

Directive 2006/49/EC of the European Parliament and of the Council of 14 June 2006
on the capital adequacy of investment firms and credit institutions (recast) (repealed)

CHAPTER I

Subject matter, scope and definitions

Section 1

Subject matter and scope

- Article 1 (1) This Directive lays down the capital adequacy requirements applying...
- Article 2 (1) Subject to Articles 18, 20, 22 to 32, 34 and...

Section 2

Definitions

- Article 3 (1) For the purposes of this Directive the following definitions...

CHAPTER II

Initial capital

- Article 4 For the purposes of this Directive, 'initial capital' shall be...
- Article 5 (1) An investment firm that does not deal in any...
- Article 6 Local firms shall have initial capital of EUR 50 000 insofar...
- Article 7 Coverage for the firms referred to in Article 3(1)(b)(iii) shall take...
- Article 8 If a firm as referred to in Article 3(1)(b)(iii) is also...
- Article 9 All investment firms other than those referred to in Articles 5...
- Article 10 (1) By way of derogation from Articles 5(1), 5(3), 6 and...

CHAPTER III

Trading book

- Article 11 (1) The trading book of an institution shall consist of...

CHAPTER IV

Own funds

- Article 12 'Original own funds' means the sum of points (a) to (c),...
- Article 13 (1) Subject to paragraphs 2 to 5 of this Article and...
- Article 14 (1) The competent authorities may permit investment firms to exceed...
- Article 15 Illiquid assets as referred to in point (d) of the second...

- Article 16 Investment firms included in a group which has been granted...
Article 17 (1) Where an institution calculates risk-weighted exposure amounts for the...

CHAPTER V

Section 1

Provisions against risks

- Article 18 (1) Institutions shall have own funds which are always more...
Article 19 (1) For the purposes of point 14 of Annex I, subject to...
Article 20 (1) Subject to paragraphs 2, 3 and 4 of this Article,...
Article 21 Investment firms shall be required to hold own funds equivalent...

Section 2

Application of requirements on a consolidated basis

- Article 22 (1) The competent authorities required or mandated to exercise supervision...
Article 23 The competent authorities shall require investment firms in a group...
Article 24 (1) By way of derogation from Article 2(2), competent authorities may...
Article 25 By way of derogation from Article 2(2), competent authorities may exempt...

Section 3

Calculation of consolidated requirements

- Article 26 (1) Where the waiver provided for in Article 22 is not...
Article 27 (1) In the calculation of own funds on a consolidated...

Section 4

Monitoring and control of large exposures

- Article 28 (1) Institutions shall monitor and control their large exposures in...
Article 29 (1) The exposures to individual clients which arise on the...
Article 30 (1) The overall exposures to individual clients or groups of...
Article 31 The competent authorities may authorise the limits laid down in...
Article 32 (1) The competent authorities shall establish procedures to prevent institutions...

Section 5

Valuation of positions for reporting purposes

- Article 33 (1) All trading book positions shall be subject to prudent...

Section 6

Risk management and capital assessment

Article 34 Competent authorities shall require that every investment firm, as well...

Section 7

Reporting requirements

Article 35 (1) Member States shall require that investment firms and credit...

CHAPTER VI

Section 1

Competent authorities

Article 36 (1) Member States shall designate the authorities which are competent...

Section 2

Supervision

Article 37 (1) Chapter 4 of Title V of Directive 2006/48/EC shall apply mutatis mutandis...

Article 38 (1) The competent authorities of the Member States shall cooperate...

CHAPTER VII

Disclosure

Article 39 The requirements set out in Title V, Chapter 5 of Directive 2006/48/EC shall...

CHAPTER VIII

Section 1

Article 40 For the purposes of the calculation of minimum capital requirements...

Section 2

Powers of execution

- Article 22 (1) The Commission shall decide on any technical adaptations in...
- Article 42 (1) The Commission shall be assisted by the European Banking...

Section 3

Transitional provisions

- Article 43 Article 152(1) to (7) of Directive 2006/48/EC shall apply, in accordance with...
- Article 44 Until 31 December 2012, for investment firms the relevant indicator for...
- Article 45 (1) Competent authorities may permit investment firms to exceed the...
- Article 46 By way of derogation from Article 20(1), until 31 December 2011 competent...
- Article 47 Until 31 December 2009 or any earlier date specified by the...
- Article 48 (1) The provisions on capital requirements as laid down in...

Section 4

Final provisions

- Article 49 (1) Member States shall adopt and publish, by 31 December 2006,...
- Article 50 (1) Article 152(8) to (14) of Directive 2006/48/EC shall apply mutatis mutandis...
- Article 51 By 1 January 2011, the Commission shall review and report on...
- Article 52 Directive 93/6/EEC, as amended by the Directives listed in Annex VIII, Part A,...
- Article 53 This Directive shall enter into force on the twentieth day...
- Article 54 This Directive is addressed to the Member States.
Signature

ANNEX I

CALCULATING CAPITAL REQUIREMENTS FOR POSITION RISK

GENERAL PROVISIONS

Netting

1. The excess of an institution's long (short) positions over its...
2. No netting shall be allowed between a convertible and an...
3. All net positions, irrespective of their signs, must be converted...

Particular instruments

4. Interest#rate futures, forward#rate agreements (FRAs) and forward commitments to...

4. Interest#rate futures, forward#rate agreements (FRAs) and forward commitments to buy...
5. Options on interest rates, debt instruments, equities, equity indices, financial...
6. Warrants relating to debt instruments and equities shall be treated...
7. Swaps shall be treated for interest#rate risk purposes on the...

A. TREATMENT OF THE PROTECTION SELLER

8. When calculating the capital requirement for market risk of the...

B. TREATMENT OF THE PROTECTION BUYER

9. Institutions which mark to market and manage the interest#rate risk...
10. Institutions which do not use models under point 9 may, with...
11. The transferor of securities or guaranteed rights relating to title...
Specific and general risks
12. The position risk on a traded debt instrument or equity...

TRADED DEBT INSTRUMENTS

13. Net positions shall be classified according to the currency in...

Specific risk

14. The institution shall assign its net positions in the trading book,...
15. For the purposes of point 14 qualifying items shall include:
16. The competent authorities shall require the institution to apply the...

General risk

(a) Maturity-based

17. The procedure for calculating capital requirements against general risk involves...
18. The institution shall assign its net positions to the appropriate...
19. It shall then work out the sum of the weighted...
20. The institution shall compute the totals of the unmatched weighted...
21. The amount of the unmatched weighted long (short) position in...
22. The institution may, if it wishes, reverse the order in...
23. The remainder of the unmatched weighted position in zone one...
24. Residual positions, following the three separate matching calculations in points 21,...
25. The institution's capital requirement shall be calculated as the sum...

(b) Duration-based

26. The competent authorities may allow institutions in general or on...
27. Under a system referred to in point 26 the institution shall...
28. The institution shall then calculate the modified duration of each...
29. The institution shall then allocate each debt instrument to the...
30. The institution shall then calculate the duration#weighted position for each...

31. The institution shall calculate its duration-weighted long and its duration-weighted...
32. The institution's capital requirement shall then be calculated as the...

EQUITIES

33. The institution shall sum all its net long positions and...
Specific risk
34. The institution shall sum all its net long positions and...
35. By derogation from point 34, the competent authorities may allow the...
General risk
36. Its capital requirement against general risk shall be its overall...
Stock-index futures
37. Stock-index futures, the delta-weighted equivalents of options in stock-index futures...
38. The competent authorities shall ensure that any institution which has...
39. By derogation from points 37 and 38, stock-index futures which are...
40. If a stock-index future is not broken down into its...

UNDERWRITING

41. In the case of the underwriting of debt and equity...

SPECIFIC RISK CAPITAL CHARGES FOR TRADING BOOK POSITIONS HEDGED BY..

42. An allowance shall be given for protection provided by credit...
43. Full allowance shall be given when the value of two...
44. An 80 % offset will be applied when the value of...
45. Partial allowance shall be given when the value of two...
46. In all situations not falling under points 43 to 45,...
Capital charges for CIUs in the trading book
47. The capital requirements for positions in CIUs which meet the...
48. Without prejudice to other provisions in this section, positions in...
49. Institutions may determine the capital requirement for positions in CIUs...
50. Unless noted otherwise, no netting is permitted between the underlying...

GENERAL CRITERIA

51. The general eligibility criteria for using the methods in points 53...
52. Third country CIUs may be eligible if the requirements in...

SPECIFIC METHODS

53. Where the institution is aware of the underlying investments of...
54. Institutions may calculate the capital requirements for position risk (general...
55. Where the institution is not aware of the underlying investments...
56. Institutions may rely on a third party to calculate and...

ANNEX II

CALCULATING CAPITAL REQUIREMENTS FOR SETTLEMENT AND COUNTERPARTY CREDIT RISK

SETTLEMENT/DELIVERY RISK

1. In the case of transactions in which debt instruments, equities,...

FREE DELIVERIES

2. An institution shall be required to hold own funds, as...
3. In applying a risk weight to free delivery exposures treated...
4. In cases of a system wide failure of a settlement...

COUNTERPARTY CREDIT RISK (CCR)

5. An institution shall be required to hold capital against the...
6. Subject to the provisions of points 7 to 10, exposure values...
7. For the purposes of point 6:
8. For the purposes of point 6, in calculating risk#weighted...
9. For the purposes of point 6, in the case...
10. For the purposes of point 6, in relation to the recognition...
11. Where a credit derivative included in the trading book forms...
12. The capital requirement shall be 8 % of the total risk#weighted...

ANNEX III

CALCULATING CAPITAL REQUIREMENTS FOR FOREIGN-EXCHANGE RISK

1. If the sum of an institution's overall net foreign#exchange position...
2. A two#stage calculation shall be used for capital requirements for...
 - 2.1. Firstly, the institution's net open position in each currency (including...
 - 2.2. Secondly, net short and long positions in each currency other...
3. By derogation from points 1 and 2 and pending further coordination,...
- 3.1. The competent authorities may allow institutions to provide lower capital...
- 3.2. The competent authorities may allow institutions to remove positions in...
4. Net positions in composite currencies may be broken down into...

ANNEX IV

CALCULATING CAPITAL REQUIREMENTS FOR COMMODITIES RISK

1. Each position in commodities or commodity derivatives shall be expressed...
2. Positions in gold or gold derivatives shall be considered as...
3. For the purposes of this Annex, positions which are purely...

4. The interest#rate and foreign#exchange risks not covered by other provisions...
5. When the short position falls due before the long position,...
6. For the purpose of point 19, the excess of an institution's...
7. The competent authorities may regard the following positions as positions...
Particular instruments
8. Commodity futures and forward commitments to buy or sell individual...
9. Commodity swaps where one side of the transaction is a...
10. Options on commodities or on commodity derivatives shall be treated...
11. Warrants relating to commodities shall be treated in the same...
12. The transferor of commodities or guaranteed rights relating to title...
- (a) Maturity ladder approach
 13. The institution shall use a separate maturity ladder in line...
 14. Competent authorities may allow positions which are, or are regarded...
 15. The institution shall then calculate the sum of the long...
 16. That part of the unmatched long (short) position for a...
 17. The institution's capital requirement for each commodity shall be calculated...
 18. The institution's overall capital requirement for commodities risk shall be...
- (b) Simplified approach
 19. The institution's capital requirement for each commodity shall be calculated...
 20. The institution's overall capital requirement for commodities risk shall be...
- (c) Extended Maturity ladder approach
 21. Competent authorities may authorise institutions to use the minimum spread,...

ANNEX V

USE OF INTERNAL MODELS TO CALCULATE CAPITAL REQUIREMENTS

1. The competent authorities may, subject to the conditions laid down...
2. Recognition shall only be given if the competent authority is...
3. Institutions shall have processes in place to ensure that their...
4. The institution shall monitor the accuracy and performance of its...
5. For the purpose of calculating capital requirements for specific risk...
6. Institutions using internal models which are not recognised in accordance...
7. For the purposes of point 9(b), the results of the institution's...

8. The multiplication factor shall be increased by a plus#factor of...
9. Each institution must meet a capital requirement expressed as the...
10. The calculation of the value#at#risk measure shall be subject to...
11. The competent authorities shall require that the model captures accurately...
12. The risk#measurement model shall capture a sufficient number of risk...
Interest rate risk
Foreign-exchange risk
Equity risk
Commodity risk
13. The competent authorities may allow institutions to use empirical correlations...

ANNEX VI

CALCULATING CAPITAL REQUIREMENTS FOR LARGE EXPOSURES

1. The excess referred to in Article 31(b) shall be calculated by...
2. Where the excess has not persisted for more than 10...
3. As from 10 days after the excess has occurred, the...

ANNEX VII

TRADING

PART A

Trading Intent

1. Positions/portfolios held with trading intent shall comply with the following...

PART B

Systems and Controls

1. Institutions shall establish and maintain systems and controls sufficient to...
2. Systems and controls shall include at least the following elements:...

Prudent Valuation Methods

3. Marking to market is the at least daily valuation of...
4. When marking to market, the more prudent side of bid/offer...
5. Where marking to market is not possible, institutions must mark...
6. The following requirements must be complied with when marking to...

7. Independent price verification should be performed in addition to daily...

Valuation adjustments or reserves

8. Institutions shall establish and maintain procedures for considering valuation adjustments/reserves....

General standards

9. The competent authorities shall require the following valuation adjustments/reserves to...

Standards for less liquid positions

10. Less liquid positions could arise from both market events and...
11. Institutions shall consider several factors when determining whether a valuation...
12. When using third party valuations or marking to model, institutions...
13. When valuation adjustments/reserves give rise to material losses of the...
14. Other profits/losses originating from valuation adjustments/reserves shall be included in...
15. Valuation adjustments/reserves which exceed those made under the accounting framework...

PART C

Internal Hedges

1. An internal hedge is a position that materially or completely...
2. The treatment referred to in point 1 applies without prejudice to...
3. Notwithstanding points 1 and 2, when an institution hedges a...

PART D

Inclusion In The Trading Book

1. Institutions shall have clearly defined policies and procedures for determining...
2. Institutions shall have clearly defined policies and procedures for overall...
3. Competent authorities may allow institutions to treat positions that are...
4. Term trading-related repo#style transactions that an institution accounts for in...

ANNEX VIII

REPEALED DIRECTIVES

PART A

Repealed (reference to Article 51) their successive amendments

PART B

Deadline (reference to Article 52)

ANNEX IX
CORRELATION TABLE

Status: This is the original version (as it was originally adopted).

- (1) [OJ C 234, 22.9.2005, p. 8.](#)
- (2) [OJ C 52, 2.3.2005, p. 37.](#)
- (3) Opinion of the European Parliament of 28 September 2005 (not yet published in the OJ) and Decision of the Council of 7 June 2006.
- (4) [OJ L 141, 11.6.1993, p. 1.](#) Directive as last amended by Directive 2005/1/EC of the European Parliament and of the Council ([OJ L 79, 24.3.2005, p. 9.](#))
- (5) [OJ L 145, 30.4.2004, p. 1.](#)
- (6) See page 1 of this official Journal
- (7) [OJ L 184, 17.7.1999, p. 23.](#)
- (8) [OJ C 284 E, 21.11.2002, p. 115.](#)