to Article 5(b) of Regulation (EC) No 1606/2002.

3. Competent authorities may require 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 reports required in accordance with paragraph 1 **shall be submitted by small and non-complex institutions semi-annually or more frequently. The reports required in accordance with paragraph 2 and 3 shall be submitted by small and non-complex institutions annually.**

All other institutions shall, subject to paragraph 6, submit the reports in accordance with paragraphs 1 to 3 semi-annually basis or more frequently. *(AM 45 Simon, AM 521 Lamberts et al., AM 522 Ferber)*

5. The reporting on financial information referred to in paragraphs 2 and 3 shall only comprise information that is needed to provide a comprehensive view of the institution's risk profile and the systemic risks posed by institutions to the financial sector or the real economy as set out in Regulation (EU) No 1093/2010.

6. EBA shall develop draft implementing technical standards 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 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.

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.

7. EBA shall assess the financial impact on institutions of Commission Implementing Regulation (EU) No 680/2014 in terms of compliance costs and 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. **This shall especially be examined in the case of small and non-complex institutions.** (AM 523 Ferber)

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 and non-complex institutions**; (AM 47 Simon, AM 523 Ferber)

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

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

(ii) the compliance costs shall comprise all expenditure directly or indirectly related to the implementation and operation on an on-going basis of the reporting systems, including expenditure on staff, IT systems, legal, accounting, auditing and consultancy services;

(iii) the relevant period shall refer to each annual period during which institutions have incurred compliance costs to prepare for the implementation of the reporting requirements laid down in Implementing Regulation (EU) No 680/2014 and to continue operating the reporting systems on an on-going basis;

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

(c a) an assessment of the added value and the necessity of the data collected and reported for prudential purposes; (AM 48 Simon)

(d) assess the impact of compliance costs, as referred to in point (b)(ii), on each category of institutions in terms of opportunity costs; and

(e) recommend amendments of Implementing Regulation (EU) No 680/2014 to reduce the reporting burden on institutions or specified categories of institutions where appropriate having regard to the objectives of this Regulation and Directive 2013/36/EU **and to reduce**

the reporting frequency of the reports required in accordance with Articles 100, 394 and 430. Additionally, the report shall assess if reporting requirements in accordance with Article 100 could be waived if asset encumbrance is below a certain threshold and if the bank is considered as small and non-complex. The report shall, at a minimum, make recommendations on how **the extent** and level of granularity of reporting requirements for **small and non-complex institutions can be reduced so that the expected average compliance costs for small and non-complex institutions as defined in Article 4 paragraph 1 point 144a shall be ideally 20% or more and at least 10% lower after the reduced reporting obligations have been fully applied.** (AM 49 Simon, AM 525 Karas, AM 526 Valli, AM 528 Ferber, AM 535 Lamberts et al.)

Based on the findings of that EBA report, the Commission shall, by [31 December 2020], amend the corresponding technical regulatory standards and shall submit, if necessary, one or more legislative proposals for implementing those recommendations. (AM 50 Simon)

8. For the purposes of point (d) of paragraph 7, 'opportunity costs' shall mean the value lost to institutions for services not provided to customers due to compliance costs.

9. Competent authorities shall consult EBA on whether institutions, other than those referred to in paragraphs 2 and 3, should report on financial information on a consolidated basis in accordance with paragraph 2, provided that all of the following conditions are met:

(a) the relevant institutions are not already reporting on a consolidated basis;

(b) the relevant institutions are subject to an accounting framework in accordance with Directive 86/635/EEC;

(c) financial reporting is considered necessary to provide a comprehensive view of the risk profile of those institutions' activities and of the systemic risks they pose to the financial sector or the real economy as set out in Regulation (EU) No 1093/2010.

EBA shall develop draft implementing technical standards to specify the formats that institutions referred to in the first subparagraph shall use for the purposes set out therein.

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

10. Where a competent authority considers information not covered by the implementing technical standards referred to in paragraph 6 as necessary for the purposes set out in paragraph 5, it shall notify EBA and the ESRB of the additional information it deems necessary to include in the implementing technical standards referred to in that paragraph.

11. Competent authorities may waive the requirements to report data items specified in the implementing technical standards referred to in this Article and Articles 100, 101, 394, 415 and 430, **reduce the reporting frequency, allow the institution to report in another reporting framework, if at least one of the following points applies:**

(a) those data items are already available to the competent authorities by means other than those specified under the above mentioned implementing standards, including where that information is available to the competent authorities in different formats or levels of granularity; **the competent authority may then only grant the exceptions stated in this paragraph if data received, collated or aggregated through such alternative methods are identical to those data points which otherwise ought to be reported in accordance with the respective implementing standards;**

(b) the data points or formats have not been updated in accordance with the amendments to this Regulation within an appropriate time period before the deadline for the data to be reported; (AM 51 Simon, AM 531 Karas, AM 532 Carthy & Schirdewan, AM 533 Ferber)

Competent authorities, resolution authorities, designated authorities and relevant authorities shall make use of data exchange wherever possible to waive reporting requirements.” (AM 534 Lamberts et al.)

(43) Article 100 remains the COM text

The following Article 101a is inserted:

“Article 101a

The creation of a consistent and integrated system for collecting statistical and prudential data

The EBA shall ~~investigate the possibility of creating~~ **develop** a consistent and integrated system for collecting statistical and prudential data and report its findings to the Commission no later than [31 December 2019]. The report, involving all the competent authorities, **as well as authorities in charge of deposit guarantee schemes, statistical authorities, all relevant authorities, in particular the ECB and its previous work on statistical data collections, and taking into account the previous work that has been conducted with regard to a European Reporting Framework, shall be based on an overall benefits and cost analysis amongst other with regards to the establishment of a central collection point** and as a minimum include

(a) an overview of the quantity and scope of the data collected by the competent authorities in their jurisdiction and of its origins and granularity;

(b) a review of the completion of a standard dictionary of the data to be collected, in order to increase the convergence of reporting requirements, as regards regular reporting obligations as well as information requested on an ad hoc basis by the institutions’ competent authorities, and to avoid unnecessary queries;

(c) an assessment, considering the business activities of a small and non-complex institution, of applicable data points, which are not necessary to assess compliance with the prudential requirements or the financial situation of an institution and which data points could be merged

(d) a ~~plan on how to create timetable for an~~ integrated, standardised reporting system with a central collection point, which

(i). contains a central data register with all statistical and prudential data in the necessary granularity and frequency for the particular institution and is updated at necessary intervals;

(ii). serves as a point of contact for the competent authorities, where they receive, process and pool all data queries, where queries can be matched with existing collected reported data and which allows the competent authorities quick access to the requested information;

(iii). serves as the sole point of contact for the supervised institutions, transfers statistical and prudential data queries by competent authorities to the institution and enters the requested data into the central data register;

(iv). holds a coordinating role for the exchange of information and data between competent authorities;

(v). transfers only ad hoc queries by competent authorities to the supervised institution after the query has been matched with existing queries and the standard dictionary referred to in point b, in order to avoid duplicates;

(vi). has sufficient organisational, financial and personnel structures and resources to fulfil its mandate;

vii. takes into account the proceedings and processes of other competent authorities and transfers them into a standardised system.

viii. ensures that newly introduced reporting requirements are applied not earlier than 2 years after their publication and that final reporting templates are made available at least 1 year prior to their application date (AM 529 Lamberts et al).

By ...[one year after presentation of the report] the Commission shall, if appropriate and taking into account the report referred to in this Article, submit one or more legislative proposals to the European Parliament and to the Council for the establishment of a standardised and integrated reporting system for reporting requirements.” (AM 52 Simon, AM 529 Lamberts et al., AM 527 Tang & Weizsäcker, AM 1089 Fox)

DRAFT COMPROMISE C: Disclosure

Article 431, Article 432, Article 433a, Article 433b, Article 433c

COVERING AMs 139-146, 940-962

In Article 431 paragraph 3 is amended as follows:

“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 of institutions shall attest in writing that the relevant institution has made the disclosures required under this Part in accordance with the policies and internal processes, systems and controls referred to in this paragraph. The written attestation referred to in this paragraph shall be included in institutions' disclosures **such as the annual report.**

Institutions shall also have policies in place to verify that their disclosures convey their risk profile comprehensively to market participants. Where institutions find that the disclosures required under this Part do not convey the risk profile comprehensively to market participants, they shall publicly disclose information in addition to the information required to be disclosed under this Part. Notwithstanding the foregoing, institutions shall only be required to disclose information that is material and not proprietary or confidential as referred to in Article 432.”

In Article 432 paragraph 2 is amended as follows:

“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, **if shared with competitors.**

Information shall be regarded as confidential where the institutions are obliged by customers or other counterparty relationships to keep that information confidential or where, in exceptional cases and subject to the competent authority's prior consent, 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.”

Article 433a is amended as follows:

“Article 433a

Disclosures by large institutions

1. Large institutions shall disclose the information outlined below and, at least, with the following frequency:

(a) all the information required under this Part on an annual basis;

b) the disclosures referred to in points (e) and (f) of Articles 439, ~~point (1) of point (e) and point (3) points (e), (e) and (f)~~ of Article 442, point (e) of Article 444, point (a) and (b) of Article 448(1), point (k) to (m) of Article 449, point (a) and (b) of Article 451(1), Article 451a(2) and (3), point (f) of Article ~~452 453~~ and point (a) of Article 455(2): on a semi-annual basis; (*AM 139 Simon*)

(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 447 on a quarterly basis.

2. By way of derogation from paragraph 1, large institutions other than G-SIIs that are non-listed institutions shall disclose the information outlined below and, at least, with the following frequency:

(d) all the information required under this Part on an annual basis;

(e) the key metrics referred to in Article 447 on a semi-annual basis.

3. Large institutions subject to Articles 92a or 92b shall disclose the information required under Article 437a on a semi-annual basis, except for the key metrics referred to in point (h) of Article 447.”

Article 433b is amended as follows:

“Article 433b

Disclosures by small **and non-complex** institutions (*AM 140 Simon*)

1. Small **and non-complex** institutions shall disclose the information outlined below and, at least, with the following frequency: (*AM 141 Simon*)

(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);~~
(*AM 142 Simon*)

(iii) the information referred to in ~~Article 450~~ points (a) to (d), (h), (i) and (j) of Article 450(1); (*AM 143 Simon*)

~~(iv) the information referred to in d of Article 438. point (a) of Article 437 (a), point (e) of Article 438, points (e) and (f) of Article 439, point (e) 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. (AM 144 Simon)~~

(b) the key metrics referred to in Article 447 on a semi-annual basis;

2. By way of derogation from paragraph 1, **non-listed small and non-complex institutions that do not issue financial instruments to the public, shall disclose the key metrics referred to in Article 447 at least once a year.** (AM 145 Simon, AM 946 Ferber, AM 947 Lamberts et al., AM 954 Ferber, AM 955 Lamberts et al.)

~~(a) the information referred to in points (a), (e) and (f) of Article 435(1); (AM 948 Ferber, AM 949 Lamberts et al.)~~

~~(b) the information referred to in points (a), (b) and (c) of Article 435(2); (AM 950 Ferber, AM 951 Lamberts et al.)~~

~~(c) the information referred to in Article 450; (AM 952 Lamberts et al., AM 953 Ferber)~~

~~(d) the key metrics referred to in Article 447. (AM 954 Ferber, AM 955 Lamberts et al.)~~

Article 433c is amended as follows:

“Article 433c

Disclosures by other institutions

1. Institutions that are not subject to Articles 433a or 433b shall disclose the information outlined below and, at least, with the following frequency:

(a) all the information laid down in this Part on an annual basis;

(b) the key metrics referred to in Article 447 on a semi-annual basis.

2. By way of derogation from paragraph 1, other institutions that are non-listed institutions shall disclose the information outlined below and, **at least**, with the following frequency: (AM 957 Lamberts et al.)

~~(a) the information referred to in Articles 435 and 450, in point (a) of Article 437, point (e) of Article 438, points (e) and (f) of Article 439, point (e) 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;~~

(a) the information **under points (a), (e) and (f) of Article 435(1), points (a) to (c) of Article 435(2), point (a) of Article 437, points (c) and (d) of Article 438 and points (a) to (d), (h), (i), (j) and (k) of Article 450(1)** on an annual basis; (AM 146 Simon, AM 958 Lamberts et al., AM 961 Lamberts et al., AM 962 Lamberts et al.)

(b) the key metrics referred to in Article 447 on **an semi-annual** basis.” (AM 959 Ferber, AM 960 Lamberts et al.)

DRAFT COMPROMISE D: National liquidity regimes and additional liquidity monitoring metrics

Article 412(5), Article 413(4), Article 415(3)

COVERING AMs 721-725

Article 415 paragraph 3 is amended as follows:

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

(a) reporting uniform formats and IT solutions with associated instructions for frequencies and reference and remittance dates. The reporting formats and frequencies shall be proportionate to the nature, scale and complexity of the different activities of the institutions and shall comprise the reporting required in accordance with paragraphs 1 and 2;

(b) additional liquidity monitoring metrics that are required to allow competent authorities to obtain a comprehensive view of the liquidity risk profile and which shall be proportionate to the nature, scale and complexity of an institution's activities.

EBA shall submit to the Commission those draft implementing technical standards for the items specified in point (a) by [one year after the entry into force of the amending Regulation] and for the items specified in point (b) by 1 January 2014.

Until the full introduction of binding liquidity requirements, competent authorities may continue to collect information through monitoring tools for the purpose of monitoring compliance with existing national liquidity standards.

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

The Commission Implementing Regulation (EU) 2016/313 of 1 March 2016 with regard to additional monitoring metrics for liquidity reporting shall not apply to small and non-complex institutions if their refinancing is based on deposits with a high degree of granularity and if their assets are sufficiently diversified.

The EBA shall issue regulatory technical standards to define “deposits with a high degree of granularity” and “sufficiently diversified assets” as condition for the exemption of small institutions from additional monitoring metrics for liquidity reporting.” (AM 725 Lamberts et al.)

DRAFT COMPROMISE E: Simplified Net Stable Funding Ratio (sNSFR)

Article 428ah (new) – Article 428aw (new), (Article 428b, 428c, 428d)

New text proposed by Giegold & Simon (NB: not in bold).

COVERING AMs 101-105, 113-128, 861-877

[Necessary changes to introduce the simplified NSFR. AMs 731-860 regarding the NSFR will be part of a separate compromise at a later stage]

Article 428b paragraph 1 is amended as follows:

Article 428b

The net stable funding ratio

1. The detailed net stable funding requirement laid down in Article 413(1) shall be equal to the ratio of an institution's available stable funding as referred to in Chapter 3 of this Title to the institution's required stable funding as referred to in Chapter 4 of this Title over a one year period and shall be expressed as a percentage.

Small and non-complex institutions may choose to calculate the ratio between an institution's available stable funding as referred to in Chapter 4a of this Title, and the institution's required stable funding as referred to in Chapter 4b of this Title, over a one year period and expressed as a percentage.

Institutions shall calculate their net stable funding ratio in accordance with the following formula:

$$\frac{\textit{Available Stable Funding}}{\textit{Required Stable Funding}} = \textit{Net Stable Funding Ratio} (\%)$$

(AM 101 Simon)

Article 428c paragraph 2 is amended as follows:

2. For the purpose of calculating their net stable funding ratio, institutions shall apply the appropriate stable funding factors set out in Chapters 3 and 4 of this Title to the accounting value of their assets, liabilities and off-balance sheet items, unless specified otherwise in this Title. **If a small and non-complex institution has chosen to apply Chapters 4a and 4b of this Title, it shall apply the appropriate factors set out in those Chapters 4 or 4b of this title for the stable funding on the accounting value of its assets, liabilities and off-balance sheet items.** *(AM 102 Simon)*

Article 428d paragraph 1, 2 and 5 are amended as follows:

1. Institutions shall apply the provisions of this Article to calculate the amount of required stable funding for derivatives contracts as referred to in Chapters 4 **or 4b** of this Title. *(AM Simon 103)*

2. By way of derogation from Article 428c(1), institutions shall take into account the accounting value of derivative positions on a net basis where those positions are included in the same netting set that fulfils the requirements set out in Articles 295, 296 and 297. Where that is not the case, institutions shall take into account the accounting value of derivative positions on a gross basis and they shall treat those derivatives positions as their own netting set for the purpose of Chapters 4 **or 4b** of this Title. *(AM 104 Simon) [AM 735 & 736 tbd as part of NSFR compromise]*

5. Cash received as collateral to mitigate the exposure of a derivative position shall be treated as such and shall not be treated as deposits to which Chapters 3 **or 4a** of this Title applies. *(AM 105 Simon)*

[Introduction of RSF and ASF for the simplified NSFR]

(114a) In Part 6, Title IV, the following Chapter 4a is added:

"CHAPTER 4a

Available stable refinancing for the simplified net stable funding ratio

SECTION 1

GENERAL PROVISIONS

Article 428ah

Calculation of the amount of available stable funding

By derogation from Chapter 3 and unless otherwise specified in this Chapter, for small and non-complex institutions, the amount of available stable funding shall be calculated by multiplying the accounting value of various categories or types of liabilities and regulatory capital by the appropriate available stable funding factors to be applied under Section 2. The total amount of available stable funding shall be the sum of the weighted amounts of liabilities and regulatory capital."

Article 428ai

Residual maturity of a liability or regulatory capital

1. Unless otherwise specified in this Chapter, institutions shall take into account the residual contractual maturity of their liabilities and regulatory capital to determine the appropriate available stable funding factors to be applied under Section 2 of this Chapter.

2. Institutions shall take into account existing options to determine the residual maturity of a liability or of regulatory capital. They shall do so on the assumption that 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, considering in particular market expectations that institutions should redeem certain liabilities before their maturity.

SECTION 2

AVAILABLE STABLE FUNDING FACTORS

Article 428aj

0% available stable funding factor

Unless otherwise specified in this section, all liabilities without a stated maturity, including short positions and open maturity positions, shall be subject to a 0% available stable funding factor with the exception of the following:

(a) deferred tax liabilities, which shall be treated in accordance with the nearest possible date on which such liabilities could be realised;

(b) minority interests, which shall be treated in accordance with the term of the instrument concerned. Deferred tax liabilities and minority interests shall be subject to one of the following factors:

(i) 0%, where the effective residual maturity of the deferred tax liability or minority interest is less than one year;

(ii) 100%, where the effective residual maturity of the deferred tax liability or minority interest is one year or more.

2. The following liabilities shall be subject to a 0% available stable funding factor:

(a) trade date payables arising from purchases of financial instruments, foreign currencies and commodities that are expected to settle within the standard settlement cycle or period that is customary for the relevant exchange or type of transaction, or that have failed to be settled, but are still expected to settle;

(b) liabilities that are categorised as interdependent with assets in accordance with Article 428f;

(c) liabilities with a residual maturity of less than one year provided by:

(i) the ECB or the central bank of a Member State;

(ii) the central bank of a third country;

(iii) financial customers;

(d) any other liabilities and capital items or instruments not referred to in Articles 428aj to 428am.

3. Institutions shall apply a 0% available stable funding factor to the absolute value of the difference, if negative, between the sum of market values across all netting sets with positive market value and the sum of market values across all netting sets with negative market value calculated in accordance with Article 428d of this Regulation.

The following rules shall apply to the calculation referred to in the first subparagraph:

(a) variation 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) 2015/61, excluding extremely high quality covered bonds referred to in point (f) of Article

10(1) of Delegated Regulation (EU) 2015/61, and that institutions are legally entitled and operationally able to reuse;

(b) all variation margin posted by institutions to their counterparties shall be deducted from the market value of a netting set with negative market value.

Article 428ak

50% available stable funding factor

By way of derogation from Article 428aj, the following liabilities shall be subject to a 50% available stable funding factor: liabilities with a residual maturity of less than one year provided by:

- (i) the central government of a Member State or a third country;
- (ii) regional governments or local authorities in a Member State or a third country;
- (iii) public sector entities of a Member State or a third country;
- (iv) multilateral development banks referred to in Article 117(2) and international organisations referred to in Article 118;
- (v) credit institutions as referred to in point (e) of Article 10(1) of Delegated Regulation (EU) 2015/61;
- (vi) non-financial corporate customers;
- (vii) credit unions authorised by a competent authority, personal investment companies and clients that are deposit brokers, with the exception of deposits received, that fulfil the criteria for operational deposits as set out in Article 27 of Delegated Regulation (EU) 2015/61.

Article 428al

90% available stable funding factor

By way of derogation from Article 428aj, sight retail deposits and term retail deposits having a residual maturity of less than one year that fulfil the criteria set out in Articles 24 or 25 of Delegated Regulation (EU) 2015/61 shall be subject to a 90% available stable funding factor.

Article 428am

100% available stable funding factor

By way of derogation from Article 428aj, the following liabilities and capital items and instruments shall be subject to a 100% available stable funding factor:

- (a) the Common Equity Tier 1 items of the institution before the adjustments required pursuant to Articles 32 to 35, the deductions pursuant to Article 36 and the application of the exemptions and alternatives laid down in Articles 48, 49 and 79;
- (b) the Additional Tier 1 items of the institution before the deduction of the items referred to in Article 56 and before Article 79 has been applied thereto;
- (c) the Tier 2 items of the institution before the deductions referred to in Article 66 and before the application of Article 79, having a residual maturity of one year or more, excluding any instruments with explicit or embedded options that, if exercised, would reduce the 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 428aj to 428al.”

(114 g) In Part 6, Title IV, the following Chapter 4b is added:

"CHAPTER 4b

Required stable refinancing for the simplified calculation of the net stable funding ratio

SECTION 1

GENERAL PROVISIONS

Article 428an

Simplified calculation of the amount of required stable funding

1. By derogation from Chapter 4 and unless otherwise specified in this Chapter, for small and non-complex institutions the amount of required stable funding shall be calculated by multiplying the accounting value of various categories or types of assets and off-balance sheet items by the appropriate required stable funding factors to be applied in accordance with Section
2. The total amount of required stable funding shall be the sum of the weighted amounts of assets and off-balance sheet items. 2. Assets that institutions have borrowed, including in secured lending transactions and capital market-driven transactions as defined in Article 192(2) and (3), that are accounted for in their balance sheet and on which they do not have beneficial ownership shall be excluded from the calculation of the amount of required stable funding.
3. Assets that institutions have lent, including in secured lending transactions and capital market driven transactions, 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 shall be subject to appropriate required stable funding factors to be applied under Section 2 of this Chapter. Otherwise, these assets shall be excluded from the calculation of the amount of required stable funding.
4. The following assets shall be considered to be unencumbered:

(a) assets included in a pool which are available for immediate use as collateral to obtain additional funding under committed or, where the pool is operated by a central bank, uncommitted but not yet funded credit lines available to the institution. Those assets shall include assets placed by a credit institution with the central institution in a cooperative network or institutional protection scheme. Institutions shall assume that assets in the pool are encumbered in order of increasing liquidity on the basis of the liquidity classification set out in Chapter 2 of Delegated Regulation (EU) 2015/61, starting with assets ineligible for the liquidity buffer;

(b) assets that the institution has received as collateral for credit risk mitigation purposes in secured lending, secured funding or collateral exchange transactions and that the institution may dispose of;

(c) assets attached as non-mandatory over-collateralisation to a covered bond issuance.

5. Institutions shall exclude assets associated with collateral recognised as variation margins posted in accordance with point (b) of Articles 428k(3) and 428ag(3) 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 from other parts of calculation of the amount of required stable funding in accordance with this Chapter in order to avoid any double-counting.

6. Institutions shall include in the calculation of the amount of required stable funding financial instruments, foreign currencies and commodities for which a purchase order has been executed. They shall exclude from the calculation of the amount of required stable funding financial instruments, foreign currencies and commodities for which a sale order has been executed, provided that those transactions are not reflected as derivatives or secured funding transactions in the institutions' balance sheet and that these transactions will be reflected in the institutions' balance sheet when settled.

7. Competent authorities may determine required stable funding factors to be applied to off-balance sheet exposures that are not referred to in this Chapter to ensure that institutions hold an appropriate amount of available stable funding for the portion of those exposures that are expected to require funding within the one-year horizon of the net stable funding ratio. To determine those factors, competent authorities shall in particular take into account material reputational damage for the institution that could result from not providing that funding.

Competent authorities shall report to EBA the types of off-balance sheet exposures for which they have determined required stable funding factors at least once a year. They shall include in that report an explanation of the methodology applied to determine those factors."

Article 428ao

Residual maturity of an asset

1. Unless otherwise specified in this Chapter, institutions shall take into account the residual contractual maturity of their assets and off-balance sheet transactions when

determining the appropriate required stable funding factors to be applied to their assets and off-balance sheet items under Section 2 of this Chapter.

2. 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 either the residual maturity of the asset or the maturity of the transaction being the source of encumbrance, whichever is the longest. An asset that has less than six months remaining in the encumbrance period 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. Where an institution re-uses or re-pledges an asset that was borrowed, including in secured lending transactions and capital market-driven transactions as defined in Article 192(2) and (3), and that is accounted for off balance sheet, the residual maturity of the transaction through which that asset has been borrowed and which is used to determine the required stable funding factor to be applied under Section 2 of this Chapter, shall be the residual maturity of the transaction through which the asset is re-used or re-pledged.

4. Institutions shall treat assets that have been segregated in accordance with Article 11(3) of Regulation (EU) No 648/2012 in accordance with their underlying exposure. Institutions shall however subject those assets to higher required stable funding factors depending on the term of encumbrance to be determined by competent authorities, who shall consider whether the institution can freely dispose or exchange such assets and the term of the liabilities to the institutions' customers that generate this segregation requirement.

5. When calculating the residual maturity of an asset, institutions shall take options into account, based on the assumption that the issuer 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.

SECTION 2

REQUIRED STABLE FUNDING FACTORS

Article 428ap

0% required stable funding factor

The following assets shall be subject to a 0% required stable funding factor:

(a) unencumbered assets eligible as Level 1 high quality liquid assets in accordance with Article 10 of Delegated Regulation (EU) 2015/61, excluding extremely high quality covered bonds referred to in point (f) of Article 10(1) of that Delegated Regulation, regardless of their compliance with the operational requirements as set out in Article 8 of that Delegated Regulation;

(b) 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;

(c) all claims on the ECB, the central bank of a Member State or of a third country with a residual maturity of less than one year;

(d) assets that are categorised as interdependent with liabilities in accordance with Article 428f.

Article 428aq

5% required stable funding factor

The undrawn portion of irrevocable and conditionally revocable committed credit and liquidity facilities as they are referred to in Article 31(1) of Delegated Regulation (EU) 2015/61 receive a required stable funding factor of 5%.

Article 428ar

10% required stable funding factor

1. Unencumbered assets eligible as Level 1 extremely high quality covered bonds in accordance with point (f) of Article 10(1) of Delegated Regulation (EU) 2015/61 shall be subject to a 10% required stable funding factor, regardless of their compliance with the operational requirements and with the requirements on the composition of the liquidity buffer as set out in Articles 8 and 17 of that Delegated Regulation

2. For all netting sets of derivative contracts that are 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 those netting sets of derivative contracts, gross of any collateral posted, where those netting sets have a negative market value. (AM 861 Simon, AM 872 Lamberts et al.)

Article 428as

15% required stable funding factor

The following assets and off-balance sheet items shall be subject to a 15% required stable funding factor:

(a) Unencumbered assets eligible as Level 2A assets in accordance Article 11 of Delegated Regulation (EU) 2015/61, and unencumbered shares or units in CIUs in accordance with point (a) to (d) of Article 15(2) of Delegated Regulation (EU) 2015/61, regardless of their compliance with the operational requirements and with the requirements on the composition of the liquidity buffer as set out in Articles 8 and 17 of that Delegated Regulation;

(b) Trade finance off-balance sheet related products as referred to in Article 111(1) of this Regulation and trade finance on-balance sheet related products, with a residual maturity of less than one year.

Article 428at

20% required stable funding factor

The following assets shall be subject to a 20% required stable funding factor:

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 those netting sets of derivative contracts, gross of any collateral posted, where those netting sets have a negative market value.

Article 428au

50% required stable funding factor

The following assets shall be subject to a 50% required stable funding factor:

- (a) Secured and unsecured loans with a residual maturity of less than one year and provided that they are encumbered less than one year,
- (b) Assets eligible as Level 2B assets in accordance Article 12 of Delegated Regulation (EU) 2015/61, and shares or units in CIUs in accordance with point (e) to (h) of Article 15(2) of Delegated Regulation (EU) 2015/61, regardless of their compliance with the operational requirements and with the requirements on the composition of the liquidity buffer as set out in Articles 8 and 17 of that Delegated Regulation, provided that they are encumbered less than one year,
- (c) any other assets with a residual maturity of less than one year, unless otherwise specified in Articles 428ap to 428at of this Regulation.

Article 428av

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.
- (b) unencumbered loans with a residual maturity of one year or more, excluding loans to financial customers, which are not past due for more than 90 days
- (c) trade finance on-balance sheet related products, with a residual maturity of one year or more;
- (d) unencumbered securities with a residual maturity of one year or more that are not in default in accordance with Article 178 and that are not eligible as liquid assets in accordance with Articles 10 to 13 of Delegated Regulation (EU) 2015/61;
- (e) unencumbered exchange-traded equities that are not eligible as Level 2B assets in accordance with Article 12 of Delegated Regulation (EU) 2015/61;
- (f) physical traded commodities, including gold but excluding commodity derivatives.

Article 428aw

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 428ap to 428av, 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 the way of a derogation from point (a) of paragraph 1, 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, with the approval of the relevant central bank, the appropriate required stable funding factor to be applied to those encumbered assets, which shall not be lower than the required stable funding factor that would apply to those 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.

The following rules shall apply to the calculation referred to in the first subparagraph:

(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 in accordance with Title II of Delegated Regulation (EU) 2015/61, excluding extremely high quality covered bonds referred to in point (f) of Article 10(1) of that Delegated Regulation, and that institutions would be legally entitled and operationally able to reuse;

(b) all variation margin posted by institutions to their counterparties shall be deducted from the market value of a netting set with negative market value.”

DRAFT COMPROMISE F: Recitals

Recital 6, 6a, 44a, 65, 65a, 67

COVERING AMs 1, 2, 182, 10, 203, 19, 223-225, 20, 226,

The following Recitals (6), (6a), (44a), (65), (65a), (67) are inserted:

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

“(6 a) A precise definition of small and non-complex institutions is necessary for targeted simplifications of requirements with respect to the application of the principle of proportionality. To create or specify an appropriate definition and classification of

small and non-complex institutions and in order to properly determine the risks of these institutions, it is also necessary to consider the size and risk profile of a small and non-complex institution in relation to the overall size of the national economy in which that institution primarily operates. By itself, a single absolute threshold does not take this requirement into account. It is therefore necessary for existing supervisory authorities be able to use their discretion to bring the threshold in line with domestic circumstances and adjust it down as appropriate by integrating a relative component calculated on the basis of the economic output of a Member State. Since the size of an institution is not by itself the defining factor for its risk profile, it is moreover necessary to apply additional qualitative criteria to ensure that an institution is only considered a small and non-complex institution and is only able to benefit from the relevant rules for increased proportionality after the cumulative fulfilment of all criteria.” (AM 2 Simon, AM 182 Ferber)

“(44a) Likewise, small and non-complex institutions should be given the opportunity to use a simplified version of the NSFR. A simplified, less granular version of the NSFR should involve collecting a limited number of data points, which on the one hand, reduces the complexity of the calculation for small and non-complex institutions in accordance with proportionality, while ensuring that small and non-complex institutions still maintain a sufficient stable funding factor by means of a more rigorous calibration.” (AM 10 Simon, AM 203 Balz)

“(65) The EBA should report on where proportionality of the Union supervisory reporting package could be improved in terms of scope, granularity or frequency and, at least, submit concrete recommendations as to how the average compliance costs for small institutions can be reduced by ideally 20% or more and at least 10% by means of appropriate simplification of requirements.” (AM 19 Simon, AM 223 Mann, AM 224 Balz, AM 225 Ferber)

“(65a) In addition, within two years of this Regulation entering into force, and in cooperation with the other competent authorities, particularly the ECB, the EBA should compile a comprehensive report on the necessary revision to the reporting system. This should form the basis of a legislative proposal from the European Commission. The purpose of this report should be the creation of an integrated and standardised system for reporting obligations as regards statistical and regulatory data for all institutions situated within the Union. Such a system should, amongst other things, use consistent definitions and standards for the data to be collected, guarantee a reliable and permanent exchange of information between the competent authorities, and establish a central location for statistical and regulatory data which administers, pools and distributes data requests and collected data. By centralising and harmonising data collection and requests in such a way, the goal is to prevent multiple requests for similar or identical data from different authorities and thereby to significantly reduce the administrative and financial burden, both for the competent authorities and for the institutions.” (AM 20 Simon)

“(67) Since the objectives of this Regulation, namely to reinforce and refine already existing Union legislation ensuring uniform prudential requirements that apply to credit institutions and investment firms throughout the Union, cannot be sufficiently achieved by the Member States but can rather, by reason of their scale and effects, be better achieved at Union level,

the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives. **The provisions of this Regulation should not require institutions to provide information based on accounting frameworks differing from those applicable to them pursuant to other acts of Union and national law.**” (*AM 226 Lamberts et al.*)