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 (Text with EEA relevance)

[X1REGULATION (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

(Text with EEA relevance)]

[X1THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the European Commission,

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

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

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

Acting in accordance with the ordinary legislative procedure,

Whereas:

(1) The G-20 Declaration of 2 April 2009 on Strengthening of the Financial System called for internationally consistent efforts that are aimed at strengthening transparency, accountability and regulation by improving the quantity and quality of capital in the banking system once the economic recovery is assured. That declaration also called for introduction of a supplementary non-risk based measure to contain the build-up of leverage in the banking system, and the development of a framework for stronger liquidity buffers. In response to the mandate given by the G-20, in September 2009 the Group of Central Bank Governors and Heads of Supervision (GHOS) agreed on a number of measures to strengthen the regulation of the banking sector. Those measures were endorsed by the G-20 leaders at their Pittsburgh Summit of 2425 September 2009 and were set out in detail in December 2009. In July and September 2010, GHOS issued two further announcements on design and calibration of those new measures, and in December 2010, the Basel Committee on Banking Supervision (BCBS) published the final measures, that are referred to as the Basel III framework.

(2) The High Level Group on Financial Supervision in the EU chaired by Jacques de Larosière (the 'de Larosière group') invited the Union to develop a more harmonised set of financial regulations. In the context of the future European supervisory architecture,

the European Council of 18 and 19 June 2009 also stressed the need to establish a European single rule book applicable to all credit institutions and investment firms in the internal market.

(3) As stated in the de Larosière group's report of 25 February 2009 (the 'de Larosière report'), 'a Member State should be able to adopt more stringent national regulatory measures considered to be domestically appropriate for safeguarding financial stability as long as the principles of the internal market and agreed minimum core standards are respected'.

(4) Directive 2006/48/EC of the European Parliament and of the Council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions[3] and 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[4] have been significantly amended on several occasions. Many provisions of Directives 2006/48/EC and 2006/49/EC are applicable to both credit institutions and investment firms. For the sake of clarity and in order to ensure a coherent application of those provisions, they should be merged into new legislative acts that are applicable to both credit institutions and investment firms, namely this Regulation and Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013[5]. For greater accessibility, the provisions of the Annexes to Directives 2006/48/EC and 2006/49/EC should be integrated into the enacting terms of Directive 2013/36/EU and this Regulation.

(5) Together, this Regulation and Directive 2013/36/EU should form the legal framework governing the access to the activity, the supervisory framework and the prudential rules for credit institutions and investment firms (referred to collectively as 'institutions'). This Regulation should therefore be read together with that Directive

(6) Directive 2013/36/EU, based on Article 53(1) of the Treaty on the Functioning of the European Union (TFEU), should, inter alia, contain the provisions concerning the access to the activity of institutions, the modalities for their governance, and their supervisory framework, such as provisions governing the authorisation of the business, the acquisition of qualifying holdings, the exercise of the freedom of establishment and of the freedom to provide services, the powers of the competent authorities of the home and the host Member States in this regard and the provisions governing the initial capital and the supervisory review of institutions.

(7) This Regulation should, inter alia, contain the prudential requirements for institutions that relate strictly to the functioning of banking and financial services markets and are meant to ensure the financial stability of the operators on those markets as well as a high level of protection of investors and depositors. This Regulation aims at contributing in a determined manner to the smooth functioning of the internal market and should, consequently, be based on the provisions of Article 114 TFEU, as interpreted in accordance with the consistent case-law of the Court of Justice of the European Union.

(8) Directives 2006/48/EC and 2006/49/EC, although having harmonised the rules of Member States in the area of prudential supervision to a certain degree, include a significant number of options and possibilities for Member States to impose stricter rules than those laid down by those Directives. This results in divergences between

national rules, which might hamper the cross-border provision of services and the freedom of establishment and so create obstacles to the smooth functioning of the internal market.

(9) For reasons of legal certainty and because of the need for a level playing field within the Union, a single set of regulations for all market participants is a key element for the functioning of the internal market. In order to avoid market distortions and regulatory arbitrage, minimum prudential requirements should therefore ensure maximum harmonisation. As a consequence, the transitional periods provided for in this Regulation are essential for the smooth implementation of this Regulation and to avoid uncertainty for the markets.

(10) Having regard to the work of the BCBS Standards Implementation Group in monitoring and reviewing member countries' implementation of the Basel III framework, the Commission should provide update reports on an ongoing basis, and at least following the publication of each Progress Report by BCBS, on the implementation and domestic adoption of the Basel III framework in other major jurisdictions, including an assessment of the consistency of other countries' legislation or regulations with the international minimum standards, in order to identify differences that could raise level playing field concerns.

(11) In order to remove obstacles to trade and distortions of competition resulting from divergences between national laws and to prevent further likely obstacles to trade and significant distortions of competition from arising, it is therefore necessary to adopt a regulation establishing uniform rules applicable in all Member States.

(12) Shaping prudential requirements in the form of a regulation would ensure that those requirements will be directly applicable. This would ensure uniform conditions by preventing diverging national requirements as a result of the transposition of a directive. This Regulation would entail that all institutions follow the same rules in all the Union, which would also boost confidence in the stability of institutions, especially in times of stress. A regulation would also reduce regulatory complexity and firms' compliance costs, especially for institutions operating on a cross-border basis, and contribute to eliminating competitive distortions. With regard to the peculiarity of immovable property markets, which are characterised by economic developments and jurisdictional differences that are specific to Member States, regions or local areas, competent authorities should be allowed to set higher risks weights or to apply stricter criteria based on default experience and expected market developments to exposures secured by mortgages on immovable property in specific areas.

(13) In areas not covered by this Regulation, such as dynamic provisioning, provisions on national covered bonds schemes not related to the treatment of covered bonds under the rules established by this Regulation, acquisition and holding of participations in both the financial and non-financial sector for purposes not related to prudential requirements specified in this Regulation, competent authorities or Member States should be able to impose national rules, provided that they are not inconsistent with this Regulation.

(14) The most important recommendations advocated in the de Larosière report and later implemented in the Union were the establishment of a single rulebook and a European

framework for macroprudential supervision where both elements in combination were aimed at ensuring financial stability. The single rulebook ensures a robust and uniform regulatory framework facilitating the functioning of the internal market and prevents regulatory arbitrage opportunities. Within the internal market for financial services, macroprudential risks may however differ in a number of ways with a range of national specificities resulting in variances being observed for example with regard to the structure and size of the banking sector compared to the wider economy and the credit cycle.

(15) A number of tools to prevent and mitigate macroprudential and systemic risks have been built into this Regulation and Directive 2013/36/EU ensuring flexibility while at the same time ensuring that the use of those tools are subject to appropriate control in order not to harm the functioning of the internal market while also ensuring that the use of such tools is transparent and consistent.

(16) Beyond the systemic risk buffer tool included in Directive 2013/36/EU, where macroprudential or systemic risks concern a Member State, the competent or designated authorities of the relevant Member State should have the possibility to address those risks by certain specific national macroprudential measures, when this is considered more effective to tackle those risks. The European Systemic Risk Board ('ESRB') established by Regulation (EU) No 1092/2010 of the European Parliament and of the Council of 24 November 2010[(6)] and the European Supervisory Authority (European Banking Authority) ('EBA') established by Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010[(7)] should have the opportunity to provide their opinions on whether the conditions for such national macroprudential measures are met and there should be a Union mechanism to prevent national measures from proceeding, where there is very strong evidence that the relevant conditions are not satisfied. Whilst this Regulation establishes uniform microprudential rules for institutions, Member States retain a leading role in macroprudential oversight because of their expertise and their existing responsibilities in relation to financial stability. In that specific case, since the decision to adopt any national macroprudential measures includes certain assessments in relation to risks which may ultimately affect the macroeconomic, fiscal and budgetary situation of the relevant Member State, it is necessary that the power to reject the proposed national macroprudential measures is conferred on the Council in accordance with Article 291 TFEU, acting on a proposal by the Commission.

(17) Where the Commission has submitted to the Council a proposal to reject national macroprudential measures, the Council should examine that proposal without delay and decide whether or not to reject the national measures. A vote could be taken in accordance with the Rules of Procedure of the Council[(8)] at the request of a Member State or of the Commission. In accordance with Article 296 TFEU, the Council should state the reasons for its decision with respect to the conditions laid down in this Regulation for its intervention. Considering the importance of the macroprudential and systemic risk for the financial market of the Member State concerned and, therefore, the need for rapid reaction, it is important that the time limit for such a Council decision is set to one month. If the Council, after having examined the proposal by the Commission

to reject the proposed national measures in depth, comes to the conclusion that the conditions laid down in this Regulation for the rejection of the national measures were not fulfilled, it should always provide its reasons in a clear and unambiguous manner.

(18) Until the harmonisation of liquidity requirements in 2015 and the harmonisation of a leverage ratio in 2018, Member States should be able to apply such measures as they consider appropriate, including measures to mitigate macroprudential or systemic risk in a specific Member State.

(19) It should be possible to apply systemic risk buffers or individual measures taken by Member States to address systemic risks concerning those Member States, to the banking sector in general or to one or more subsets of the sector, meaning subsets of institutions that exhibit similar risk profiles in their business activities, or to the exposures to one or several domestic economic or geographic sectors across the banking sector.

(20) If two or more Member States' designated authorities identify the same changes in the intensity of systemic or macroprudential risk posing a risk to financial stability at the national level in each Member State which the designated authorities consider would better be addressed by means of national measures, the Member States may submit a joint notification to the Council, the Commission, the ESRB and EBA. When notifying the Council, the Commission, the ESRB and EBA, Member States should submit relevant evidence, including a justification of the joint notification.

(21) The Commission should furthermore be empowered to adopt a delegated act temporarily increasing the level of own funds requirements, requirements for large exposures and public disclosure requirements. Such provisions should be applicable for a period of one year, unless the European Parliament or the Council has objected to the delegated act within a period of three months. The Commission should state the reasons for the use of such a procedure. The Commission should only be empowered to impose stricter prudential requirements for exposures which arise from market developments in the Union or outside the Union affecting all Member States.

(22) A review of the macroprudential rules is justified in order for the Commission to assess, among other things, whether the macroprudential tools in this Regulation or Directive 2013/36/EU are effective, efficient and transparent, whether new instruments should be proposed, whether the coverage and the possible degrees of overlap of the macroprudential tools for targeting similar risks in this Regulation or Directive 2013/36/EU are appropriate and how internationally agreed standards for systemically important institutions interacts with this Regulation or Directive 2013/36/EU.

(23) Where Member States adopt guidelines of general scope, in particular in areas where the adoption by the Commission of draft technical standards is pending, those guidelines shall neither contradict Union law nor undermine its application.

(24) This Regulation does not prevent Member States from imposing, where appropriate, equivalent requirements on undertakings that do not fall within its scope.

(25) The general prudential requirements set out in this Regulation are supplemented by individual arrangements that are decided by the competent authorities as a result of their

ongoing supervisory review of individual institutions. The range of such supervisory arrangements should, inter alia, be set out in Directive 2013/36/EU since the competent authorities should be able to exert their judgment as to which arrangements should be imposed.

(26) This Regulation should not affect the ability of competent authorities to impose specific requirements under the supervisory review and evaluation process set out in Directive 2013/36/EU that should be tailored to the specific risk profile of institutions.

(27) Regulation (EU) No 1093/2010 aims at upgrading the quality and consistency of national supervision and strengthening oversight of cross-border groups.

(28) Given the increase in the number of tasks conferred on EBA by this Regulation and by Directive 2013/36/EU, the European Parliament, the Council and the Commission should ensure that adequate human and financial resources are made available without delay.

(29) Regulation (EU) No 1093/2010 requires EBA to act within the scope of Directives 2006/48/EC and 2006/49/EC. EBA is also required to act in the field of activities of institutions in relation to issues not directly covered in those Directives, provided that such actions are necessary to ensure the effective and consistent application of those Directives. This Regulation should take into account the role and function of EBA and facilitate the exercise of EBA's powers set out in Regulation (EU) No 1093/2010.

(30) After the observation period and the full implementation of a liquidity coverage requirement in accordance with this Regulation, the Commission should assess whether granting EBA a power of initiative to intervene with binding mediation in relation to the reaching of joint decisions by the competent authorities under Articles 20 and 21 of this Regulation would facilitate the practical formation and operation of single liquidity sub-groups as well as the determination of whether criteria for a specific intragroup treatment for cross-border institutions are met. Therefore, at that time, as part of one of the regular reports on the operation of EBA under Article 81 of Regulation (EU) No 1093/2010, the Commission should specifically examine the need to grant EBA such powers and include the results of this examination in its report, which should be accompanied by appropriate legislative proposals, where appropriate.

(31) The de Larosière report stated that microprudential supervision cannot effectively safeguard financial stability without adequately taking account of developments at macro level, while macroprudential oversight is not meaningful unless it can somehow impact on supervision at the micro level. Close cooperation between EBA and the ESRB is essential to give full effectiveness to the functioning of the ESRB and follow up to its warnings and recommendations. In particular, EBA should be able to transmit to the ESRB all relevant information gathered by competent authorities in accordance with the reporting obligations set out in this Regulation.

(32) Considering the devastating effects of the latest financial crisis the overall objectives of this Regulation are to encourage economically useful banking activities that serve the general interest and to discourage unsustainable financial speculation without real added value. This implies a comprehensive reform of the ways savings are channelled

into productive investments. In order to safeguard a sustainable and diverse banking environment in the Union, competent authorities should be empowered to impose higher capital requirements for systemically important institutions that are able, due to their business activities, to pose a threat to the global economy.

(33) Equivalent financial requirements for institutions holding money or securities belonging to their clients are necessary to ensure similar safeguards for savers and fair conditions of competition between comparable groups of institutions.

(34) Since institutions in the internal market are engaged in direct competition, monitoring requirements should be equivalent throughout the Union taking into account the different risk profiles of the institutions.

(35) Whenever in the course of supervision it is necessary to determine the amount of the consolidated own funds of a group of institutions, the calculation should be effected in accordance with this Regulation.

(36) According to this Regulation own funds requirements apply on an individual and consolidated basis, unless competent authorities do not apply supervision on an individual basis where they deem this appropriate. Individual, consolidated and cross-border consolidated supervision are useful tools in overseeing institutions.

(37) In order to ensure adequate solvency of institutions within a group it is essential that the capital requirements apply on the basis of the consolidated situation of those institutions within the group. In order to ensure that own funds are appropriately distributed within the group and available to protect savings where needed, the capital requirements should apply to individual institutions within a group, unless this objective can be effectively achieved otherwise.

(38) The minority interests arising from intermediate financial holding companies that are subject to the requirements of this Regulation on a sub-consolidated basis may also be eligible, within the relevant limits, as Common Equity Tier 1 capital of the group on a consolidated basis, as the Common Equity Tier 1 capital of an intermediate financial holding company attributable to minority interests and the part of that same capital attributable to the parent company support both pari passu the losses of their subsidiaries when they occur.

(39) The precise accounting technique to be used for the calculation of own funds, their adequacy for the risk to which an institution is exposed, and for the assessment of the concentration of exposures should take account of the provisions of Council Directive 86/635/EEC of 8 December 1986 on the annual accounts and consolidated accounts of banks and other financial institutions[(9)], which incorporates certain adaptations of the provisions of Seventh Council Directive 83/349/EEC of 13 June 1983 on consolidated accounts[(10)], or of Regulation (EC) No 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards[(11)], whichever governs the accounting of the institutions under national law.

(40) For the purposes of ensuring adequate solvency it is important to lay down capital requirements which weight assets and off-balance sheet items according to the degree of risk.

(41) On 26 June 2004, the BCBS adopted a framework agreement on the international convergence of capital measurement and capital requirements ('Basel II framework'). The provisions in Directives 2006/48/EC and 2006/49/EC that this Regulation has taken over are equivalent to the provisions of the Basel II framework. Consequently, by incorporating the supplementary elements of the Basel III framework this Regulation is equivalent to the provisions of the Basel II and III frameworks.

(42) It is essential to take account of the diversity of institutions in the Union by providing alternative approaches to the calculation of capital requirements for credit risk incorporating different levels of risk-sensitivity and requiring different degrees of sophistication. Use of external ratings and institutions' own estimates of individual credit risk parameters represents a significant enhancement in the risk-sensitivity and prudential soundness of the credit risk rules. Institutions should be encouraged to move towards the more risk-sensitive approaches. In producing the estimates needed to apply the approaches to credit risk of this Regulation, institutions should enhance their credit risk measurement and management processes to make available methods for determining regulatory own funds requirements that reflect the nature, scale, and complexity of individual institutions' processes. In this regard, the processing of data in connection with the incurring and management of exposures to customers should be considered to include the development and validation of credit risk management and measurement systems. That serves not only to fulfil the legitimate interests of institutions but also the purpose of this Regulation, to use better methods for risk measurement and management and also use them for regulatory own funds purposes. Notwithstanding this, the more risk-sensitive approaches require considerable expertise and resources as well as data of high quality and sufficient volume. Institutions should therefore comply with high standards before applying those approaches for regulatory own funds purposes. Given the ongoing work on ensuring appropriate backstops to internal models, the Commission should prepare a report on the possibility of extending the Basel I floor together with a legislative proposal, if appropriate.

(43) The capital requirements should be proportionate to the risks addressed. In particular the reduction in risk levels deriving from having a large number of relatively small exposures should be reflected in the requirements.

(44) Small and medium-sized enterprises (SMEs) are one of the pillars of the Union economy given their fundamental role in creating economic growth and providing employment. The recovery and future growth of the Union economy depends largely on the availability of capital and funding to SMEs established in the Union to carry out the necessary investments to adopt new technologies and equipment to increase their competitiveness. The limited amount of alternative sources of funding has made SMEs established in the Union even more sensitive to the impact of the banking crisis. It is therefore important to fill the existing funding gap for SMEs and ensure an appropriate flow of bank credit to SMEs in the current context. Capital charges for exposures to SMEs should be reduced through the application of a supporting factor equal to 0,7619 to allow credit institutions to increase lending to SMEs. To achieve this objective, credit institutions should effectively use the capital relief produced through the application of

the supporting factor for the exclusive purpose of providing an adequate flow of credit to SMEs established in the Union. Competent authorities should monitor periodically the total amount of exposures to SMEs of credit institutions and the total amount of capital deduction.

(45) In line with the decision of the BCBS, as endorsed by the GHOS on 10 January 2011, all additional Tier 1 and Tier 2 instruments of an institution should be capable of being fully and permanently written down or converted fully into Common Equity Tier 1 capital at the point of non-viability of the institution. Necessary legislation to ensure that own funds instruments are subject to the additional loss absorption mechanism should be incorporated into Union law as part of the requirements in relation to the recovery and resolution of institutions. If by 31 December 2015, Union law governing the requirement that capital instruments should be capable of being fully and permanently written down to zero or converted into Common Equity Tier 1 instruments in the event that an institution is no longer considered viable has not been adopted, the Commission should review and report on whether such a provision should be included in this Regulation and, in light of that review, submit appropriate legislative proposals.

(46) The provisions of this Regulation respect the principle of proportionality, having regard in particular to the diversity in size and scale of operations and to the range of activities of institutions. Respect for the principle of proportionality also means that the simplest possible rating procedures, even in the Internal Ratings Based Approach (‘IRB Approach’), are recognised for retail exposures. Member States should ensure that the requirements laid down in this Regulation apply in a manner proportionate to the nature, scale and complexity of the risks associated with an institution's business model and activities. The Commission should ensure that delegated and implementing acts, regulatory technical standards and implementing technical standards are consistent with the principle of proportionality, so as to guarantee that this Regulation is applied in a proportionate manner. EBA should therefore ensure that all regulatory and implementing technical standards are drafted in such a way that they are consistent with and uphold the principle of proportionality.

(47) Competent authorities should pay appropriate attention to cases where they suspect that information is regarded as proprietary or confidential in order to avoid disclosure of such information. Although an institution may opt not to disclose information as the information is regarded as proprietary or confidential, the fact that information is being regarded as proprietary or confidential should not discharge liability arising from non-disclosure of that information when such non-disclosure is found to have material effect.

(48) The ‘evolutionary’ nature of this Regulation enables institutions to choose amongst three approaches to credit risk of varying complexity. In order to allow especially small institutions to opt for the more risk-sensitive IRB Approach, the relevant provisions should be read so that exposure classes include all exposures that are, directly or indirectly, put on a par with them throughout this Regulation. As a general rule, the competent authorities should not discriminate between the three approaches with regard to the supervisory review process, i.e. institutions operating according to the provisions

of the Standardised Approach should not, for that reason alone, be supervised on a stricter basis.

(49) Increased recognition should be given to techniques of credit risk mitigation within a framework of rules designed to ensure that solvency is not undermined by undue recognition. The relevant Member States' current customary banking collateral for mitigating credit risks should wherever possible be recognised in the Standardised Approach, but also in the other approaches.

(50) In order to ensure that the risks and risk reductions arising from institutions' securitisation activities and investments are appropriately reflected in the capital requirements of institutions it is necessary to include rules providing for a risk-sensitive and prudentially sound treatment of such activities and investments. To this end, a clear and encompassing definition of securitisation is needed that captures any transaction or scheme whereby the credit risk associated with an exposure or pool of exposures is tranched. An exposure that creates a direct payment obligation for a transaction or scheme used to finance or operate physical assets should not be considered an exposure to a securitisation, even if the transaction or scheme has payment obligations of different seniority.

(51) Alongside surveillance aimed at ensuring financial stability, there is a need for mechanisms designed to enhance and develop an effective surveillance and prevention of potential bubbles in order to ensure optimum allocation of capital in the light of the macroeconomic challenges and objectives, in particular with respect to long term investment in the real economy.

(52) Operational risk is a significant risk faced by institutions requiring coverage by own funds. It is essential to take account of the diversity of institutions in the Union by providing alternative approaches to the calculation of operational risk requirements incorporating different levels of risk-sensitivity and requiring different degrees of sophistication. There should be appropriate incentives for institutions to move towards the more risk-sensitive approaches. In view of the emerging state of the art for the measurement and management of operational risk the rules should be kept under review and updated as appropriate including in relation to the charges for different business lines and the recognition of risk mitigation techniques. Particular attention should be paid in this regard to taking insurance into account in the simple approaches to calculating capital requirements for operational risk.

(53) The monitoring and control of an institution's exposures should be an integral part of its supervision. Therefore, excessive concentration of exposures to a single client or group of connected clients may result in an unacceptable risk of loss. Such a situation can be considered prejudicial to the solvency of an institution.

(54) In determining the existence of a group of connected clients and thus exposures constituting a single risk, it is also important to take into account risks arising from a common source of significant funding provided by the institution itself, its financial group or its connected parties.

(55) While it is desirable to base the calculation of the exposure value on that provided for the purposes of own funds requirements, it is appropriate to adopt rules for the monitoring of large exposures without applying risk weightings or degrees of risk. Moreover, the credit risk mitigation techniques applied in the solvency regime were designed with the assumption of a well-diversified credit risk. In the case of large exposures dealing with single name concentration risk, credit risk is not well diversified. The effects of those techniques should therefore be subject to prudential safeguards. In this context, it is necessary to provide for an effective recovery of credit protection for the purposes of large exposures.

(56) Since a loss arising from an exposure to an institution can be as severe as a loss from any other exposure, such exposures should be treated and reported in the same manner as any other exposures. An alternative quantitative limit has been introduced to alleviate the disproportionate impact of such an approach on smaller institutions. In addition, very short-term exposures related to money transmission including the execution of payment services, clearing, settlement and custody services to clients are exempt to facilitate the smooth functioning of financial markets and of the related infrastructure. Those services cover, for example, the execution of cash clearing and settlement and similar activities to facilitate settlement. The related exposures include exposures which might not be foreseeable and are therefore not under the full control of a credit institution, inter alia, balances on inter-bank accounts resulting from client payments, including credited or debited fees and interest, and other payments for client services, as well as collateral given or received.

(57) It is important that the interests of undertakings that 're-package' loans into tradable securities and other financial instruments (originators or sponsors) and undertakings that invest in these securities or instruments (investors) are aligned. To achieve this, the originator or sponsor should retain a significant interest in the underlying assets. It is therefore important for the originators or the sponsors to retain exposure to the risk of the loans in question. More generally, securitisation transactions should not be structured in such a way as to avoid the application of the retention requirement, in particular through any fee or premium structure or both. Such retention should be applicable in all situations where the economic substance of a securitisation is applicable, whatever legal structures or instruments are used to obtain this economic substance. In particular where credit risk is transferred by securitisation, investors should make their decisions only after conducting thorough due diligence, for which they need adequate information about the securitisations.

(58) This Regulation also provides that there be no multiple applications of the retention requirement. For any given securitisation it suffices that only the originator, the sponsor or the original lender is subject to the requirement. Similarly, where securitisation transactions contain other securitisations as an underlying, the retention requirement should be applied only to the securitisation which is subject to the investment. Purchased receivables should not be subject to the retention requirement if they arise from corporate activity where they are transferred or sold at a discount to finance such activity. Competent authorities should apply the risk weight in relation

to non-compliance with due diligence and risk management obligations in relation to securitisation for non-trivial breaches of policies and procedures which are relevant to the analysis of the underlying risks. The Commission should also review whether avoidance of multiple applications of the retention requirement could be conducive to practices circumventing the retention requirement and whether the rules on securitisations are enforced effectively by the competent authorities.

(59) Due diligence should be used in order to properly assess the risks arising from securitisation exposures for both the trading book and the non-trading book. In addition, due diligence obligations need to be proportionate. Due diligence procedures should contribute to building greater confidence between originators, sponsors and investors. It is therefore desirable that relevant information concerning the due diligence procedures is properly disclosed.

(60) When an institution incurs an exposure to its own parent undertaking or to other subsidiaries of its parent undertaking, particular prudence is necessary. The management of such exposures incurred by institutions should be carried out in a fully autonomous manner, in accordance with the principles of sound management, without regard to any other considerations. This is especially important in the case of large exposures and in cases not simply related to intragroup administration or usual intragroup transactions. Competent authorities should pay particular attention to such intragroup exposures. Such standards need not, however be applied where the parent undertaking is a financial holding company or a credit institution or where the other subsidiaries are either credit or financial institutions or undertakings offering ancillary services, provided that all such undertakings are covered by the supervision of the credit institution on a consolidated basis.

(61) In view of the risk-sensitivity of the rules relating to capital requirements, it is desirable to keep under review whether these have significant effects on the economic cycle. The Commission, taking into account the contribution of the European Central Bank (ECB), should report on these aspects to the European Parliament and to the Council.

(62) The capital requirements for commodity dealers, including those dealers currently exempt from the requirements of Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments[12], should be reviewed.

(63) The goal of liberalisation of gas and electricity markets is both economically and politically important for the Union. With this in mind, the capital requirements and other prudential rules to be applied to firms active in those markets should be proportionate and should not unduly interfere with achievement of the goal of liberalisation. This goal should, in particular, be kept in mind when reviews of this Regulation are carried out.

(64) Institutions investing in re-securitisations should exercise due diligence also with regard to the underlying securitisations and the non-securitisation exposures ultimately underlying the former. Institutions should assess whether exposures in the context of asset-backed commercial paper programmes constitute re-securitisation exposures, including those in the context of programmes which acquire senior tranches of separate pools of whole loans where none of those loans is a securitisation or re-securitisation

exposure, and where the first-loss protection for each investment is provided by the seller of the loans. In the latter situation, a pool- specific liquidity facility should generally not be considered a re-securitisation exposure because it represents a tranche of a single asset pool (that is, the applicable pool of whole loans) which contains no securitisation exposures. By contrast, a programme-wide credit enhancement covering only some of the losses above the seller-provided protection across the various pools generally would constitute a tranching of the risk of a pool of multiple assets containing at least one securitisation exposure, and would therefore be a re-securitisation exposure. Nevertheless, if such a programme funds itself entirely with a single class of commercial paper, and if either the programme-wide credit enhancement is not a re-securitisation or the commercial paper is fully supported by the sponsoring institution, leaving the commercial paper investor effectively exposed to the default risk of the sponsor instead of the underlying pools or assets, then that commercial paper generally should not be considered a re-securitisation exposure.

(65) The provisions on prudent valuation for the trading book should apply to all instruments measured at fair value, whether in the trading book or non- trading book of institutions. It should be clarified that, where the application of prudent valuation would lead to a lower carrying value than actually recognised in the accounting, the absolute value of the difference should be deducted from own funds.

(66) Institutions should have a choice whether to apply a capital requirement to or deduct from Common Equity Tier 1 items those securitisation positions that receive a 1 250 % risk weight under this Regulation, irrespective of whether the positions are in the trading or the non-trading book.

(67) Originator or sponsor institutions should not be able to circumvent the prohibition of implicit support by using their trading books in order to provide such support.

(68) Without prejudice to the disclosures explicitly required by this Regulation, the aim of the disclosure requirements should be to provide market participants with accurate and comprehensive information regarding the risk profile of individual institutions. Institutions should therefore be required to disclose additional information not explicitly listed in this Regulation where such disclosure is necessary to meet that aim. At the same time, competent authorities should pay appropriate attention to cases where they suspect that information is regarded as proprietary or confidential by an institution in order to avoid disclosure of such information.

(69) Where an external credit assessment for a securitisation position incorporates the effect of credit protection provided by the investing institution itself, the institution should not be able to benefit from the lower risk weight resulting from that protection. The securitisation position should not be deducted from capital if there are other ways to determine a risk weight in line with the actual risk of the position which does not take that credit protection into account.

(70) Given their recent weak performance, the standards for internal models to calculate market risk capital requirements should be strengthened. In particular, their capture of risks should be completed regarding credit risks in the trading book. Furthermore, capital charges should include a component adequate to stress conditions to strengthen

capital requirements in view of deteriorating market conditions and in order to reduce the potential for pro-cyclicality. Institutions should also carry out reverse stress tests to examine what scenarios could challenge the viability of the institution unless they can prove that such a test is dispensable. Given the recent particular difficulties of treating securitisation positions using approaches based on internal models, the recognition of institutions' modelling of securitisation risks to calculate capital requirements in the trading book should be limited and a standardised capital charge for securitisation positions in the trading book should be required by default.

(71) This Regulation lays down limited exceptions for certain correlation trading activities, in accordance with which an institution may be permitted by its supervisor to calculate a comprehensive risk capital charge subject to strict requirements. In such cases the institution should be required to subject those activities to a capital charge equal to the higher of the capital charge in accordance with that internally developed approach and 8 % of the capital charge for specific risk in accordance with the standardised measurement method. It should not be required to subject those exposures to the incremental risk charge but they should be incorporated into both the value-at-risk measures and the stressed value-at-risk measures.

(72) In light of the nature and magnitude of unexpected losses experienced by institutions during the financial and economic crisis, it is necessary to improve further the quality and harmonisation of own funds that institutions are required to hold. This should include the introduction of a new definition of the core elements of capital available to absorb unexpected losses as they arise, enhancements to the definition of hybrid capital and uniform prudential adjustments to own funds. It is also necessary to raise significantly the level of own funds, including new capital ratios focusing on the core elements of own funds available to absorb losses as they arise. It is expected that institutions whose shares are admitted to trading on a regulated market should meet their capital requirements regarding the core elements of capital with such shares that meet a strict set of criteria for the core capital instruments and the disclosed reserves of the institution only. In order to adequately take into account the diversity of legal forms under which institutions within the Union are operating, the strict set of criteria for the core capital instruments should ensure that core capital instruments for institutions whose shares are not admitted to trading on a regulated market are of the highest quality. This should not prevent institutions from paying, on shares that have differentiated or no voting rights, distributions that are a multiple of those paid on shares which have relatively higher levels of voting rights, provided that, irrespective of the level of voting rights, the strict criteria for Common Equity Tier 1 instruments are met, including those relating to the flexibility of payments, and provided that where a distribution is paid it is to be paid on all shares issued by the institution concerned.

(73) Trade finance exposures are diverse in nature but share characteristics such as being small in value and short in duration and having an identifiable source of repayment. They are underpinned by movements of goods and services that support the real economy and in most cases help small companies in their day-to-day needs, thereby creating economic growth and job opportunities. Inflows and outflows are usually matched and liquidity risk is therefore limited.

(74) It is appropriate that EBA keeps an up-to-date list of all of the forms of capital instruments in each Member State that qualify as Common Equity Tier 1 instruments. EBA should remove from that list non-State aid instruments issued after the date of entry into force of this Regulation not meeting the criteria specified in this Regulation and should publicly announce such removal. Where instruments removed by EBA from the list continue to be recognised after EBA's announcement, EBA should fully exercise its powers, in particular those conferred by Article 17 of Regulation (EU) No 1093/2010 concerning breaches of Union law. It is recalled that a three-step mechanism applies for a proportionate response to instances of incorrect or insufficient application of Union law, whereby, as a first step, EBA is empowered to investigate alleged incorrect or insufficient application of Union law obligations by national authorities in their supervisory practice, concluded by a recommendation. Second, where the competent national authority does not follow the recommendation, the Commission is empowered to issue a formal opinion taking into account the EBA's recommendation, requiring the competent authority to take the actions necessary to ensure compliance with Union law. Third, to overcome exceptional situations of persistent inaction by the competent authority concerned, EBA is empowered, as a last resort, to adopt decisions addressed to individual financial institutions. Moreover, it is recalled that, under Article 258 TFEU, where the Commission considers that a Member State has failed to fulfil an obligation under the Treaties, it has the power to bring the matter before the Court of Justice of the European Union.

(75) This Regulation should not affect the ability of competent authorities to maintain pre-approval processes regarding the contracts governing Additional Tier 1 and Tier 2 capital instruments. In those cases such capital instruments should only be computed towards the institution's Additional Tier 1 capital or Tier 2 capital once they have successfully completed these approval processes.

(76) For the purposes of strengthening market discipline and enhancing financial stability it is necessary to introduce more detailed requirements for disclosure of the form and nature of regulatory capital and prudential adjustments made in order to ensure that investors and depositors are sufficiently well informed about the solvency of institutions.

(77) It is further necessary for competent authorities to have knowledge of the level, at least in aggregate terms, of repurchase agreements, securities lending and all forms of encumbrance of assets. Such information should be reported to the competent authorities. For the purposes of strengthening market discipline, there should be more detailed requirements for disclosure of repurchase agreements and secured funding.

(78) The new definition of capital and regulatory capital requirements should be introduced in a manner that takes account of the fact that there are different national starting points and circumstances, with initial variance around the new standards being reduced over the transitional period. In order to ensure the appropriate continuity in the level of own funds, instruments issued within the context of a recapitalisation measure pursuant to State aid rules and issued prior to the date of application of this Regulation will be grandfathered for the extent of the transitional period. Reliance on State aid should

be reduced as much as possible in the future. However, to the extent that State aid proves necessary in certain situations, this Regulation should provide for a framework to deal with such situations. In particular, this Regulation should specify what should be the treatment for own funds instruments issued within the context of a recapitalisation measure pursuant to State aid rules. The possibility for institutions to benefit from such treatment should be subject to strict conditions. Furthermore, to the extent that such treatment allows for deviations from the new criteria on the quality of own funds instruments those deviations should be limited to the largest extent possible. The treatment for existing capital instruments issued within the context of a recapitalisation measure pursuant to State aid- rules, should clearly distinguish between those capital instruments that comply with the requirements of this Regulation and those that do not. Appropriate transitional provisions for the latter case should therefore be laid down in this Regulation.

(79) Directive 2006/48/EC required credit institutions to provide own funds that are at least equal to specified minimum amounts until 31 December 2011. In the light of the continuing effects of the financial crisis in the banking sector and the extension of the transitional arrangements for capital requirements adopted by the BCBS, it is appropriate to reintroduce a lower limit for a limited period of time until sufficient amounts of own funds have been established in accordance with the transitional arrangements for own funds provided for in this Regulation that will be progressively phased in from the date of application of this Regulation to 2019.

(80) For groups which include significant banking or investment business and insurance business, Directive 2002/87/EC of the European Parliament and of the Council of 16 December 2002 on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate[13], provides specific rules to address such ‘double counting’ of capital. Directive 2002/87/EC is based on internationally agreed principles for dealing with risk across sectors. This Regulation strengthens the way those financial conglomerates rules shall apply to bank and investment firm groups, ensuring their robust and consistent application. Any further changes that are necessary will be addressed in the review of Directive 2002/87/EC, which is expected in 2015.

(81) The financial crisis highlighted that institutions greatly underestimated the level of counterparty credit risk associated with over-the-counter (OTC) derivatives. This prompted the G-20, in September 2009, to call for more OTC derivatives to be cleared through a central counterparty (CCP). Furthermore, they asked for those OTC derivatives that could not be cleared centrally to be subject to higher own funds requirements in order to properly reflect the higher risks associated with them.

(82) Following the G-20 call, the BCBS, as part of the Basel III framework, materially changed the counterparty credit risk regime. The Basel III framework is expected to significantly increase the own funds requirements associated with institutions' OTC derivatives and securities financing transactions and to create important incentives for institutions to use CCPs. The Basel III framework is also expected to provide further incentives to strengthen the risk management of counterparty credit exposures and to

revise the current regime for the treatment of counterparty credit risk exposures to CCPs.

(83) Institutions should hold additional own funds due to credit valuation adjustment risk arising from OTC derivatives. Institutions should also apply a higher asset value correlation in the calculation of the own funds requirements for counterparty credit risk exposures arising from OTC derivatives and securities-financing transactions to certain financial institutions. Institutions should also be required to considerably improve measurement and management of counterparty credit risk by better addressing wrong-way risk, highly leveraged counterparties and collateral, accompanied by the corresponding enhancements in the areas of back-testing and stress testing.

(84) Trade exposures to CCPs usually benefit from the multilateral netting and loss-sharing mechanism provided by CCPs. As a consequence, they involve a very low counterparty credit risk and should therefore be subject to a very low own funds requirement. At the same time, this requirement should be positive in order to ensure that institutions track and monitor their exposures to CCPs as part of good risk management and to reflect that even trade exposures to CCPs are not risk-free.

(85) A CCP's default fund is a mechanism that allows the sharing (mutualisation) of losses among the CCP's clearing members. It is used where the losses incurred by the CCP following the default of a clearing member are greater than the margins and default fund contributions provided by that clearing member and any other defence the CCP may use before recurring to the default fund contributions of the remaining clearing members. In view of this, the risk of loss associated with exposures from default fund contributions is higher than that associated with trade exposures. Therefore, this type of exposures should be subject to a higher own funds requirement.

(86) The ‘hypothetical capital’ of a CCP should be a variable needed to determine the own funds requirement for a clearing member's exposures from its contributions to a CCP's default fund. It should not be understood as anything else. In particular, it should not be understood as the amount of capital that a CCP is required to hold by its competent authority.

(87) The review of the treatment of counterparty credit risk, and in particular putting in place higher own funds requirements for bilateral derivative contracts in order to reflect the higher risk that such contracts pose to the financial system, forms an integral part of the Commission's efforts to ensure efficient, safe and sound derivatives markets. Consequently, this Regulation complements Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories[14].

(88) The Commission should review the relevant exemptions for large exposures by 31 December 2015. Pending the outcome of that review, Member States should continue being allowed to decide on the exemption of certain large exposures from those rules for a sufficiently long transitional period. Building on the work done in the context of the preparation and negotiation of Directive 2009/111/EC of the European Parliament and of the Council of 16 September 2009 amending Directives 2006/48/EC, 2006/49/EC and 2007/64/EC as regards banks affiliated to central institutions, certain own

funds items, large exposures, supervisory arrangements, and crisis management[(15)] and taking into account international and Union developments on those issues, the Commission should review whether those exemptions should continue to be applied in a discretionary or in a more general way and on whether the risks related to those exposures are addressed by other effective means laid down in this Regulation.

(89) In order to ensure that exemptions of exposures by competent authorities do not jeopardise the coherence of the uniform rules established by this Regulation on a permanent basis, after a transitional period, and in the absence of any outcome of that review, the competent authorities should consult EBA on whether or not it is appropriate to continue making use of the possibility to exempt certain exposures.

(90) The years preceding the financial crisis were characterised by an excessive build up in institutions' exposures in relation to their own funds (leverage). During the financial crisis, losses and the shortage of funding forced institutions to reduce significantly their leverage over a short period of time. This amplified downward pressures on asset prices, causing further losses for institutions which in turn led to further declines in their own funds. The ultimate results of this negative spiral were a reduction in the availability of credit to the real economy and a deeper and longer crisis.

(91) Risk-based own funds requirements are essential to ensure sufficient own funds to cover unexpected losses. However, the crisis has shown that those requirements alone are not sufficient to prevent institutions from taking on excessive and unsustainable leverage risk.

(92) In September 2009, the G-20 leaders committed to developing internationally-agreed rules to discourage an excessive leverage. To that end, they supported the introduction of a leverage ratio as a supplementary measure to the Basel II framework.

(93) In December 2010, the BCBS published guidelines defining the methodology for calculating the leverage ratio. Those rules provide for an observation period that will run from 1 January 2013 until 1 January 2017 during which the leverage ratio, its components and its behaviour relative to the risk-based requirement will be monitored. Based on the results of the observation period the BCBS intends to make any final adjustments to the definition and calibration of the leverage ratio in the first half of 2017, with a view to migrating to a binding requirement on 1 January 2018 based on appropriate review and calibration. The BCBS guidelines also provide for disclosure of the leverage ratio and its components starting from 1 January 2015.

(94) A leverage ratio is a new regulatory and supervisory tool for the Union. In line with international agreements, it should be introduced first as an additional feature that can be applied on individual institutions at the discretion of supervisory authorities. Reporting obligations for institutions would allow appropriate review and calibration, with a view to migrating to a binding measure in 2018.

(95) When reviewing the impact of the leverage ratio on different business models, particular attention should be paid to business models which are considered to entail low risk, such as mortgage lending and specialised lending to regional governments, local authorities or public sector entities. EBA, on the basis of data received and the findings of the

supervisory review during an observation period, should in cooperation with competent authorities develop a classification of business models and risks. Based on appropriate analysis, and also taking into account historical data or stress scenarios, there should be an assessment of the appropriate levels of the leverage ratio that safeguard the resilience of the respective business models and whether the levels of the leverage ratio should be set as thresholds or ranges. After the observation period and the calibration of the respective levels of the leverage ratio, and on the basis of the assessment, EBA can publish an appropriate statistical review, including averages and standard deviations, of the leverage ratio. After adoption of the leverage ratio requirements, EBA should publish an appropriate statistical review, including averages and standard deviations, of the leverage ratio in relation to the identified categories of institutions.

(96) Institutions should monitor the level and changes in the leverage ratio as well as leverage risk as part of the internal capital adequacy assessment process (ICAAP). Such monitoring should be included in the supervisory review process. In particular, after the entry into force of the leverage ratio requirements, competent authorities should monitor the developments in the business model and corresponding risk profile in order to ensure up to date and proper classification of institutions.

(97) Good governance structures, transparency and disclosure are essential for sound remuneration policies. In order to ensure adequate transparency to the market of their remuneration structures and the associated risk, institutions should disclose detailed information on their remuneration policies, practices and, for reasons of confidentiality, aggregated amounts for those members of staff whose professional activities have a material impact on the risk profile of the institution. That information should be made available to all stakeholders. Those particular requirements should be without prejudice to more general disclosure requirements concerning remuneration policies applicable horizontally across sectors. Moreover, Member States should be allowed to require institutions to make available more detailed information on remuneration.

(98) The recognition of a credit rating agency as an external credit assessment institution (ECAI) should not increase the foreclosure of a market already dominated by three main undertakings. EBA and ESCB central banks, without making the process easier or less demanding, should provide for the recognition of more credit rating agencies as ECAIs as a way to open the market to other undertakings.

(99) Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data[16] and Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data[17], should be fully applicable to the processing of personal data for the purposes of this Regulation.

(100) Institutions should hold a diversified buffer of liquid assets that they can use to cover liquidity needs in a short term liquidity stress. As it is not possible to know ex ante with certainty which specific assets within each asset class might be subject to shocks ex post, it is appropriate to promote a diversified and high-quality liquidity buffer consisting of

different asset categories. A concentration of assets and overreliance on market liquidity creates systemic risk to the financial sector and should be avoided. A broad set of quality assets should therefore be taken into consideration during an initial observation period which will be used for the development of a definition of a liquidity coverage requirement. When making a uniform definition of liquid assets at least government bonds, and covered bonds traded on transparent markets with an ongoing turnover would be expected to be considered assets of extremely high liquidity and credit quality. It would also be appropriate that assets corresponding to Article 416(1)(a) to (c) should be included in the buffer without limitations. When institutions use the liquidity stock, they should put in place a plan to restore their holdings of liquid assets and competent authorities should ensure the adequacy of the plan and its implementation.

(101) The stock of liquid assets should be available at any time to meet the liquidity outflows. The level of liquidity needs in a short-term liquidity stress should be determined in a standardised manner so as to ensure a uniform soundness standard and a level playing field. It should be ensured that such a standardised determination has no unintended consequences for financial markets, credit extension and economic growth, also taking into account different business and investment models and funding environments of institutions across the Union. To this end, the liquidity coverage requirement should be subject to an observation period. Based on the observations and supported by reports from EBA, the Commission should be empowered to adopt a delegated act to introduce in a timely manner a detailed and harmonised liquidity coverage requirement for the Union. In order to ensure global harmonisation in the area of regulation of liquidity any delegated act to introduce the liquidity coverage requirement should be comparable to the liquidity coverage ratio set out in the final international framework for liquidity risk measurement, standards and monitoring of the BCBS taking into account Union and national specificities.

(102) To that end, during the observation period, EBA should review and assess, inter alia the appropriateness of a threshold of 60 % on level 1 liquid assets, a cap of 75 % of inflows to outflows and the phase-in of the liquidity coverage requirement from 60 % from 1 January 2015 increasing on a graduated basis to 100 %. When assessing and reporting on the uniform definitions of the stock of liquid assets, EBA should have regard to the BCBS definition of high-quality liquid assets (HQLA) for the basis of its analysis, taking Union and national specificities into account. While EBA should identify those currencies where the needs of institutions established in the Union for liquid assets exceeds the availability of those liquid assets in that currency, EBA should also annually examine whether derogations, including those identified in this Regulation, should be applied. In addition, EBA should assess annually whether in relation to any such derogation as well as derogations already identified in this Regulation, any additional conditions should be attached to their use by institutions established in the Union or whether existing conditions should be revised. EBA should submit the results of its analysis in an annual report to the Commission.

(103) With a view to increasing efficiency and reducing the administrative burden, EBA should set up a coherent reporting framework on the basis of a harmonised set of standards for liquidity requirements that should be applied across the Union. To this

end, EBA should develop uniform reporting formats and IT solutions that take into account the provisions of this Regulation and Directive 2013/36/EU. Until the date of application of the full liquidity requirements, institutions should continue to meet their national reporting requirements.

(104) EBA, in cooperation with the ESRB, should issue guidance on the principles for use of liquid stock in a stress situation.

(105) It should not be taken for granted that institutions will receive liquidity support from other institutions belonging to the same group when they experience difficulties in meeting their payment obligations. However, subject to stringent conditions and the individual agreement of all competent authorities involved, competent authorities should be able to waive the application of the liquidity requirement for individual institutions and subject those institutions to a consolidated requirement, in order to allow them to manage their liquidity centrally at group or sub-group level.

(106) In the same vein, where no waiver is granted, liquidity flows between two institutions belonging to the same group and which are subject to consolidated supervision, should, when the liquidity requirement becomes a binding measure, receive preferential inflow and outflow rates only in those cases where all the necessary safeguards are in place. Such specific preferential treatments should be narrowly defined and linked to the fulfilment of a number of stringent and objective conditions. The specific treatment applicable to a given intragroup flow should be obtained through a methodology using objective criteria and parameters in order to determine specific levels of inflows and outflows between the institution and the counterparty. Based on the observations and supported by the EBA report, the Commission should, as appropriate and as part of the delegated act which it adopts pursuant to this Regulation to specify the liquidity coverage requirement, be empowered to adopt delegated acts to lay down those specific intragroup treatments, the methodology and the objective criteria to which they are linked as well as joint decision modalities for the assessment of those criteria.

(107) Bonds issued by the National Asset Management Agency (NAMA) in Ireland are of particular importance to the Irish banking recovery and their issue has been granted prior approval by the Member States, and approved as a State aid by the Commission as a support measure introduced to remove impaired assets from the balance sheets of certain credit institutions. The issuance of such bonds, a transitional measure supported by the Commission and the ECB, is an integral part in the restructuring of the Irish banking system. Such bonds are guaranteed by the Irish government and are eligible collateral with monetary authorities. The Commission should address specific grandfathering mechanisms of transferable assets issued or guaranteed by entities with Union State aid approval, as part of the delegated act which it adopts pursuant to this Regulation to specify the liquidity coverage requirement. In that regard the Commission should take into account the fact that institutions calculating the liquidity coverage requirements in accordance with this Regulation should be permitted to include NAMA senior bonds as assets of extremely high liquidity and credit quality until December 2019.

(108) Similarly, the bonds issued by the Spanish Asset Management Company are of particular importance to the Spanish banking recovery and are a transitional measure

supported by the Commission and the ECB, as an integral part in the restructuring of the Spanish banking system. Since their issuance is provided for in the Memorandum of Understanding on Financial Sector Policy Conditionality signed by the Commission and the Spanish Authorities on 23 July 2012, and the transfer of assets requires approval by the Commission as a State aid measure introduced to remove impaired assets from the balance sheets of certain credit institutions, and to the extent they are guaranteed by the Spanish government and are eligible collateral with monetary authorities. The Commission should address specific grandfathering mechanisms of transferable assets issued or guaranteed by entities with Union State aid approval as part of the delegated act which it adopts pursuant to this Regulation to specify the liquidity coverage requirement. In that regard the Commission should take into account the fact that institutions calculating the liquidity coverage requirements in accordance with this Regulation should be permitted to include Spanish Asset Management Company senior bonds as assets of extremely high liquidity and credit quality until at least December 2023.

(109) On the basis of the reports which EBA is required to submit and when preparing the proposal for a delegated act on liquidity requirements, the Commission should also consider if senior bonds issued by legal entities similar to NAMA in Ireland or the Spanish Asset Management Company, established for the same purpose and of particular importance for bank recovery in any other Member State, should be granted such treatment, to the extent they are guaranteed by the central government of the relevant Member State and are eligible collateral with monetary authorities.

(110) In developing draft regulatory technical standards to determine methods for the measurement of additional outflow, EBA should consider a historical look back standardised approach as a method of such measurement.

(111) Pending the introduction of the net stable funding ratio (NSFR) as a binding minimum standard, institutions should observe a general funding obligation. The general funding obligation should not be a ratio requirement. If, pending the introduction of the NSFR, a stable funding ratio is introduced as a minimum standard by way of a national provision, institutions should comply with this minimum standard accordingly.

(112) Apart from short-term liquidity needs, institutions should also adopt funding structures that are stable over a longer term horizon. In December 2010, the BCBS agreed that the NSFR will move to a minimum standard by 1 January 2018 and that the BCBS will put in place rigorous reporting processes to monitor the ratio during a transitional period and will continue to review the implications of these standards for financial markets, credit extension and economic growth, addressing unintended consequences as necessary. The BCBS thus agreed that the NSFR will be subject to an observation period and will include a review clause. In that context, EBA should, based on reporting required by this Regulation, evaluate how a stable funding requirement should be designed. Based on this evaluation, the Commission should report to the European Parliament and the Council together with any appropriate proposals in order to introduce such a requirement by 2018.

(113) Weaknesses in corporate governance in a number of institutions have contributed to excessive and imprudent risk-taking in the banking sector which led to the failure of individual institutions and systemic problems.

(114) In order to facilitate the monitoring of institutions' corporate governance practices and improve market discipline, institutions should publicly disclose their corporate governance arrangements. Their management bodies should approve and publicly disclose a statement providing assurance to the public that these arrangements are adequate and efficient.

(115) In order to take account of the diversity of business models of institutions in the internal market certain long-term structural requirements such as the NSFR and the leverage ratio should be examined closely with a view of promoting a variety of sound banking structures which have been and should continue to of service to the Union's economy.

(116) For the continuous provision of financial services to households and firms a stable funding structure is necessary. Long-term funding flows in bank-based financial systems in many Member States may generally possess different characteristics than those found in other international markets. In addition, specific funding structures may have developed in Member States to provide stable financing for long-term investment, including decentralised banking structures to channel liquidity or specialised mortgage securities which trade on highly liquid markets or are a welcome investment for long-term investors. Those structural factors should be carefully considered. It is essential to that purpose that, once international standards are finalised, EBA and the ESRB, based on reporting required by this Regulation, evaluate how a stable funding requirement should be designed fully taking into account the diversity of funding structures in the banking market in the Union.

(117) In order to ensure progressive convergence between the level of own funds and the prudential adjustments applied to the definition of own funds across the Union and to the definition of own funds laid down in this Regulation during a transitional period, the phasing in of the own funds requirements of this Regulation should occur gradually. It is vital to ensure that this phasing in is consistent with the recent enhancements made by Member States to the required levels of own funds and to the definition of own funds in place in the Member States. To that end, during the transitional period the competent authorities should determine within defined lower and upper limits how rapidly to introduce the required level of own funds and prudential adjustments laid down in this Regulation.

(118) In order to facilitate a smooth transition from divergent prudential adjustments currently applied in Member States to the set of prudential adjustments laid down in this Regulation, competent authorities should be able during a transitional period to continue to require institutions, to a limited extent, to make prudential adjustments to own funds that derogate from this Regulation.

(119) In order to ensure that institutions have sufficient time to meet the new required levels and definition of own funds, certain capital instruments that do not comply with the definition of own funds laid down in this Regulation should be phased out

between 1 January 2013 and 31 December 2021. In addition, certain state-injected instruments should be recognised fully in own funds for a limited period. Furthermore, share premium accounts related to items that qualified as own funds under national transposition measures for Directive 2006/48/EC should under certain circumstances qualify as Common Equity Tier 1.

(120) In order to ensure progressive convergence towards uniform rules on disclosure by institutions to provide market participants with accurate and comprehensive information regarding the risk profile of individual institutions, disclosure requirements should be phased in gradually.

(121) In order to take account of market developments and experience in the application of this Regulation, the Commission should be required to submit reports to the European Parliament and to the Council, together with legislative proposals, where appropriate, on the possible effect of capital requirements on the economic cycle of minimum own funds requirements for exposures in the form of covered bonds, large exposures, liquidity requirements, leverage, exposures to transferred credit risk, counterparty credit risk and the original exposure method, retail exposures, on the definition of eligible capital, and the level of application of this Regulation.

(122) The primary purpose of the legal framework for credit institutions should be to ensure the operation of vital services to the real economy while limiting the risk of moral hazard. The structural separation of retail and investment banking activities within a banking group could be one of the key tools to support this objective. No provision in the current regulatory framework should therefore prevent the introduction of measures to effect such a separation. The Commission should be required to analyse the issue of structural separation in the Union and submit a report, together with legislative proposals, if appropriate, to the European Parliament and the Council.

(123) Similarly, with a view to protecting depositors and preserving financial stability, Member States should also be permitted to adopt structural measures that require credit institutions authorised in that Member State to reduce their exposures to different legal entities depending on their activities, irrespective of where those activities are located. However, because such measures could have a negative impact by fragmenting the internal market, they should only be approved subject to strict conditions pending the entry into force of a future legal act explicitly harmonising such measures.

(124) In order to specify the requirements set out in this Regulation, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of technical adjustments to this Regulation to clarify definitions to ensure uniform application of this Regulation or to take account of developments on financial markets, to align terminology on, and frame definitions in accordance with, subsequent relevant acts, to adjust the provisions of this Regulation on own funds to reflect developments in accounting standards or Union law, or with regard to the convergence of supervisory practices, to expand the lists of exposure classes for the purposes of the Standardised Approach or the IRB Approach to take account of developments on financial markets, to adjust certain amounts relevant to those exposure classes to take into account the effects of inflation; to adjust the list and classification of off- balance sheet items and to adjust

specific provisions and technical criteria on the treatment of counterparty credit risk, the Standardised Approach and the IRB Approach, credit risk mitigation, securitisation, operational risk, market risk, liquidity, leverage and disclosure in order to take account of developments on financial markets or in accounting standards or Union law, or with regard to the convergence of supervisory practices and risk measurement and to take account of the outcome of the review of various matters relating to the scope of Directive 2004/39/EC.

(125) The power to adopt acts in accordance with Article 290 TFEU should also be delegated to the Commission in respect of prescribing a temporary reduction in the level of own funds or risk weights specified under this Regulation in order to take account of specific circumstances, to clarify the exemption of certain exposures from the application of provisions of this Regulation on large exposures, to specify amounts relevant to the calculation of capital requirements for the trading book to take account of developments in the economic and monetary field, to adjust the categories of investment firms eligible for certain derogations from required levels of own funds to take account of developments on financial markets, to clarify the requirement that investment firms hold own funds equivalent to one quarter of their fixed overheads of the preceding year to ensure uniform application of this Regulation, to determine the elements of own funds from which deductions of an institution's holdings of the instruments of relevant entities should be made, to introduce additional transitional provisions relating to the treatment of actuarial gains and losses in measuring defined benefit pension liabilities of institutions. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.

(126) In accordance with Declaration No 39 on Article 290 TFEU, the Commission should continue to consult experts appointed by the Member States in the preparation of draft delegated acts in the financial services area, in accordance with its established practice.

(127) Technical standards in financial services should ensure harmonisation, uniform conditions and adequate protection of depositors, investors and consumers across the Union. As a body with highly specialised expertise, it would be efficient and appropriate to entrust EBA with the elaboration of draft regulatory and implementing technical standards which do not involve policy choices, for submission to the Commission. EBA should ensure efficient administrative and reporting processes when drafting technical standards. The reporting formats should be proportionate to the nature, scale and complexity of the activities of the institutions.

(128) The Commission should adopt draft regulatory technical standards developed by EBA in the areas of mutuals, cooperative societies, savings institutions or similar institutions, certain own funds instruments, prudential adjustments, deductions from own funds, additional own funds instruments, minority interests, services ancillary to banking, the treatment of credit risk adjustment, probability of default, loss given default, approaches to risk-weighting of assets, convergence of supervisory practices, liquidity,

and transitional arrangements for own funds, by means of delegated acts pursuant to Article 290 TFEU and in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission and EBA should ensure that those standards and requirements can be applied by all institutions concerned in a manner that is proportionate to the nature, scale and complexity of those institutions and their activities.

(129) The implementation of some delegated acts provided for in this Regulation, such as the delegated act concerning the liquidity coverage requirement, may potentially have a substantial impact on supervised institutions and the real economy. The Commission should ensure that the European Parliament and the Council are always well informed about relevant developments at international level and current thinking within the Commission well before the publication of delegated acts.

(130) The Commission should also be empowered to adopt implementing technical standards developed by EBA with regard to consolidation, joint decisions, reporting, disclosure, exposures secured by mortgages, risk assessment, approaches to risk-weighting of assets, risk-weights and specification of certain exposures, the treatment of options and warrants, positions in equity instruments and foreign exchange, the use of internal models, leverage, and off-balance sheet items by means of implementing acts pursuant to Article 291 TFEU and in accordance with Article 15 of Regulation (EU) No 1093/2010.

(131) Given the detail and number of regulatory technical standards that are to be adopted pursuant to this Regulation, where the Commission adopts a regulatory technical standard which is the same as the draft regulatory technical standard submitted by EBA, the period within which the European Parliament or the Council may object to a regulatory technical standard, should, where appropriate, be further extended by one month. Moreover, the Commission should aim to adopt the regulatory technical standards in good time to permit the European Parliament and the Council to exercise full scrutiny, taking account of the volume and complexity of regulatory technical standards and the details of the European Parliament's and the Council's rules of procedure, calendar of work and composition.

(132) In order to ensure a high degree of transparency, EBA should launch consultations relating to the draft technical standards referred to in this Regulation. EBA and the Commission should start preparing their reports on liquidity requirements and leverage, as provided for in this Regulation, as soon as possible.

(133) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers[(18)].

(134) In accordance with Article 345 TFEU, which provides that the Treaties are in no way to prejudice the rules in Member States governing the system of property ownership,

this Regulation neither favours nor discriminates against types of ownership which are within its scope.

(135) The European Data Protection Supervisor has been consulted in accordance with Article 28(2) of Regulation (EC) No 45/2001 and has adopted an opinion[(19)].

(136) Regulation (EU) No 648/2012 should be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Editorial Information

X1 Substituted by Corrigendum to 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).

Modifications etc. (not altering text)

C1 Regulation: power to amend conferred (9.6.2021) by Financial Services Act 2021 (c. 22), **ss. 3**, 49(5) (with s. 5(2)-(5)); S.I. 2021/671, reg. 2(a)

PART ONE

GENERAL PROVISIONS

TITLE I

SUBJECT MATTER, SCOPE AND DEFINITIONS

[F1 *Article 1*

Scope

This Regulation lays down uniform rules concerning general prudential requirements that [F2CRR firms, financial holding companies set up in the United Kingdom, and mixed financial holding companies set up in the United Kingdom] 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, [F3operational risk and settlement risk];

(b) F4...

(c) F4...

(d) F4...

(e) F4...

This Regulation lays down uniform rules concerning the own funds and eligible liabilities requirements that resolution entities that are global systemically important institutions (G-SIIs) or part of G-SIIs and material subsidiaries of [F5non-UK] G-SIIs shall comply with.

F6 . . . .

Textual Amendments

F1 Substituted by Regulation (EU) 2019/876 of the European Parliament and of the Council of 20 May 2019 amending Regulation (EU) No 575/2013 as regards the leverage ratio, the net stable funding ratio, requirements for own funds and eligible liabilities, counterparty credit risk, market risk, exposures to central counterparties, exposures to collective investment undertakings, large exposures, reporting and disclosure requirements, and Regulation (EU) No 648/2012 (Text with EEA relevance).

F2 Words in Art. 1 substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **9(2)**; 2020 c. 1, Sch. 5 para. 1(1)

F3 Words in Art. 1(a) substituted (1.1.2022) by The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/1376), regs. 1(3), **25(2)(a)**

F4 Arts. 1(b)-(e) omitted (1.1.2022) by virtue of The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/1376), regs. 1(3), **25(2)(b)**

F5 Word in Art. 1 substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **9(3)**; 2020 c. 1, Sch. 5 para. 1(1)

F6 Words in Art. 1 omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **9(4)**; 2020 c. 1, Sch. 5 para. 1(1)

Article 2

Supervisory powers

1 For the purpose of ensuring compliance with this Regulation, competent authorities shall have the powers and shall follow the procedures set out in **[**F7Directive 2013/36/EU UK law**]** and in this Regulation.

2 For the purpose of ensuring compliance with this Regulation, **[**F8the resolution authority**]** shall have the powers and shall follow the procedures set out in **[**F9the United Kingdom legislation that implemented Directive 2014/59/EU, as amended from time to time,**]** and in this Regulation.

3 For the purpose of ensuring compliance with the requirements concerning own funds and eligible liabilities, competent authorities and **[**F8the resolution authority**]** shall cooperate.

F10 4 . . . .**]**

Textual Amendments

F1 Substituted by Regulation (EU) 2019/876 of the European Parliament and of the Council of 20 May 2019 amending Regulation (EU) No 575/2013 as regards the leverage ratio, the net stable funding ratio, requirements for own funds and eligible liabilities, counterparty credit risk, market risk, exposures to central counterparties, exposures to collective investment undertakings, large exposures, reporting and disclosure requirements, and Regulation (EU) No 648/2012 (Text with EEA relevance).

F7 Words in Art. 2(1) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **10(3)**; 2020 c. 1, Sch. 5 para. 1(1)

F8 Words in Art. 2 substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **10(2)**; 2020 c. 1, Sch. 5 para. 1(1)

F9 Words in Art. 2(2) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **10(4)**; 2020 c. 1, Sch. 5 para. 1(1)
F10 Art. 2(4) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **10(5)**; 2020 c. 1, Sch. 5 para. 1(1)

Article 3

Application of stricter requirements by institutions

This Regulation shall not prevent institutions from holding own funds and their components in excess of, or applying measures that are stricter than those required by this Regulation.

Article 4

Definitions

1 For the purposes of this Regulation, the following definitions shall apply:

(1) ‘credit institution’ means an undertaking the business of which is to take deposits or other repayable funds from the public and to grant credits for its own account;

(2) ‘investment firm’ means a person as defined in **[**[F11]paragraph 1A of Article 2 of Regulation 600/2014/EU, as that Article has effect subject to the requirements imposed by the United Kingdom legislation that implemented Directive 2014/65/EU, as amended from time to time**]**, **[**[F12]other than a credit institution**]**;

(2A) **[**[F13]‘CRR firm’ means a person that satisfies the following conditions—

(a) it is an authorised person within the meaning of section 31(1)(a) of FSMA that—

(i) is a credit institution which has permission under Part 4A of FSMA to carry on the regulated activity of accepting deposits; or

(ii) is **[**[F14]a designated investment firm**]**;

(b) its registered office, or if it has no registered office, its head office, is in the United Kingdom; and

(c) it is not a credit union within the meaning of the Credit Unions Act 1979 or the Credit Unions (Northern Ireland) Order 1985, or a friendly society within the meaning of section 417(1) of FSMA;

and for the purposes of this definition, ‘regulated activity’ has the meaning in section 22 of FSMA, and ‘accepting deposits’ has the meaning in Regulation 5 of the Regulated Activities Order;

(2AA) **[**[F15]‘*designated investment firm*’ means an investment firm that is for the time being designated by the PRA under article 3 of the Financial Services and Markets Act 2000 (PRA-regulated Activities) Order 2013 (S.I. 2013/556), but is not—

(a) a commodity and emission allowance dealer,

(b) a collective investment undertaking, or

(c) an insurance undertaking;

(2AB) '*FCA investment firm*' means an investment firm that—

(a) is an authorised person within the meaning of section 31(1)(a) of FSMA, and

(b) is not a designated investment firm;]

(2B) 'Solvency II excluded operations' has the meaning given in the PRA rulebook;]

(3) 'institution' means a credit institution or [F16a designated investment firm];

(4) F17...

(5) 'insurance undertaking' means insurance undertaking as defined in [F18section 417 of FSMA];

(6) 'reinsurance undertaking' means reinsurance undertaking as defined in [F19section 417 of FSMA];

(6A) [F20'pure reinsurer' has the meaning given in the PRA rulebook;]

(7) '[F1collective investment undertaking' or 'CIU' means a UCITS as defined in [F21section 236A of FSMA , or a UK AIF, an EEA AIF, a Gibraltar AIF, or a third country AIF within the meaning of regulation 2(1) of the Alternative Investment Fund Managers Regulations 2013];]

(8) 'public sector entity' means a non-commercial administrative body responsible to central governments, regional governments or local authorities, or to authorities that exercise the same responsibilities as regional governments and local authorities, or a non-commercial undertaking that is owned by or set up and sponsored by central governments, regional governments or local authorities, and that has explicit guarantee arrangements, and may include self-administered bodies governed by law that are under public supervision;

(9) [F22'management body' means an institution's body, which is appointed in accordance with national law, which is empowered to set the institution's strategy, objectives and overall direction, and which oversees and monitors management decision-making, and includes the persons who effectively direct the business of the institution;]

(9A) [F23'management body in its supervisory function' means the management body acting in its role of overseeing and monitoring management decision-making;]

(10) [F24'senior management' means those natural persons who exercise executive functions within an institution and who are responsible, and accountable to the management body, for the day-to-day management of the institution;]

(11) [F25'systemic risk' means a risk of disruption in the financial system of the United Kingdom with the potential to have serious negative consequences for the financial system and the real economy of the United Kingdom;]

(12) [F26'model risk' means the potential loss an institution may incur as a consequence of decisions that could be principally based on the output of internal models due to errors in the development, implementation or use of such models;]

(13) 'originator' means an originator as defined in point (3) of Article 2 of Regulation (EU) 2017/2402 [(20)];

(14) 'sponsor' means a sponsor as defined in point (5) of Article 2 of Regulation (EU) 2017/2402;

(14a) [F27'original lender' means an original lender as defined in point (20) of Article 2 of Regulation (EU) 2017/2402;]

(15) [F28'parent undertaking' means—

(a) a parent undertaking within the meaning of section 1162 of the Companies Act 2006; or

(b) for the purposes of Directive 2013/36/EU UK law which implemented Section II of Chapters 3 and 4 of Title 7 and Title 8, and for the purposes of Part 5 of this Regulation—

(i) a parent undertaking within the meaning of section 1162 of the Companies Act 2006, apart from the meaning given in subsection (4), or

(ii) an undertaking which effectively exercises a dominant influence over another undertaking;

where section 1162(5) of the Companies Act 2006 applies to parent undertakings falling within point (b)(ii) as it applies to parent undertakings falling within section 1162;]

(16) [F29subsidiary' means—

(a) a subsidiary undertaking within the meaning of section 1162 of the Companies Act 2006; or

(b) for the purposes of Directive 2013/36/EU UK law which implemented Section II of Chapters 3 and 4 of Title 7 and Title 8, and for the purposes of Part 5 of this Regulation—

(i) a subsidiary undertaking within the meaning of section 1162 of the Companies Act 2006, apart from the meaning given in subsection (4), or

(ii) an undertaking over which another undertaking effectively exercises a dominant influence;

where section 1162(5) of the Companies Act 2006 applies to subsidiaries falling within point (b)(ii) as it applies to subsidiaries falling within section 1162;]

(17) 'branch' means a place of business which forms a legally dependent part of an institution and which carries out directly all or some of the transactions inherent in the business of institutions;

(18) 'ancillary services undertaking' means an undertaking the principal activity of which consists of owning or managing property, managing data-processing services, or a similar activity which is ancillary to the principal activity of one or more institutions;

(19) [F30'asset management company' means—

(a) a person who has permission under Part 4A of FSMA to carry on the regulated activity of managing a UK UCITS (as specified in article 51ZA of the Regulated Activities Order), or would require that permission if its registered office were located in the United Kingdom;

(b) a person who has permission under Part 4A of FSMA to carry on the regulated activity of managing an AIF (as specified in article 51ZC of the Regulated Activities Order), or would require that permission if its registered office were located in the United Kingdom; or

(c) a person who is registered as a small AIFM within the meaning of regulation 9 of the Alternative Investment Fund Managers Regulations 2013 under Part 3 of those Regulations, or would require that permission if its registered office were located in the United Kingdom; including, unless otherwise provided, a third-country entity that carries out similar activities and that is subject to the laws of a third country which applies supervisory and regulatory requirements at least equivalent to those applied in the United Kingdom;**]**

(20) **[**[F1]'financial holding company' means a financial institution, the subsidiaries of which are exclusively or mainly institutions or financial institutions, and which is not a mixed financial holding company; the subsidiaries of a financial institution are mainly institutions or financial institutions where at least one of them is an institution and where more than 50 % of the financial institution's equity, consolidated assets, revenues, personnel or other indicator considered relevant by the competent authority are associated with subsidiaries that are institutions or financial institutions;**]**

(21) **[**[F31]"mixed financial holding company" has the meaning given in regulation 1(2) of the Financial Conglomerates and Other Financial Groups Regulations 2004;**]**

(22) 'mixed activity holding company' means a parent undertaking, other than a financial holding company or an institution or a mixed financial holding company, the subsidiaries of which include at least one institution;

(22A) ***[***[F32] *'investment holding company'* means a financial institution which is not a financial holding company and whose subsidiaries—

(a) are exclusively or mainly investment firms or financial institutions, and

(b) include at least one investment firm;**]**

(23) 'third-country insurance undertaking' means third-country insurance undertaking as defined in **[**[F33]the Solvency 2 Regulations 2015**]**;

(24) 'third-country reinsurance undertaking' means third-country reinsurance undertaking as defined in **[**[F34]the Solvency 2 Regulations 2015**]**;

(25) '[F35]... third-country investment firm' means a firm meeting all of the following conditions:

(a) if it were established within the **[**[F36]United Kingdom**]**, it would be covered by the definition of an investment firm;

(b) it is authorised in a third country;

(c) it is subject to and complies with prudential rules considered by the competent authorities at least as stringent as those laid down in this Regulation or in **[**[F37]Directive 2013/36/EU UK law**]**;

(25A) **[**[F38]'third country' means a country or territory outside the United Kingdom**]**;

(26) ‘[F1 financial institution’ means an undertaking other than an institution and other than a pure industrial holding company, the principal activity of which is to acquire holdings or to pursue one or more of the [F39 Annex 1] activities listed in points 2 to 12 and point 15 F40..., including [F41 an investment firm,] a financial holding company, a mixed financial holding company, [F42 an investment holding company,][F43 an authorised payment institution within the meaning of regulation 2(1) of the Payment Services Regulations 2017], and an asset management company, but excluding insurance holding companies and mixed-activity insurance holding companies as defined [F44 in the PRA rulebook];]

(26A) [F45 ‘Annex 1 activities’ means the list of activities set out in Annex 1 to Directive 2013/36/EU as it had effect immediately before IP completion day, with the following amendments—

(a) omit the heading;

(b) in point 4 for the words “Article 4(3) of Directive 2007/64/EC” substitute “ regulation 2 of the Payment Services Regulations 2017 ”;

(c) after point 15—

(i) for “Sections A and B of Annex I to Directive 2004/39/EC” substitute “ Parts 3 and 3A of Schedule 2 to the Regulated Activities Order ”;

(ii) for “Section C of Annex I of that Directive” substitute “ Part 1 of Schedule 2 to the Regulated Activities Order ”;

(iii) omit the words from “, are subject to” to the end;]

(27) ‘financial sector entity’ means any of the following:

(a) an institution;

(b) a financial institution;

(c) an ancillary services undertaking included in the consolidated financial situation of an institution;

(d) an insurance undertaking;

(e) a third-country insurance undertaking;

(f) a reinsurance undertaking;

(g) a third-country reinsurance undertaking;

(h) an insurance holding company as defined in [F46 the Solvency 2 Regulations 2015];

(k) [F47 a non-directive firm as defined in the PRA Rulebook unless that non-directive firm is only a non-directive firm because either—

(i) the firm's Part 4A permission includes a requirement that it may only carry on Solvency II excluded operations; or

(ii) the firm is a pure reinsurer which ceased to conduct new reinsurance contracts before 10 December 2007;]

(l) a third-country undertaking with a main business comparable to any of the entities referred to in points (a) to (k);

(28) **[**[F48]'UK parent institution' means an institution in the United Kingdom which has an institution, a financial institution or an ancillary services undertaking as a subsidiary or which holds a participation in an institution, financial institution or ancillary services undertaking, and which is not itself a subsidiary of another institution authorised in the United Kingdom, or of a financial holding company or mixed financial holding company set up in the United Kingdom;**]**

(29) [F49]...

(29a) **[**[F50]'*UK parent investment firm*' means a parent undertaking in the United Kingdom that is an investment firm;**]**

(29b) [F51]...

(29c) **[**[F52]'UK parent credit institution' means a UK parent institution that is a credit institution within the meaning of point (1) of this paragraph;**]**

(29d) [F53]...

(30) '**[**[F54]UK parent financial holding company**]**' means a financial holding company which is not itself a subsidiary of an institution authorised in the **[**[F55]United Kingdom**]**, or of a financial holding company or mixed financial holding company set up in the **[**[F55]United Kingdom**]**;

(31) [F56]...

(32) '**[**[F57]UK parent mixed financial holding company**]**' means a mixed financial holding company which is not itself a subsidiary of an institution authorised in **[**[F58]the United Kingdom**]**, or of a financial holding company or mixed financial holding company set up in **[**[F59]the United Kingdom**]**;

(33) [F60]...

(34) 'central counterparty' or 'CCP' means a CCP as defined in point (1) of Article 2 of Regulation (EU) No 648/2012;

(35) **[**[F61]'participation' means rights in the capital of other undertakings, whether or not represented by certificates, which, by creating a durable link with those undertakings, are intended to contribute to the activities of the undertaking which holds those rights, or the ownership, direct or indirect, of 20% or more of the voting rights or capital of an undertaking;**]**

(36) 'qualifying holding' means a direct or indirect holding in an undertaking which represents 10 % or more of the capital or of the voting rights or which makes it possible to exercise a significant influence over the management of that undertaking;

(37) 'control' means the relationship between a parent undertaking and a subsidiary, as defined in Article 1 of Directive 83/349/EEC, or **[**[F62]the accounting standards to which an institution is subject under section 403(1) of the Companies Act 2006**]**, or a similar relationship between any natural or legal person and an undertaking;

(38) 'close links' means a situation in which two or more natural or legal persons are linked in any of the following ways:

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

(b) control;

(c) a permanent link of both or all of them to the same third person by a control relationship;

(38A) [F63 'common management relationship' means a relationship between an undertaking ("U1") and one or more other undertakings ("U2") which satisfies the following conditions—

(a) U1 and U2 are not connected in the manner described in section 1162 of the Companies Act 2006; and

(b) either—

(i) U1 and U2 are managed on a unified basis pursuant to a contract with U1, or provisions in U2's memorandum or articles of association; or

(ii) the administrative, management or supervisory bodies of U2 consist, for the major part, of the same persons in office as U1, during the financial year of U1 for which it is being decided whether such a relationship exists;]

(39) 'group of connected clients' means any of the following:

(a) two or more natural or legal persons who, unless it is shown otherwise, constitute a single risk because one of them, directly or indirectly, has control over the other or others;

(b) two or more natural or legal persons between whom there is no relationship of control as described in point (a) but who are to be regarded as constituting a single risk because they are so interconnected that, if one of them were to experience financial problems, in particular funding or repayment difficulties, the other or all of the others would also be likely to encounter funding or repayment difficulties.

Notwithstanding points (a) and (b), where a central government has direct control over or is directly interconnected with more than one natural or legal person, the set consisting of the central government and all of the natural or legal persons directly or indirectly controlled by it in accordance with point (a), or interconnected with it in accordance with point (b), may be considered as not constituting a group of connected clients. Instead the existence of a group of connected clients formed by the central government and other natural or legal persons may be assessed separately for each of the persons directly controlled by it in accordance with point (a), or directly interconnected with it in accordance with point (b), and all of the natural and legal persons which are controlled by that person according to point (a) or interconnected with that person in accordance with point (b), including the central government. The same applies in cases of regional governments or local authorities to which Article 115(2) applies[F1.]

[F64 Two or more natural or legal persons who fulfil the conditions set out in point (a) or (b) because of their direct exposure to the same CCP for clearing activities purposes are not considered as constituting a group of connected clients;]

(40) 'competent authority' means a public authority or body officially recognised by national law, which is empowered by national law to supervise institutions as part of the supervisory system in operation in the [F65United Kingdom (or, where the context requires, a third country)];

(41) [F66'consolidating supervisor' means the competent authority responsible for the exercise of supervision on a consolidated basis of—

(a) a UK parent institution, or

(b) an institution controlled by a UK parent financial holding company or UK parent mixed financial holding company; determined in accordance with Article 4B;]

(42) 'authorisation' means an instrument issued in any form by the authorities by which the right to carry out the business is granted;

(43) F67...

(44) F68...

(45) F69...

(46) [F70'central banks' means the Bank, the European Central Bank and the central banks of third countries;]

(47) 'consolidated situation' means the situation that results from applying the requirements of this Regulation in accordance with Part One, Title II, Chapter 2 to an institution as if that institution formed, together with one or more other entities, a single institution;

(48) 'consolidated basis' means on the basis of the consolidated situation;

(49) 'sub-consolidated basis' means on the basis of the consolidated situation of a parent institution, financial holding company or mixed financial holding company, excluding a sub-group of entities, or on the basis of the consolidated situation of a parent institution, financial holding company or mixed financial holding company that is not the ultimate parent institution, financial holding company or mixed financial holding company;

(50) 'financial instrument' means any of the following:

(a) a contract that gives rise to both a financial asset of one party and a financial liability or equity instrument of another party;

(b) an instrument specified in [F71Part 1 of Schedule 2 to the Regulated Activities Order];

(c) a derivative financial instrument;

(d) a primary financial instrument;

(e) a cash instrument.

The instruments referred to in points (a), (b) and (c) are only financial instruments if their value is derived from the price of an underlying financial instrument or another underlying item, a rate, or an index;

(51) [F72 '*initial capital*', in relation to an institution, means the amount and types of own funds specified in rule 12.1 of the Definition of Capital Part of the PRA rulebook;]

(52) 'operational risk' means the risk of loss resulting from inadequate or failed internal processes, people and systems or from external events, and includes legal risk;

(53) 'dilution risk' means the risk that an amount receivable is reduced through cash or non-cash credits to the obligor;

(54) 'probability of default' or 'PD' means the probability of default of a counterparty over a one-year period;

(55) 'loss given default' or 'LGD' means the ratio of the loss on an exposure due to the default of a counterparty to the amount outstanding at default;

(56) 'conversion factor' means the ratio of the currently undrawn amount of a commitment that could be drawn and that would therefore be outstanding at default to the currently undrawn amount of the commitment, the extent of the commitment being determined by the advised limit, unless the unadvised limit is higher;

(57) 'credit risk mitigation' means a technique used by an institution to reduce the credit risk associated with an exposure or exposures which that institution continues to hold;

(58) 'funded credit protection' means a technique of credit risk mitigation where the reduction of the credit risk on the exposure of an institution derives from the right of that institution, in the event of the default of the counterparty or on the occurrence of other specified credit events relating to the counterparty, to liquidate, or to obtain transfer or appropriation of, or to retain certain assets or amounts, or to reduce the amount of the exposure to, or to replace it with, the amount of the difference between the amount of the exposure and the amount of a claim on the institution;

(59) 'unfunded credit protection' means a technique of credit risk mitigation where the reduction of the credit risk on the exposure of an institution derives from the obligation of a third party to pay an amount in the event of the default of the borrower or the occurrence of other specified credit events;

(60) 'cash assimilated instrument' means a certificate of deposit, a bond, including a covered bond, or any other non-subordinated instrument, which has been issued by an institution [F73 or investment firm], for which the institution [F73 or investment firm] has already received full payment and which shall be unconditionally reimbursed by the institution [F73 or investment firm] at its nominal value;

(61) [F74 'securitisation' means a securitisation as defined in point (1) of Article 2 of Regulation (EU) 2017/2402;

(62) 'securitisation position' means a securitisation position as defined in point (19) of Article 2 of Regulation (EU) 2017/2402;

(63) 'resecuritisation' means a resecuritisation as defined in point (4) of Article 2 of Regulation (EU) 2017/2402;]

(64) 're-securitisation position' means an exposure to a re-securitisation;

(65) 'credit enhancement' means a contractual arrangement whereby the credit quality of a position in a securitisation is improved in relation to what it would have been if the enhancement had not been provided, including the enhancement provided by more junior tranches in the securitisation and other types of credit protection;

(66) [F74 'securitisation special purpose entity' or 'SSPE' means a securitisation special purpose entity or SSPE as defined in point (2) of Article 2 of Regulation (EU) 2017/2402;

(67) 'tranche' means a tranche as defined in point (6) of Article 2 of Regulation (EU) 2017/2402;]

(68) 'marking to market' means the valuation of positions at readily available close out prices that are sourced independently, including exchange prices, screen prices or quotes from several independent reputable brokers;

(69) 'marking to model' means any valuation which has to be benchmarked, extrapolated or otherwise calculated from one or more market inputs;

(70) 'independent price verification' means a process by which market prices or marking to model inputs are regularly verified for accuracy and independence;

(71) 'eligible capital' means the following:

(a) for the purposes of Title III of Part Two it means the sum of the following:

(i) Tier 1 capital as referred to in Article 25, without applying the deduction in Article 36(1)(k)(i);

(ii) Tier 2 capital as referred to in Article 71 that is equal to or less than one third of Tier 1 capital as calculated pursuant to point (i) of this point;

(b) [F1 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;

(72) 'recognised exchange' means an exchange which meets all of the following conditions:

(a) [F1 it is a regulated market or a third-country market that is considered to be equivalent to a regulated market in accordance with [F75 paragraph 8 of Schedule 3 to Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012];]

(b) it has a clearing mechanism whereby contracts listed in Annex II are subject to daily margin requirements which, in the opinion of the competent authorities, provide appropriate protection;

(73) 'discretionary pension benefits' means enhanced pension benefits granted on a discretionary basis by an institution to an employee as part of that employee's variable remuneration package, which do not include accrued benefits granted to an employee under the terms of the company pension scheme;

(74) 'mortgage lending value' means the value of immovable property as determined by a prudent assessment of the future marketability of the property taking into account long-term sustainable aspects of the property, the normal and local market conditions, the current use and alternative appropriate uses of the property;

(75) 'residential property' means a residence which is occupied by the owner or the lessee of the residence F76...;

(76) 'market value' means, for the purposes of immovable property, the estimated amount for which the property should exchange on the date of valuation between a willing buyer and a willing seller in an arm's-length transaction after proper marketing wherein the parties had each acted knowledgeably, prudently and without compulsion;

(77) 'applicable accounting framework' means [F77the accounting standards to which an institution is subject under section 403(1) of the Companies Act 2006] or [F78Directive 86/635/EEC UK law];

(78) 'one-year default rate' means the ratio between the number of defaults occurred during a period that starts from one year prior to a date T and the number of obligors assigned to this grade or pool one year prior to that date;

(79) 'speculative immovable property financing' means loans for the purposes of the acquisition of or development or construction on land in relation to immovable property, or of and in relation to such property, with the intention of reselling for profit;

(80) 'trade finance' means financing, including guarantees, connected to the exchange of goods and services through financial products of fixed short-term maturity, generally of less than one year, without automatic rollover;

(81) 'officially supported export credits' means loans or credits to finance the export of goods and services for which an official export credit agency provides guarantees, insurance or direct financing;

(82) 'repurchase agreement' and 'reverse repurchase agreement' mean any agreement in which an institution or its counterparty transfers securities or commodities or guaranteed rights relating to title to securities or commodities where that guarantee is issued by a recognised exchange which holds the rights to the securities or commodities and the agreement does not allow an institution to transfer or pledge a particular security or commodity to more than one counterparty at one time, subject to a commitment to repurchase them, or substituted securities or commodities of the same description at a specified price on a future date specified, or to be specified, by the transferor, being a repurchase agreement for the institution selling the securities or commodities and a reverse repurchase agreement for the institution buying them;

(83) 'repurchase transaction' means any transaction governed by a repurchase agreement or a reverse repurchase agreement;

(84) 'simple repurchase agreement' means a repurchase transaction of a single asset, or of similar, non-complex assets, as opposed to a basket of assets;

(85) 'positions held with trading intent' means any of the following:

(a) proprietary positions and positions arising from client servicing and market making;

(b) positions intended to be resold short term;

(c) positions intended to benefit from actual or expected short-term price differences between buying and selling prices or from other price or interest rate variations;

(86) [F1 'trading book' means all positions in financial instruments and commodities held by an institution either with trading intent or to hedge positions held with trading intent in accordance with Article 104;]

(87) [F79 'multilateral trading facility' has the meaning given in Article 2(1)(14) of Regulation 600/2014/EU;]

(88) 'qualifying central counterparty' or 'QCCP' means a central counterparty that has been either authorised in accordance with Article 14 of Regulation (EU) No 648/2012 or recognised in accordance with Article 25 of that Regulation;

(89) 'default fund' means a fund established by a CCP in accordance with Article 42 of Regulation (EU) No 648/2012 and used in accordance with Article 45 of that Regulation;

(90) 'pre-funded contribution to the default fund of a CCP' means a contribution to the default fund of a CCP that is paid in by an institution;

(91) [F1 'trade exposure' means a current exposure, including a variation margin due to the clearing member but not yet received, and any potential future exposure of a clearing member or a client, to a CCP arising from contracts and transactions listed in points (a), (b) and (c) of Article 301(1), as well as initial margin;]

(92) [F80 'regulated market' has the meaning given in Article 2(1)(13A) of Regulation 600/2014/EU;]

(93) 'leverage' means the relative size of an institution's assets, off-balance sheet obligations and contingent obligations to pay or to deliver or to provide collateral, including obligations from received funding, made commitments, derivatives or repurchase agreements, but excluding obligations which can only be enforced during the liquidation of an institution, compared to that institution's own funds;

(94) 'risk of excessive leverage' means the risk resulting from an institution's vulnerability due to leverage or contingent leverage that may require unintended corrective measures to its business plan, including distressed selling of assets which might result in losses or in valuation adjustments to its remaining assets;

(95) 'credit risk adjustment' means the amount of specific and general loan loss provision for credit risks that has been recognised in the financial statements of the institution in accordance with the applicable accounting framework;

(96) [F1 'internal hedge' means a position that materially offsets the component risk elements between a trading book position and one or more non-trading book positions or between two trading desks;]

(97) 'reference obligation' means an obligation used for the purposes of determining the cash settlement value of a credit derivative;

(98) 'external credit assessment institution' or 'ECAI' means a credit rating agency that is registered or certified in accordance with Regulation (EC) No 1060/2009 of the European Parliament and of the Council of 16 September 2009 on credit rating agencies[21] or a central bank issuing credit ratings which are exempt from the application of Regulation (EC) No 1060/2009;

(99) 'nominated ECAI' means an ECAI nominated by an institution;

(100) 'accumulated other comprehensive income' has the same meaning as under International Accounting Standard (IAS) 1, [F81 as applicable under UK-adopted international accounting standards];

(101) [F82 'basic own funds' has the meaning given in the PRA rulebook;]

(102) [F83 'Tier 1 own-fund insurance items' means basic own-fund items of insurance undertakings and reinsurance undertakings where those items are classified in Tier 1 in accordance with rule 3.1 of the Own Funds Part of the PRA rulebook;]

(103) 'additional Tier 1 own-fund insurance items' means basic own-fund items of [F84 insurance undertakings and reinsurance undertakings] where those items are classified in Tier 1 F85... in accordance with [F86 rule 3.1 of the Own Funds Part of the PRA rulebook] and the inclusion of those items is limited by [F87 Article 82(3) of the Commission Delegated Regulation (EU) 2015/35 of 10th October 2014 supplementing Directive 2009/138/EC of the European Parliament and of the Council on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) Text];

(104) [F88 'Tier 2 own-fund insurance items' means basic own-fund items of insurance undertakings and reinsurance undertakings where those items are classified in Tier 2 in accordance with rule 3.2 of the Own Funds Part of the PRA rulebook;]

(105) 'Tier 3 own-fund insurance items' means basic own-fund insurance items of [F89 insurance undertakings and reinsurance undertakings] where those items are classified in Tier 3 [F90 in accordance with rule 3.3 of the Own Funds Part of the PRA rulebook];

(106) 'deferred tax assets' has the same meaning as under the applicable accounting framework;

(107) 'deferred tax assets that rely on future profitability' means deferred tax assets the future value of which may be realised only in the event the institution generates taxable profit in the future;

(108) 'deferred tax liabilities' has the same meaning as under the applicable accounting framework;

(109) 'defined benefit pension fund assets' means the assets of a defined pension fund or plan, as applicable, calculated after they have been reduced by the amount of obligations under the same fund or plan;

(110) 'distributions' means the payment of dividends or interest in any form;

(111) F91...

(112) [F92 'funds for general banking risk' means those amounts which a credit institution decides to put aside to cover the particular risks associated with banking where this is permitted under the applicable accounting framework;]

(113) 'goodwill' has the same meaning as under the applicable accounting framework;

(114) 'indirect holding' means any exposure to an intermediate entity that has an exposure to capital instruments issued by a financial sector entity where, in the event the capital instruments issued by the financial sector entity were permanently written off, the loss that the institution would incur as a result would not be materially different from

the loss the institution would incur from a direct holding of those capital instruments issued by the financial sector entity;

(115) 'intangible assets' has the same meaning as under the applicable accounting framework and includes goodwill;

(116) 'other capital instruments' means capital instruments issued by financial sector entities that do not qualify as Common Equity Tier 1, Additional Tier 1 or Tier 2 instruments or Tier 1 own-fund insurance items, additional Tier 1 own-fund insurance items, Tier 2 own-fund insurance items or Tier 3 own-fund insurance items;

(117) 'other reserves' means reserves within the meaning of the applicable accounting framework that are required to be disclosed under the applicable accounting standard, excluding any amounts already included in accumulated other comprehensive income or retained earnings;

(118) 'own funds' means the sum of Tier 1 capital and Tier 2 capital;

(119) 'own funds instruments' means capital instruments issued by the institution that qualify as Common Equity Tier 1, Additional Tier 1 or Tier 2 instruments;

(120) 'minority interest' means the amount of Common Equity Tier 1 capital of a subsidiary of an institution that is attributable to natural or legal persons other than those included in the prudential scope of consolidation of the institution;

(121) 'profit' has the same meaning as under the applicable accounting framework;

(122) 'reciprocal cross holding' means a holding by an institution of the own funds instruments or other capital instruments issued by financial sector entities where those entities also hold own funds instruments issued by the institution;

(123) 'retained earnings' means profits and losses brought forward as a result of the final application of profit or loss under the applicable accounting framework;

(124) 'share premium account' has the same meaning as under the applicable accounting framework;

(125) 'temporary differences' has the same meaning as under the applicable accounting framework;

(126) 'synthetic holding' means an investment by an institution in a financial instrument the value of which is directly linked to the value of the capital instruments issued by a financial sector entity;

(127) [F93]...

(128) **[**[F1]'distributable items' means the amount of the profits at the end of the last financial year plus any profits brought forward and reserves available for that purpose, before distributions to holders of own funds instruments, less any losses brought forward, any profits which are non-distributable pursuant to [F94]... **[**[F95]the law of the United Kingdom, or any part of it, or of a third country**]** or the institution's by-laws and any sums placed in non-distributable reserves in accordance with **[**[F95]the law of the United Kingdom, or any part of it, or of a third country**]** or the statutes of the institution, in each case with respect to the specific category of own funds instruments to which [F94]... **[**[F95]the law of the United Kingdom, or any part of it, or of a third country**]**, institutions' by-laws, or statutes relate; such profits, losses and reserves being determined on the basis

of the individual accounts of the institution and not on the basis of the consolidated accounts;**]**

(128A) **[**[F96]'CRR covered bonds' means bonds issued by a credit institution which—

(a) has its registered office in the UK; and

(b) is subject by law to special public supervision designed to protect bondholders and in particular protection under which—

(i) sums deriving from the issue of the bond must be invested in conformity with the law in assets;

(ii) during the whole period of validity of the bond, those sums are capable of covering claims attaching to the bond; and

(ii) in the event of failure of the issuer, those sums would be used on a priority basis for the reimbursement of the principal and payment of the accrued interest;

(128B) 'Directive 86/635/EEC UK law' means the law of the United Kingdom or any part of it which immediately before IP completion day implemented Directive 86/635/EEC, and its implementing measures—

(i) as they have effect on IP completion day, in the case of rules made by the FCA or the PRA under the Financial Services and Markets Act 2000; and

(ii) as amended from time to time, in all other cases.

(128C) 'internal approaches' means—

(a) the internal ratings-based approach referred to in Article 143(1);

(b) the internal models approach referred to in Article 221;

(c) the own estimates approach referred to in Article 225;

(d) the advanced measurement approaches referred to in Article 312(2);

(e) the internal model method referred to in Article 283 and 363; and

(f) the internal assessment approach referred to in Article 259(3) of this Regulation;

(128D) 'SME' means a micro, small and medium-sized enterprise as defined in Articles 1 to 6 of the Annex to Commission Recommendation 2003/361/EC of 6th May 2003 with the following amendments—

(a) in article 3 (types of enterprise taken into consideration in calculating staff numbers and financial amounts), in paragraph (5) for "by national or Community rules" substitute " under the law of the United Kingdom (or any part of it) ";

(b) in article 5 (staff headcount), in paragraph (b) for "national law" substitute " the law of the United Kingdom (or any part of it) ";

(128E) 'systemically important institution' means a UK parent institution, a UK parent financial holding company, a UK parent mixed financial holding company or an institution the failure or malfunction of which could lead to systemic risk;

(128F) 'UK deposit guarantee scheme' means a deposit protection scheme established by the PRA and managed by the Financial Services Compensation Scheme Limited;]

(128G) [F97'UK-adopted international accounting standards' has the meaning given by section 474(1) of the Companies Act 2006;]

(129) '[F27servicer' means a servicer as defined in point (13) of Article 2 of Regulation (EU) 2017/2402[F1;]]

(130) [F64[F98'resolution authority' means the Bank;]

(130A) [F99'resolution' means the application of a stabilisation option referred to in section 1(3) of the Banking Act 2009 in order to achieve one or more of the objectives referred to in section 4 of that Act;]

(131) [F100'resolution entity' means either—

(a) a legal person established in the United Kingdom which is identified by the resolution authority as an entity in respect of which the resolution plan drawn up in accordance with article 40 of the second BRRD Order provides for resolution action; or

(b) an institution that is not part of a group that is subject to consolidated supervision under Part 6 of the Capital Requirements Regulations 2013, in respect of which the resolution plan drawn up in accordance with article 37 of the second BRRD Order provides for resolution action;]

(132) [F101'resolution group' means a resolution entity and its subsidiaries that are not—

(a) resolution entities themselves;

(b) subsidiaries of other resolution entities; or

(c) entities established in a third country that are not included in the resolution group in accordance with the resolution plan and their subsidiaries;]

(132A) [F102'resolution action' means—

(a) the decision to place an institution or entity under resolution pursuant to sections 7, 81B, 81BA, 81ZBA, 81C, 81D, or 82 of the Banking Act 2009;

(b) the application of a stabilisation option referred to in section 1(3) of the Banking Act 2009; or

(c) the exercise of one or more powers conferred on the Bank by United Kingdom legislation which implemented Articles 63 to 72 of Directive 2014/59/EU;]

(133) 'global systemically important institution' or 'G-SII' means a G-SII that has been identified in accordance with [F103Part 4 of the Capital Requirements (Capital Buffers and Macro-prudential Measures) Regulations 2014];

(134) '[F104non-UK] global systemically important institution' or '[F104non-UK] G-SII' means a global systemically important banking group or a bank (G-SIBs) that is not a G-SII and that is included in the list of G-SIBs published by the Financial Stability Board, as regularly updated;

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

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

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

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

F105...

(136) 'G-SII entity' means an entity with legal personality that is a G-SII or is part of a G-SII or of a [F106non-UK] G-SII;

(137) [F107'bail-in tool' means the mechanism for effecting the exercise by the resolution authority of the write-down and conversion powers in relation to liabilities of an institution under resolution, in accordance with section 12A of the Banking Act 2009;]

(138) 'group' means a group of undertakings of which at least one is an institution and which consists of a parent undertaking and its subsidiaries, or of undertakings [F108that are related to each other pursuant to a common management relationship within the meaning of point (38A)];

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

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

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

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

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

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

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

(a) it is not a large institution;

(b) the total value of its assets on an individual basis or, where applicable, on a consolidated basis in accordance with this Regulation F109... is on average equal to or less than the threshold of EUR 5 billion over the four-year period immediately preceding the current annual reporting period; F110...

(c) it is not subject to any obligations, or is subject to simplified obligations, in relation to recovery and resolution planning in accordance with [F111articles 7 and 8 of the second BRRD Order];

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

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

(f) more than 75 % of both the institution's consolidated total assets and liabilities, excluding in both cases the intragroup exposures, relate to activities with counterparties located in the [F112United Kingdom];

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

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

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

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

(a) it is a G-SII;

(b) it has been identified as an other systemically important institution (O-SII) in accordance with [F113Part 6 of the Capital Requirements (Capital Buffers and Macro-prudential Measures) Regulations 2014];

(c) it is F114... one of the three largest institutions [F115in the United Kingdom] in terms of total value of assets;

(d) the total value of its assets on an individual basis or, where applicable, on the basis of its consolidated situation in accordance with this Regulation F116... is equal to or greater than EUR 30 billion;

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

(148) 'non-listed institution' means an institution that has not issued securities that are admitted to trading on a regulated market F117...;

(149) F118...

(150) [F119'*commodity and emission allowance dealer*' means an undertaking the main business of which consists exclusively of the provision of investment services or activities in relation to—

(a) commodity derivatives or commodity derivative contracts referred to in paragraphs 5, 6, 7, 9 and 10 of Part 1 of Schedule 2 to the Regulated Activities Order,

(b) derivatives of emission allowances referred to in paragraph 4 of that Part of that Schedule, or

(c) emission allowances referred to in paragraph 11 of that Part of that Schedule.**]**

[F120 1A In this Regulation—

"Bank" means the Bank of England;

[F121"CRR rules" has the meaning given by section 144A of FSMA (CRR rules);**]**

"FCA" means the Financial Conduct Authority;

"Financial Policy Committee" means the Financial Policy Committee of the Bank;

"FSMA" means the Financial Services and Markets Act 2000;

"Part 4A permission" means a permission given by the FCA or PRA under Part 4A of FSMA or having effect as if so given;

"PRA" means the Prudential Regulation Authority;

"Regulated Activities Order" means the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001.**]**

[F122"the second BRRD Order" means the Bank Recovery and Resolution (No. 2) Order 2014;**]**

F123 2 . . . .

3 Trade finance as referred to in point (80) of paragraph 1 is generally uncommitted and requires satisfactory supporting transactional documentation for each drawdown request enabling refusal of the finance in the event of any doubt about creditworthiness or the supporting transactional documentation. Repayment of trade finance exposures is usually independent of the borrower, the funds instead coming from cash received from importers or resulting from proceeds of the sales of the underlying goods.

[F64 4 **[**F124The **[**F125PRA may**]** make**]** technical standards specifying in which circumstances the conditions set out in point (39) of paragraph 1 are met.

F126...**]]**

Textual Amendments

F1 Substituted by Regulation (EU) 2019/876 of the European Parliament and of the Council of 20 May 2019 amending Regulation (EU) No 575/2013 as regards the leverage ratio, the net stable funding ratio, requirements for own funds and eligible liabilities, counterparty credit risk, market risk, exposures to central counterparties, exposures to collective investment undertakings, large exposures, reporting and disclosure requirements, and Regulation (EU) No 648/2012 (Text with EEA relevance).

F11 Words in Art. 4.1(2) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **64(2)(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F12 Words in Art. 4.1(2) substituted (1.1.2022) by Financial Services Act 2021 (c. 22), **ss. 1(2)**, 49(5); S.I. 2021/671, reg. 5(1)(a) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F13 Art. 4.1(2A)(2B) inserted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **64(3)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F14 Words in Art. 4.1(2A)(a)(ii) substituted (1.1.2022) by Financial Services Act 2021 (c. 22), **ss. 1(3)**, 49(5); S.I. 2021/671, reg. 5(1)(a) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F15 Art. 4.1(2AA)(2AB) inserted (1.1.2022) by Financial Services Act 2021 (c. 22), **ss. 1(4)**, 49(5); S.I. 2021/671, reg. 5(1)(a) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F16 Words in Art. 4.1(3) substituted (1.1.2022) by Financial Services Act 2021 (c. 22), **ss. 1(5)**, 49(5); S.I. 2021/671, reg. 5(1)(a) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F17 Art. 4.1(4) omitted (1.1.2022) by virtue of Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 2(2)**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F18 Words in Art. 4.1(5) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **64(4)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F19 Words in Art. 4.1(6) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **64(5)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F20 Art. 4.1(6A) inserted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **64(6)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F21 Words in Art. 4.1(7) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **11(2)(a)**; 2020 c. 1, Sch. 5 para. 1(1)

F22 Art. 4.1(9) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **64(8)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F23 Art. 4.1(9A) inserted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **64(9)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F24 Art. 4.1(10) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **64(10)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F25 Art. 4.1(11) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **64(11)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F26 Art. 4.1(12) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **64(12)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F27 Inserted by Regulation (EU) 2017/2401 of the European Parliament and of the Council of 12 December 2017 amending Regulation (EU) No 575/2013 on prudential requirements for credit institutions and investment firms.

F28 Art. 4.1(15) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **64(13)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F29 Art. 4.1(16) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **64(14)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F30 Art. 4.1(19) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **64(15)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F31 Art. 4.1(21) substituted (31.12.2020) by The Financial Conglomerates and Other Financial Groups (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/264), regs. 1, **5(2)** (with reg. 6) (as amended by S.I. 2020/1301, reg. 3, **Sch. para. 15** and with savings in S.I. 2019/680, **reg. 11**); 2020 c. 1, **Sch. 5 para. 1(1)**

F32 Art. 4.1(22A) inserted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 2(3)**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)
F33 Words in Art. 4.1(23) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **64(16)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
F34 Words in Art. 4.1(24) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **64(17)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
F35 Word in Art. 4.1(25) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **64(18)(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
F36 Words in Art. 4.1(25)(a) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **64(18)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
F37 Words in Art. 4.1(25)(c) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **64(18)(c)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
F38 Art. 4.1(25A) inserted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **64(19)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
F39 Words in Art. 4.1(26) inserted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **11(2)(b)(i)**; 2020 c. 1, Sch. 5 para. 1(1)
F40 Words in Art. 4.1(26) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **11(2)(b)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)
F41 Words in Art. 4.1(26) inserted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 2(4)(a)**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)
F42 Words in Art. 4.1(26) inserted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 2(4)(b)**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)
F43 Words in Art. 4.1(26) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **11(2)(b)(iii)**; 2020 c. 1, Sch. 5 para. 1(1)
F44 Words in Art. 4.1(26) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **11(2)(b)(iv)**; 2020 c. 1, Sch. 5 para. 1(1)
F45 Art. 4.1(26A) inserted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **64(21)** (as amended by S.I. 2020/1301, regs. 1, 3, **Sch. para. 11(e)(i)** and with savings in S.I. 2019/680, **reg. 11**); 2020 c. 1, **Sch. 5 para. 1(1)**
F46 Words in Art. 4.1(27)(h) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **64(22)(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
F47 Art. 4.1(27)(k) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **64(22)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
F48 Art. 4.1(28) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **11(2)(c)**; 2020 c. 1, Sch. 5 para. 1(1)
F49 Art. 4.1(29) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **64(24)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
F50 Art. 4.1(29a) substituted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 2(5)**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)
F51 Art. 4.1(29b) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **11(2)(e)**; 2020 c. 1, Sch. 5 para. 1(1)
F52 Art. 4.1(29c) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **11(2)(f)**; 2020 c. 1, Sch. 5 para. 1(1)

F53 Art. 4.1(29d) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **11(2)(g)**; 2020 c. 1, Sch. 5 para. 1(1)

F54 Words in Art. 4.1(30) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **64(25)(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F55 Words in Art. 4.1(30) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **64(25)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F56 Art. 4.1(31) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **64(26)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F57 Words in Art. 4.1(32) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **64(27)(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F58 Words in Art. 4.1(32) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **64(27)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F59 Words in Art. 4.1(32) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **64(27)(c)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F60 Art. 4.1(33) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **64(28)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F61 Art. 4.1(35) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **64(29)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F62 Words in Art. 4.1(37) substituted (31.12.2020) by The Financial Services (Miscellaneous) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/710), regs. 1(3), **27(2)(a)**; 2020 c. 1, Sch. 5 para. 1(1)

F63 Art. 4.1(38A) inserted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **64(30)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F64 Inserted by Regulation (EU) 2019/876 of the European Parliament and of the Council of 20 May 2019 amending Regulation (EU) No 575/2013 as regards the leverage ratio, the net stable funding ratio, requirements for own funds and eligible liabilities, counterparty credit risk, market risk, exposures to central counterparties, exposures to collective investment undertakings, large exposures, reporting and disclosure requirements, and Regulation (EU) No 648/2012 (Text with EEA relevance).

F65 Words in Art. 4.1(40) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **64(31)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F66 Art. 4.1(41) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **64(32)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F67 Art. 4.1(43) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **64(33)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F68 Art. 4.1(44) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **64(34)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F69 Art. 4.1(45) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **64(35)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F70 Art. 4.1(46) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **64(36)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F71 Words in Art. 4.1(50)(b) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **64(37)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F72 Art. 4.1(51) substituted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 2(6)**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F73 Words in Art. 4.1(60) inserted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 2(7)**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F74 Substituted by Regulation (EU) 2017/2401 of the European Parliament and of the Council of 12 December 2017 amending Regulation (EU) No 575/2013 on prudential requirements for credit institutions and investment firms.

F75 Words in Art. 4.1(72)(a) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **11(2)(h)**; 2020 c. 1, Sch. 5 para. 1(1)

F76 Words in Art. 4.1(75) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **64(39)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F77 Words in Art. 4.1(77) substituted (31.12.2020) by The Financial Services (Miscellaneous) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/710), regs. 1(3), **27(2)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

F78 Words in Art. 4.1(77) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **64(40)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F79 Art. 4.1(87) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **64(41)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F80 Art. 4.1(92) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **64(42)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F81 Words in Art. 4.1(100) substituted (31.12.2020) by The Financial Services (Miscellaneous) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/710), regs. 1(3), **27(2)(c)**; 2020 c. 1, Sch. 5 para. 1(1)

F82 Art. 4.1(101) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **64(43)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F83 Art. 4.1(102) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **64(44)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F84 Words in Art. 4.1(103) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **64(45)(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F85 Words in Art. 4.1(103) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **64(45)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F86 Words in Art. 4.1(103) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **64(45)(c)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F87 Words in Art. 4.1(103) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **64(45)(d)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F88 Art. 4.1(104) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **64(46)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
F89 Words in Art. 4.1(105) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **64(47)(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
F90 Words in Art. 4.1(105) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **64(47)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
F91 Art. 4.1(111) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **64(48)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
F92 Art. 4.1(112) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **64(49)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
F93 Art. 4.1(127) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **64(50)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
F94 Words in Art. 4.1(128) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **11(2)(i)(i)**; 2020 c. 1, **Sch. 5 para. 1(1)**
F95 Words in Art. 4.1(128) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **11(2)(i)(ii)**; 2020 c. 1, **Sch. 5 para. 1(1)**
F96 Arts. 4.1(128A)-(128F) inserted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **64(52)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
F97 Art. 4.1(128G) inserted (31.12.2020) by The Financial Services (Miscellaneous) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/710), regs. 1(3), **27(2)(d)**; 2020 c. 1, Sch. 5 para. 1(1)
F98 Art. 4.1(130) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **11(2)(j)**; 2020 c. 1, Sch. 5 para. 1(1)
F99 Art. 4.1(130A) inserted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **11(2)(k)**; 2020 c. 1, Sch. 5 para. 1(1)
F100 Art. 4.1(131) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **11(2)(l)**; 2020 c. 1, Sch. 5 para. 1(1)
F101 Art. 4.1(132) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **11(2)(m)**; 2020 c. 1, Sch. 5 para. 1(1)
F102 Art. 4.1(132A) inserted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **11(2)(n)**; 2020 c. 1, Sch. 5 para. 1(1)
F103 Words in Art. 4.1(133) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **11(2)(o)**; 2020 c. 1, Sch. 5 para. 1(1)
F104 Word in Art. 4.1(134) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **11(2)(p)**; 2020 c. 1, Sch. 5 para. 1(1)
F105 Words in Art. 4.1(135) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **11(2)(q)**; 2020 c. 1, Sch. 5 para. 1(1)
F106 Word in Art. 4.1(136) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **11(2)(r)**; 2020 c. 1, Sch. 5 para. 1(1)
F107 Art. 4.1(137) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **11(2)(s)**; 2020 c. 1, Sch. 5 para. 1(1)
F108 Words in Art. 4.1(138) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **11(2)(t)**; 2020 c. 1, Sch. 5 para. 1(1)
F109 Words in Art. 4.1(145)(b) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **11(2)(u)(i)(aa)**; 2020 c. 1, Sch. 5 para. 1(1)
F110 Words in Art. 4.1(145)(b) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **11(2)(u)(i)(bb)**; 2020 c. 1, Sch. 5 para. 1(1)

F111 Words in Art. 4.1(145)(c) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **11(2)(u)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)
F112 Words in Art. 4.1(145)(f) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **11(2)(u)(iii)**; 2020 c. 1, Sch. 5 para. 1(1)
F113 Words in Art. 4.1(146)(b) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), 11(2)(i)**(v)**; 2020 c. 1, Sch. 5 para. 1(1)
F114 Words in Art. 4.1(146)(c) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), 11(2)(ii)(aa)**(v)**; 2020 c. 1, Sch. 5 para. 1(1)
F115 Words in Art. 4.1(146)(c) inserted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), 11(2)(ii)(bb)**(v)**; 2020 c. 1, Sch. 5 para. 1(1)
F116 Words in Art. 4.1(146)(d) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), 11(2)(iii)**(v)**; 2020 c. 1, Sch. 5 para. 1(1)
F117 Words in Art. 4.1(148) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **11(2)(w)**; 2020 c. 1, Sch. 5 para. 1(1)
F118 Art. 4.1(149) omitted (1.1.2022) by virtue of The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/1376), regs. 1(3), **25(3)**
F119 Art. 4.1(150) inserted (1.1.2022) by Financial Services Act 2021 (c. 22), **ss. 1(6)**, 49(5); S.I. 2021/671, reg. 5(1)(a) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)
F120 Art. 4(1A) inserted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **64(53)** (with savings in S.I. 2019/680, **reg. 11**); 2020 c. 1, **Sch. 5 para. 1(1)**
F121 Words in Art. 4(1A) inserted (1.1.2022) by The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **3**
F122 Words in Art. 4(1A) inserted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **11(3)**; 2020 c. 1, Sch. 5 para. 1(1)
F123 Art. 4(2) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **65** (with savings in S.I. 2019/680, **reg. 11**); 2020 c. 1, **Sch. 5 para. 1(1)**
F124 Words in Art. 4(4) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **11(4)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
F125 Words in Art. 4(4) substituted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 47**; S.I. 2021/671, **reg. 5(1)(b)** (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), **2**)
F126 Words in Art. 4(4) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **11(4)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

[F127 *Article 4A*

Definitions: Regulators' rules

1 In **[**F128this Regulation**]**—

a a reference to the PRA rulebook is to the rulebook published by the PRA containing rules made by that Authority under FSMA **[**F129as amended from time to time**]**;

b any reference to a sourcebook is to a sourcebook in the Handbook of Rules and Guidance published by the FCA containing rules made by that Authority under FSMA **[**F130as amended from time to time**]**;

c "Directive 2013/36/EU UK law" means the law of the United Kingdom or any part of it, which was relied on by the United Kingdom immediately before IP completion day to implement Directive 2013/36/EU and its implementing measures—

i as they have effect on **[**F1311 January 2022**]**, in the case of rules made by the FCA or the PRA under FSMA; and ii as amended from time to time, in all other cases.

2 By way of an exception to paragraph 1(c), for the purposes of Articles 4(1)(25), 11(2) and (6), 81(1)(ii), 82(a)(ii), 336(4)(c), 468(4) and 473a(7a), and the references to the Directive 2013/36/EU therein, "Directive 2013/36/EU UK law" shall mean the law of the United Kingdom or any part of it, which was relied on by the United Kingdom immediately before IP completion day to implement Directive 2013/36/EU and its implementing measures as amended from time to time.**]**

[[F132]3. In this Regulation, "Part 9C rules" has the same meaning as in FSMA (see section 417 of that Act).**]**

Textual Amendments

F127 Arts. 4A, 4B inserted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **66** (as amended by S.I. 2020/1301, regs. 1, 3, **Sch. para. 11(f)** and S.I. 2020/1385, regs. 1(4), **48(2)**) (with savings in S.I. 2019/680, **reg. 11**); 2020 c. 1, **Sch. 5 para. 1(1)**

F128 Words in Art. 4A(1) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **12**; 2020 c. 1, Sch. 5 para. 1(1)

F129 Words in Art. 4A(1)(a) substituted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 4 para. 2**; S.I. 2021/671, **reg. 5(1)(b)** (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), **2**)

F130 Words in Art. 4A(1)(b) substituted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 3(2)**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F131 Words in Art. 4A(1)(c)(i) substituted (1.1.2022) by The Financial Services and Markets Act 2000 (Consequential Amendments of References to Rules) Regulations 2021 (S.I. 2021/1388), regs. 1(2), **5**

F132 Art. 4A(3) inserted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 3(3)**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

[[F133]*Article 4B*

The consolidating supervisor

The consolidating supervisor is the PRA.**]**

Textual Amendments

F133 Art. 4B substituted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 4**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

Article 5

Definitions specific to capital requirements for credit risk

For the purposes of Part Three, Title II **[**[F134]and Articles 132a to 132c of Chapter 3 of the Standardised Approach and Internal Ratings Based Approach to Credit Risk (CRR) Part of the PRA Rulebook**]**, the following definitions shall apply:

(1) ' exposure ' means an asset or off-balance sheet item;

(2) ' loss ' means economic loss, including material discount effects, and material direct and indirect costs associated with collecting on the instrument;

(3) ' expected loss ' or ' EL ' means the ratio of the amount expected to be lost on an exposure from a potential default of a counterparty or dilution over a one-year period to the amount outstanding at default.

Textual Amendments

F134 Words in Art. 5 inserted (1.1.2022) by The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/1376), regs. 1(3), **25(4)**

TITLE II

LEVEL OF APPLICATION OF REQUIREMENTS

CHAPTER 1

Application of requirements on an individual basis

Article 6

General principles

1 Institutions shall comply with the obligations laid down in **[**[F135]Part Two, Part Three and Chapter 2 of Regulation (EU) 2017/2402 of the European Parliament and of the Council of 12 December 2017 laying down a general framework for securitisation and creating a specific framework for simple, transparent and standardised securitisation (provisions applicable to all securitisations)**]** on an individual basis.

[[F64]1a By way of derogation from paragraph 1 of this Article, only institutions identified as resolution entities that are also G-SIIs or that are part of a G-SII, and that do not have subsidiaries shall comply with the requirement laid down in Article 92a on an individual basis.

Material subsidiaries of a **[**[F136]non-UK**]** G-SII shall comply with Article 92b on an individual basis, where they meet all the following conditions:

a they are not resolution entities;

b they do not have subsidiaries;

c they are not the subsidiaries of **[**[F137]a UK parent institution**]**.**]**

2 No institution which is either a subsidiary **[**[F138]authorised and supervised in the United Kingdom**]**, or a parent undertaking, and no institution included in the consolidation pursuant to Article 18, shall be required to comply with the obligations laid down in Articles 89, 90 and 91 on an individual basis.

[F139]3 . . . .

[F139]4 . . . .

[F139]5 . . . .

Textual Amendments

F64 Inserted by Regulation (EU) 2019/876 of the European Parliament and of the Council of 20 May 2019 amending Regulation (EU) No 575/2013 as regards the leverage ratio, the net stable funding ratio, requirements for own funds and eligible liabilities, counterparty credit risk, market risk, exposures to central counterparties, exposures to collective investment undertakings, large exposures, reporting and disclosure requirements, and Regulation (EU) No 648/2012 (Text with EEA relevance).

F135 Words in Art. 6(1) substituted (1.1.2022) by The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **4(2)(a)** (as amended by S.I. 2021/1376, regs. 1(2), **32(2)(a)(i)**)

F136 Word in Art. 6(1a) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **13(2)(a)**; 2020 c. 1, Sch. 5 para. 1(1)

F137 Words in Art. 6(1a)(c) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **13(2)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

F138 Words in Art. 6(2) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **67(2)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F139 Art. 6(3)-(5) omitted (1.1.2022) by S.I. 2021/1078, **reg. 4(2)(b)** (as substituted by The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/1376), regs. 1(2), **32(2)(a)(ii)**)

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 institution are subject to authorisation and supervision **[**[F140]in the United Kingdom**]**, and the subsidiary is included in the supervision on a consolidated basis of the institution which is the parent undertaking, 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 Competent authorities may exercise the option provided for in paragraph 1 **[**[F141]where the parent undertaking of the subsidiary is a UK financial holding company or a UK mixed financial holding company**]**, provided that it is subject to the same supervision as that exercised over institutions, and in particular to the standards laid down in Article 11(1).

3 Competent authorities may waive the application of Article 6(1) to a **[**[F142]UK parent institution, where**]** 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 [F143UK parent institution];

b the risk evaluation, measurement and control procedures relevant for consolidated supervision cover the [F144UK parent institution].

F145 ...

Textual Amendments

F140 Words in Art. 7(1) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **68(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F141 Words in Art. 7(2) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **68(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F142 Words in Art. 7(3) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **68(c)(i)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F143 Words in Art. 7(3)(a) substituted (1.1.2022) by The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **4(3)**

F144 Words in Art. 7(3)(b) substituted (1.1.2022) by The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **4(3)**

F145 Words in Art. 7(3) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **68(c)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F146 Article 8

Derogation from the application of liquidity requirements on an individual basis

. . . .

Textual Amendments

F146 Art. 8 omitted (1.1.2022) by virtue of The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **4(4)**

Article 9

Individual consolidation method

1 Subject to [F147paragraph 2] of this Article F148..., the competent authorities may permit on a case-by-case basis parent institutions to incorporate in the calculation of their requirement under Article 6(1), subsidiaries which meet the conditions laid down in points (c) and (d) of Article 7(1) and whose material exposures or material liabilities are to that parent institution.

2 The treatment set out in paragraph 1 shall be permitted only where the parent institution demonstrates fully to the competent authorities the circumstances and arrangements,

including legal arrangements, by virtue of which there is no current or foreseen material practical or legal impediment to the prompt transfer of own funds, or repayment of liabilities when due by the subsidiary to its parent undertaking.

F149 3 . . . .

Textual Amendments

F147 Words in Art. 9(1) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **70(a)(i)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F148 Words in Art. 9(1) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **70(a)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F149 Art. 9(3) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **70(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F150 *Article 10*

Waiver for credit institutions permanently affiliated to a central body

. . . .

Textual Amendments

F150 Art. 10 omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **71** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

[F151 *Article 10A*

Application of prudential requirements on a consolidated basis where FCA investment firms are parent undertakings

For the purposes of the application of this Chapter, FCA investment firms are to be considered to be UK parent financial holding companies where they are parent undertakings of an institution.**]**

Textual Amendments

F151 Art. 10A inserted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 5**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

CHAPTER 2

Prudential consolidation

Section 1

Application of requirements on a consolidated basis

Article 11

General treatment

[F1 1 [F152 UK parent institutions] shall comply, to the extent and in the manner set out in Article 18, with the obligations laid down in [F153 Parts Two and Three on the basis of their consolidated situation]. The parent undertakings and their subsidiaries that are subject to this Regulation shall set up a proper organisational structure and appropriate internal control mechanisms in order to ensure that the data required for consolidation are duly processed and forwarded. In particular, they shall ensure that subsidiaries not subject to this Regulation implement arrangements, processes and mechanisms to ensure proper consolidation.

2 For the purpose of ensuring that the requirements of this Regulation are applied on a consolidated basis, the terms ' institution ', [F154 'UK parent institution'] and ' parent undertaking ', as the case may be, shall also refer to:

a a financial holding company or mixed financial holding company approved in accordance with Article 21a of Directive 2013/36/EU [F155 UK law];
b a designated institution controlled by a parent financial holding company or parent mixed financial holding company where such a parent is not subject to approval in accordance with Article 21a(4) of Directive 2013/36/EU [F155 UK law];
c a financial holding company, mixed financial holding company or institution designated in accordance with point (d) of Article 21a(6) of Directive 2013/36/EU [F155 UK law].

The consolidated situation of an undertaking referred to in point (b) of the first subparagraph of this paragraph shall be the consolidated situation of the parent financial holding company or the parent mixed financial holding company that is not subject to approval in accordance with Article 21a(4) of Directive 2013/36/EU [F155 UK law]. The consolidated situation of an undertaking referred to in point (c) of the first subparagraph of this paragraph shall be the consolidated situation of its parent financial holding company or parent mixed financial holding company.]

F156 3 . . . .

[F64 3a By way of derogation from paragraph 1 of this Article, only parent institutions identified as resolution entities that are G-SIIs, part of a G-SII or part of a [F157 non-UK G-SII] shall comply with Article 92a of this Regulation on a consolidated basis, to the extent and in the manner set out in Article 18 of this Regulation.

Only [F158 UK parent undertakings] that are a material subsidiary of a [F157 non-UK G-SII] and are not resolution entities shall comply with Article 92b of this Regulation on a consolidated basis to the extent and in the manner set out in Article 18 of this Regulation. F159 ...]

F160 4 . . . .

[F161]5 . . . .

6 [[F162]In addition to the requirements of paragraphs 1 to 3, the competent authority may require an institution to comply with the obligations mentioned in the third sub-paragraph on a sub-consolidated basis when—

- a it is justified for supervisory purposes by the specificities of the risk or the capital structure of the institution, or
- b the institution is a ring-fenced body within the meaning of section 142A(1) of FSMA.]

The application of the approach set out in the first subparagraph shall be without prejudice to effective supervision on a consolidated basis. [F163]... [[F164]The obligations mentioned in this sub-paragraph are those provided for in—

- a Parts [[F165]Two and Three] of this Regulation;
- b Directive 2013/36/EU UK law which implemented Title 7, Chapter 4 of Directive 2013/36/EU.]

Textual Amendments

F1 Substituted by Regulation (EU) 2019/876 of the European Parliament and of the Council of 20 May 2019 amending Regulation (EU) No 575/2013 as regards the leverage ratio, the net stable funding ratio, requirements for own funds and eligible liabilities, counterparty credit risk, market risk, exposures to central counterparties, exposures to collective investment undertakings, large exposures, reporting and disclosure requirements, and Regulation (EU) No 648/2012 (Text with EEA relevance).

F64 Inserted by Regulation (EU) 2019/876 of the European Parliament and of the Council of 20 May 2019 amending Regulation (EU) No 575/2013 as regards the leverage ratio, the net stable funding ratio, requirements for own funds and eligible liabilities, counterparty credit risk, market risk, exposures to central counterparties, exposures to collective investment undertakings, large exposures, reporting and disclosure requirements, and Regulation (EU) No 648/2012 (Text with EEA relevance).

F152 Words in Art. 11(1) substituted (31.12.2020) by The Securities Financing Transactions, Securitisation and Miscellaneous Amendments (EU Exit) Regulations 2020 (S.I. 2020/1385), regs. 1(3), **74(2)(a)**

F153 Words in Art. 11(1) substituted (1.1.2022) by S.I. 2021/1078, **reg. 4(5)(a)** (as substituted by The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/1376), regs. 1(2), **32(2)(b)(i)**)

F154 Words in Art. 11(2) substituted (31.12.2020) by The Securities Financing Transactions, Securitisation and Miscellaneous Amendments (EU Exit) Regulations 2020 (S.I. 2020/1385), regs. 1(3), **74(2)(b)(i)**

F155 Words in Art. 11(2) inserted (31.12.2020) by The Securities Financing Transactions, Securitisation and Miscellaneous Amendments (EU Exit) Regulations 2020 (S.I. 2020/1385), regs. 1(3), **74(2)(b)(ii)**

F156 Deleted by Regulation (EU) 2019/876 of the European Parliament and of the Council of 20 May 2019 amending Regulation (EU) No 575/2013 as regards the leverage ratio, the net stable funding ratio, requirements for own funds and eligible liabilities, counterparty credit risk, market risk, exposures to central counterparties, exposures to collective investment undertakings, large exposures, reporting and disclosure requirements, and Regulation (EU) No 648/2012 (Text with EEA relevance).

F157 Words in Art. 11(3a) substituted (31.12.2020) by The Securities Financing Transactions, Securitisation and Miscellaneous Amendments (EU Exit) Regulations 2020 (S.I. 2020/1385), regs. 1(3), **74(2)(c)(i)**

F158 Words in Art. 11(3a) substituted (31.12.2020) by The Securities Financing Transactions, Securitisation and Miscellaneous Amendments (EU Exit) Regulations 2020 (S.I. 2020/1385), regs. 1(3), **74(2)(c)(ii)**

F159 Words in Art. 11(3a) omitted (31.12.2020) by virtue of The Securities Financing Transactions, Securitisation and Miscellaneous Amendments (EU Exit) Regulations 2020 (S.I. 2020/1385), regs. 1(3), **74(2)(c)(iii)**

F160 Art. 11(4) omitted (1.1.2022) by virtue of The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **4(5)(b)**

F161 Art. 11(5) omitted (31.12.2020) by virtue of The Securities Financing Transactions, Securitisation and Miscellaneous Amendments (EU Exit) Regulations 2020 (S.I. 2020/1385), regs. 1(3), **74(2)(e)**

F162 Words in Art. 11(6) substituted (31.12.2020) by The Securities Financing Transactions, Securitisation and Miscellaneous Amendments (EU Exit) Regulations 2020 (S.I. 2020/1385), regs. 1(3), **74(2)(f)(i)**

F163 Words in Art. 11(6) omitted (31.12.2020) by virtue of The Securities Financing Transactions, Securitisation and Miscellaneous Amendments (EU Exit) Regulations 2020 (S.I. 2020/1385), regs. 1(3), **74(2)(f)(ii)**

F164 Words in Art. 11(6) inserted (31.12.2020) by The Securities Financing Transactions, Securitisation and Miscellaneous Amendments (EU Exit) Regulations 2020 (S.I. 2020/1385), regs. 1(3), **74(2)(f)(iii)**

F165 Words in Art. 11(6)(a) substituted (1.1.2022) by S.I. 2021/1078, **reg. 4(5)(c)** (as substituted by The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/1376), regs. 1(2), **32(2)(b)(ii)**)

F156 Article 12

[F156 Financial holding company or mixed financial holding company with both a subsidiary credit institution and a subsidiary investment firm]

. . . .

Textual Amendments

F156 Deleted by Regulation (EU) 2019/876 of the European Parliament and of the Council of 20 May 2019 amending Regulation (EU) No 575/2013 as regards the leverage ratio, the net stable funding ratio, requirements for own funds and eligible liabilities, counterparty credit risk, market risk, exposures to central counterparties, exposures to collective investment undertakings, large exposures, reporting and disclosure requirements, and Regulation (EU) No 648/2012 (Text with EEA relevance).

[F64 Article 12a

Consolidated calculation for G-SIIs with multiple resolution entities

Where at least two G-SII entities belonging to the same G-SII are resolution entities, the [F166 UK parent institution] of that G-SII shall calculate the amount of own funds and eligible liabilities referred to in point (a) of Article 92a(1) of this Regulation. That calculation shall be undertaken on the basis of the consolidated situation of the [F166 UK parent institution] as if it were the only resolution entity of the G-SII.

F167 ...]

Textual Amendments

F64 Inserted by Regulation (EU) 2019/876 of the European Parliament and of the Council of 20 May 2019 amending Regulation (EU) No 575/2013 as regards the leverage ratio, the net stable funding ratio, requirements for own funds and eligible liabilities, counterparty credit risk, market risk, exposures to central counterparties, exposures to collective investment undertakings, large exposures, reporting and disclosure requirements, and Regulation (EU) No 648/2012 (Text with EEA relevance).

F166 Words in Art. 12a substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **15(2)**; 2020 c. 1, Sch. 5 para. 1(1)

F167 Words in Art. 12a omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **15(3)**; 2020 c. 1, **Sch. 5 para. 1(1)**

[F168] *Article 13*

Application of disclosure requirements on a consolidated basis

Textual Amendments

F168 Art. 13 omitted (1.1.2022) by S.I. 2021/1078, **reg. 4(6)** (as substituted by The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/1376), regs. 1(2), **32(2)(c)**)

[[F1] *Article 14*

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

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

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

Textual Amendments

F1 Substituted by Regulation (EU) 2019/876 of the European Parliament and of the Council of 20 May 2019 amending Regulation (EU) No 575/2013 as regards the leverage ratio, the net stable funding ratio, requirements for own funds and eligible liabilities, counterparty credit risk, market risk, exposures to central counterparties, exposures to collective investment undertakings, large exposures, reporting and disclosure requirements, and Regulation (EU) No 648/2012 (Text with EEA relevance).

F169 Article 15

Derogation from the application of own funds requirements on a consolidated basis for groups of investment firms

Textual Amendments

F169 Art. 15 omitted (1.1.2022) by virtue of Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 6**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F170 Article 16

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

Textual Amendments

F170 Art. 16 omitted (1.1.2022) by virtue of Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 7**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F171 Article 17

Supervision of investment firms waived from the application of own funds requirements on a consolidated basis

Textual Amendments

F171 Art. 17 omitted (1.1.2022) by virtue of Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 8**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

Section 2

Methods for prudential consolidation

[F1 Article 18]

Methods of prudential consolidation

[F1 1 Institutions, financial holding companies and mixed financial holding companies that are required to comply with the requirements referred to in Section 1 of this Chapter on the basis of their consolidated situation shall carry out a full consolidation of all institutions and financial institutions that are their subsidiaries. F172...]

[F64 For the purposes of Article 11(3a), institutions that are required to comply with the requirements referred to in Article 92a or 92b on a consolidated basis shall carry out a full consolidation of all institutions and financial institutions that are their subsidiaries in the relevant resolution groups.]

[F1 2 Ancillary services undertakings shall be included in consolidation in the cases, and in accordance with the methods, laid down in this Article.

3 Where undertakings are related [F173 by a common management relationship], competent authorities shall determine how consolidation is to be carried out.

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

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

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

a where, in the opinion of the competent authorities, an institution exercises a significant influence over one or more institutions or financial institutions, but without holding a participation or other capital ties in those institutions; and
b where two or more institutions or financial institutions are placed under single management other than pursuant to a contract, clauses of their memoranda or articles of association.

In particular, competent authorities may permit or require the use of the method provided for in Article 22(7), (8) and (9) of Directive 2013/34/EU [F174, as it had effect immediately before IP completion day]. That method shall not, however, constitute inclusion of the undertakings concerned in consolidated supervision.

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

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

a the institution does not already apply the equity method on 28 December 2020;
b it would be unduly burdensome to apply the equity method or the equity method does not adequately reflect the risks that the undertaking referred to in the first subparagraph poses to the institution; and
c the method applied does not result in full or proportional consolidation of that undertaking.

[F175 8 Where consolidated supervision is required under this regulation, ancillary services undertakings and asset management companies as defined in Article 4(1)(19) of this regulation must be included in consolidations in the cases, and in accordance with the methods, laid down in this Article.]]

[F64 9 [F176 The [F177 PRA may] make] technical standards to specify conditions in accordance with which consolidation shall be carried out in the cases referred to in paragraphs 3 to 6 and paragraph 8.

F178 ...]

Textual Amendments

F1 Substituted by Regulation (EU) 2019/876 of the European Parliament and of the Council of 20 May 2019 amending Regulation (EU) No 575/2013 as regards the leverage ratio, the net stable funding ratio, requirements for own funds and eligible liabilities, counterparty credit risk, market risk, exposures to central counterparties, exposures to collective investment undertakings, large exposures, reporting and disclosure requirements, and Regulation (EU) No 648/2012 (Text with EEA relevance).

F64 Inserted by Regulation (EU) 2019/876 of the European Parliament and of the Council of 20 May 2019 amending Regulation (EU) No 575/2013 as regards the leverage ratio, the net stable funding ratio, requirements for own funds and eligible liabilities, counterparty credit risk, market risk, exposures to central counterparties, exposures to collective investment undertakings, large exposures, reporting and disclosure requirements, and Regulation (EU) No 648/2012 (Text with EEA relevance).

F172 Words in Art. 18(1) omitted (1.1.2022) by virtue of The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **4(7)**

F173 Words in Art. 18(3) inserted (31.12.2020) by The Securities Financing Transactions, Securitisation and Miscellaneous Amendments (EU Exit) Regulations 2020 (S.I. 2020/1385), regs. 1(3), **74(3)(a)**

F174 Words in Art. 18(6) inserted (31.12.2020) by The Securities Financing Transactions, Securitisation and Miscellaneous Amendments (EU Exit) Regulations 2020 (S.I. 2020/1385), regs. 1(3), **74(3)(b)**

F175 Art. 18(8) substituted (31.12.2020) by The Financial Conglomerates and Other Financial Groups (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/264), regs. 1, **5(3)** (with reg. 6) (as amended by S.I. 2020/1301, reg. 3, **Sch. para. 15** and with savings in S.I. 2019/680, **reg. 11**); 2020 c. 1, **Sch. 5 para. 1(1)**

F176 Words in Art. 18(9) substituted (31.12.2020) by The Securities Financing Transactions, Securitisation and Miscellaneous Amendments (EU Exit) Regulations 2020 (S.I. 2020/1385), regs. 1(3), **74(3)(d)(i)**

F177 Words in Art. 18(9) substituted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 47**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F178 Words in Art. 18(9) omitted (31.12.2020) by virtue of The Securities Financing Transactions, Securitisation and Miscellaneous Amendments (EU Exit) Regulations 2020 (S.I. 2020/1385), regs. 1(3), **74(3)(d)(ii)**

Section 3

Scope of prudential consolidation

Article 19

Entities excluded from the scope of prudential consolidation

1 An institution, a financial institution or an ancillary services undertaking which is a subsidiary or an undertaking in which a participation is held, need not to be included in the consolidation where the total amount of assets and off-balance sheet items of the undertaking concerned is less than the smaller of the following two amounts:

a EUR 10 million;

b 1 % of the total amount of assets and off-balance sheet items of the parent undertaking or the undertaking that holds the participation.

2 **[**[F179]The consolidating supervisor**]** may on a case-by-case basis decide in the following cases that an institution, financial institution or ancillary services undertaking which is a subsidiary or in which a participation is held need not be included in the consolidation:

a where the undertaking concerned is situated in a third country where there are legal impediments to the transfer of the necessary information;

b where the undertaking concerned is of negligible interest only with respect to the objectives of monitoring institutions;

[[X2]c where, in the opinion of **[**[F180]the consolidating supervisor**]**, the consolidation of the financial situation of the undertaking concerned would be inappropriate or misleading as far as the objectives of the supervision of institutions are concerned.**]**

3 Where, in the cases referred to in paragraph 1 and point (b) of paragraph 2, several undertakings meet the criteria set out therein, they shall nevertheless be included in the consolidation where collectively they are of non-negligible interest with respect to the specified objectives.

Editorial Information

X2 Substituted by Corrigendum to 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 (Official Journal of the European Union L 176 of 27 June 2013) (Corrected version in Official Journal of the European Union L 321 of 30 November 2013).

Textual Amendments

F179 Words in Art. 19(2) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **78(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F180 Words in Art. 19(2)(c) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **78(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 20

Joint decisions on prudential requirements

[F181] 1 . . . .

[F181] 2 . . . .

[F181] 3 . . . .

[F181] 4 . . . .

[F181] 5 . . . .

6 Where **[**[F182]a UK parent institution and its subsidiaries, the subsidiaries of a UK parent financial holding company or a UK parent mixed financial holding company**]** use an Advanced Measurement Approach referred to in Article 312(2) or an IRB Approach referred to in Article 143 on a unified basis, the competent authorities shall allow the qualifying criteria set out in Articles 321 and 322 or in Part Three, Title II, Chapter 3, Section 6 respectively to be met by

the parent and its subsidiaries considered together, in a way that is consistent with the structure of the group and its risk management systems, processes and methodologies.

F183 7 . . . .

F183 8 . . . .

Textual Amendments

F181 Art. 20(1)-(5) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **79(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F182 Words in Art. 20(6) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **79(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F183 Art. 20(7)(8) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **79(c)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F184 Article 21

Joint decisions on the level of application of liquidity requirements

. . . .

Textual Amendments

F184 Art. 21 omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **80** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F185 Article 22

Sub-consolidation in cases of entities in third countries

Textual Amendments

F185 Art. 22 omitted (1.1.2022) by virtue of The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **4(8)**

Article 23

Undertakings in third countries

For the purposes of applying supervision on a consolidated basis in accordance with this Chapter, the terms ‘ investment firm ’ , ‘ credit institution ’ , financial institution', and ‘ institution ’ shall also apply to undertakings established in third countries, which, were they established in the **[**F186United Kingdom**]**, would fulfil the definitions of those terms in Article 4.

Textual Amendments

F186 Words in Art. 23 substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **81** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 24

Valuation of assets and off-balance sheet items

1 The valuation of assets and off-balance sheet items shall be effected in accordance with the applicable accounting framework.

2 By way of derogation from paragraph 1, competent authorities may require that institutions effect the valuation of assets and off-balance sheet items and the determination of own funds in accordance with the [F187UK-adopted international accounting standards].

Textual Amendments

F187 Words in Art. 24(2) substituted (31.12.2020) by The Financial Services (Miscellaneous) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/710), regs. 1(3), **27(3)**; 2020 c. 1, Sch. 5 para. 1(1)

PART TWO

[F1OWN FUNDS AND ELIGIBLE LIABILITIES]

TITLE I

ELEMENTS OF OWN FUNDS

CHAPTER 1

Tier 1 capital

Article 25

Tier 1 capital

The Tier 1 capital of an institution consists of the sum of the Common Equity Tier 1 capital and Additional Tier 1 capital of the institution.

CHAPTER 2

Common Equity Tier 1 capital

Section 1

Common Equity Tier 1 items and instruments

Article 26

Common Equity Tier 1 items

1 Common Equity Tier 1 items of institutions consist of the following:

a capital instruments, provided that the conditions laid down in Article 28 or, where applicable, Article 29 are met;

b share premium accounts related to the instruments referred to in point (a);

c retained earnings;

d accumulated other comprehensive income;

e other reserves;

f funds for general banking risk.

The items referred to in points (c) to (f) shall be recognised as Common Equity Tier 1 only where they are available to the institution for unrestricted and immediate use to cover risks or losses as soon as these occur.

2 For the purposes of point (c) of paragraph 1, institutions may include interim or year-end profits in Common Equity Tier 1 capital before the institution has taken a formal decision confirming the final profit or loss of the institution for the year only with the prior permission of the competent authority. The competent authority shall grant permission where the following conditions are met:

a those profits have been verified by persons independent of the institution that are responsible for the auditing of the accounts of that institution;

b the institution has demonstrated to the satisfaction of the competent authority that any foreseeable charge or dividend has been deducted from the amount of those profits.

A verification of the interim or year-end profits of the institution shall provide an adequate level of assurance that those profits have been evaluated in accordance with the principles set out in the applicable accounting framework.

[F1 3 Competent authorities shall evaluate whether issuances of capital instruments meet the criteria set out in Article 28 or, where applicable, Article 29. Institutions shall classify issuances of capital instruments as Common Equity Tier 1 instruments only after permission is granted by the competent authorities.

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

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

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

F188 ...

[F189 Each competent authority] shall establish, maintain and publish a list of all forms of capital instruments F190 ... that qualify as Common Equity Tier 1 instruments. F191 ...]

4 [F192 The [F193 PRA may] make technical standards] to specify the meaning of foreseeable when determining whether any foreseeable charge or dividend has been deducted.

F194 ...

Textual Amendments

F188 Words in Art. 26(3) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **18(2)(a)**; 2020 c. 1, Sch. 5 para. 1(1)

F189 Words in Art. 26(3) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **18(2)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

F190 Words in Art. 26(3) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **18(2)(c)**; 2020 c. 1, Sch. 5 para. 1(1)

F191 Words in Art. 26(3) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **18(2)(d)**; 2020 c. 1, Sch. 5 para. 1(1)

F192 Words in Art. 26(4) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **222(1)(a)**(2) (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F193 Words in Art. 26(4) substituted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 47**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F194 Words in Art. 26(4) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **222(1)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 27

Capital instruments of mutuals, cooperative societies, savings institutions or similar institutions in Common Equity Tier 1 items

1 Common Equity Tier 1 items shall include any capital instrument issued by an institution under its statutory terms provided that the following conditions are met:

a the institution is of a type that is defined under [F195 the applicable law of the United Kingdom, or any part of it,] and which competent authorities consider to qualify as any of the following:

(i) a mutual;

(ii) a cooperative society;

(iii) a savings institution;

(iv) a similar institution;

(v) a credit institution which is wholly owned by one of the institutions referred to in points (i) to (iv) and has approval from the relevant competent authority to make use of the provisions in this Article, provided that, and for as long as, 100 % of the ordinary shares in issue in the credit institution are held directly or indirectly by an institution referred to in those points;

b the conditions laid down in Articles 28 or, where applicable, Article 29, are met.

Those mutuals, cooperative societies or savings institutions recognised as such under [F196the applicable law of the United Kingdom, or any part of it,] prior to 31 December 2012 shall continue to be classified as such for the purposes of this Part, provided that they continue to meet the criteria that determined such recognition.

2 [F197The [F198PRA may] make technical standards] to specify [F199the types of undertaking that qualify] as a mutual, cooperative society, savings institution or similar institution for the purposes of this Part.

F200 ...

Textual Amendments

F195 Words in Art. 27(1)(a) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **83(a)**, **224(2)(a)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F196 Words in Art. 27(1) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **83(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F197 Words in Art. 27(2) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **224(2)(a)(i)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F198 Words in Art. 27(2) substituted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 47**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F199 Words in Art. 27(2) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **83(c)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F200 Words in Art. 27(2) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **224(2)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 28

Common Equity Tier 1 instruments

1 Capital instruments shall qualify as Common Equity Tier 1 instruments only if all the following conditions are met:

a the instruments are issued directly by the institution with the prior approval of the owners of the institution or, where permitted under applicable national law [F201of the United Kingdom, or any part of it, or of a third country], the management body of the institution;

[F1b the instruments are fully paid up and the acquisition of ownership of those instruments is not funded directly or indirectly by the institution;]

c the instruments meet all the following conditions as regards their classification:

(i) [F202they qualify as capital, which for these purposes comprises all amounts, regardless of their actual designations, which, in accordance with the legal structure of the institution concerned, are regarded under the applicable law of the United Kingdom, or any part of it, or of a third country, as equity capital subscribed by the shareholders or other proprietors;]

(ii) they are classified as equity within the meaning of the applicable accounting framework;

(iii) they are classified as equity capital for the purposes of determining balance sheet insolvency, where applicable under national insolvency law [F203 of the United Kingdom, or any part of it, or of a third country];

d the instruments are clearly and separately disclosed on the balance sheet in the financial statements of the institution;

e the instruments are perpetual;

f the principal amount of the instruments may not be reduced or repaid, except in either of the following cases:

(i) the liquidation of the institution;

(ii) discretionary repurchases of the instruments or other discretionary means of reducing capital, where the institution has received the prior permission of the competent authority in accordance with Article 77;

g the provisions governing the instruments do not indicate expressly or implicitly that the principal amount of the instruments would or might be reduced or repaid other than in the liquidation of the institution, and the institution does not otherwise provide such an indication prior to or at issuance of the instruments, except in the case of instruments referred to in Article 27 where the refusal by the institution to redeem such instruments is prohibited under applicable national law [F204 of the United Kingdom, or any part of it, or of a third country];

h the instruments meet the following conditions as regards distributions:

(i) there is no preferential distribution treatment regarding the order of distribution payments, including in relation to other Common Equity Tier 1 instruments, and the terms governing the instruments do not provide preferential rights to payment of distributions;

(ii) distributions to holders of the instruments may be paid only out of distributable items;

(iii) the conditions governing the instruments do not include a cap or other restriction on the maximum level of distributions, except in the case of the instruments referred to in Article 27;

(iv) the level of distributions is not determined on the basis of the amount for which the instruments were purchased at issuance, except in the case of the instruments referred to in Article 27;

(v) the conditions governing the instruments do not include any obligation for the institution to make distributions to their holders and the institution is not otherwise subject to such an obligation;

(vi) non-payment of distributions does not constitute an event of default of the institution;

(vii) the cancellation of distributions imposes no restrictions on the institution;

i compared to all the capital instruments issued by the institution, the instruments absorb the first and proportionately greatest share of losses as they occur, and each instrument absorbs losses to the same degree as all other Common Equity Tier 1 instruments;
j the instruments rank below all other claims in the event of insolvency or liquidation of the institution;
k the instruments entitle their owners to a claim on the residual assets of the institution, which, in the event of its liquidation and after the payment of all senior claims, is proportionate to the amount of such instruments issued and is not fixed or subject to a cap, except in the case of the capital instruments referred to in Article 27;
l the instruments are neither secured nor subject to a guarantee 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) the parent financial holding company or its subsidiaries;

(iv) the mixed activity holding company or its subsidiaries;

(v) the mixed financial holding company and its subsidiaries;

(vi) any undertaking that has close links with the entities referred to in points (i) to (v);

m the instruments are not subject to any arrangement, contractual or otherwise, that enhances the seniority of claims under the instruments in insolvency or liquidation.

The condition set out in point (j) of the first subparagraph shall be deemed to be met, notwithstanding the instruments are included in Additional Tier 1 or Tier 2 by virtue of Article 484(3), provided that they rank pari passu.

[[F64]For the purposes of point (b) of the first subparagraph, only the part of a capital instrument that is fully paid up shall be eligible to qualify as a Common Equity Tier 1 instrument.**]**

2 The conditions laid down in point (i) of paragraph 1 shall be deemed to be met notwithstanding a write down on a permanent basis of the principal amount of Additional Tier 1 or Tier 2 instruments.

The condition laid down in point (f) of paragraph 1 shall be deemed to be met notwithstanding the reduction of the principal amount of the capital instrument within a resolution procedure or as a consequence of a write down of capital instruments required by the resolution authority responsible for the institution.

The condition laid down in point (g) of paragraph 1 shall be deemed to be met notwithstanding the provisions governing the capital instrument indicating expressly or implicitly that the principal amount of the instrument would or might be reduced within a resolution procedure or as a consequence of a write down of capital instruments required by the resolution authority responsible for the institution.

3 The condition laid down in point (h)(iii) of paragraph 1 shall be deemed to be met notwithstanding the instrument paying a dividend multiple, provided that such a dividend multiple does not result in a distribution that causes a disproportionate drag on own funds.

[[F64]The condition set out in point (h)(v) of the first subparagraph of paragraph 1 shall be considered to be met notwithstanding a subsidiary being subject to a profit and loss transfer agreement with its parent undertaking, according to which the subsidiary is obliged to transfer, following the preparation of its annual financial statements, its annual result to the parent undertaking, where all the following conditions are met:

a the parent undertaking owns 90 % or more of the voting rights and capital of the subsidiary;
b the parent undertaking and the subsidiary are located in the **[**F205United Kingdom**]**;
c the agreement was concluded for legitimate taxation purposes;
d in preparing the annual financial statement, the subsidiary has discretion to decrease the amount of distributions by allocating a part or all of its profits to its own reserves or funds for general banking risk before making any payment to its parent undertaking;
e the parent undertaking is obliged under the agreement to fully compensate the subsidiary for all losses of the subsidiary;
f the agreement is subject to a notice period according to which the agreement can be terminated only by the end of an accounting year, with such termination taking effect no earlier than the beginning of the following accounting year, leaving the parent undertaking's obligation to fully compensate the subsidiary for all losses incurred during the current accounting year unchanged.

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

4 For the purposes of point (h)(i) of paragraph 1, differentiated distributions shall only reflect differentiated voting rights. In this respect, higher distributions shall only apply to Common Equity Tier 1 instruments with fewer or no voting rights.

5 **[**F206The **[**F207PRA may**]** make technical standards**]** to specify the following:

a the applicable forms and nature of indirect funding of own funds instruments;
b whether and when multiple distributions would constitute a disproportionate drag on own funds;
c the meaning of preferential distributions.

F208 ...

Textual Amendments

F64 Inserted by Regulation (EU) 2019/876 of the European Parliament and of the Council of 20 May 2019 amending Regulation (EU) No 575/2013 as regards the leverage ratio, the net stable funding ratio, requirements for own funds and eligible liabilities, counterparty credit risk, market risk, exposures to central counterparties, exposures to collective investment undertakings, large exposures, reporting and disclosure requirements, and Regulation (EU) No 648/2012 (Text with EEA relevance).

F201 Words in Art. 28(1)(a) inserted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **84(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F202 Art. 28(1)(c)(i) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **84(b)(i)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F203 Words in Art. 28(1)(c)(iii) inserted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **84(b)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F204 Words in Art. 28(1)(g) inserted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **84(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
F205 Words in Art. 28(3)(b) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **19**; 2020 c. 1, Sch. 5 para. 1(1)
F206 Words in Art. 28(5) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **222(1)(a)**(2) (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
F207 Words in Art. 28(5) substituted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 47**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)
F208 Words in Art. 28(5) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **222(1)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 29

Capital instruments issued by mutuals, cooperative societies, savings institutions and similar institutions

1 Capital instruments issued by mutuals, cooperative societies, savings institutions and similar institutions shall qualify as Common Equity Tier 1 instruments only if the conditions laid down in Article 28 with modifications resulting from the application of this Article are met.

2 The following conditions shall be met as regards redemption of the capital instruments:

a except where prohibited under applicable national law **[**[F209]of the United Kingdom, or any part of it, or of a third country**]**, the institution shall be able to refuse the redemption of the instruments;

b where the refusal by the institution of the redemption of instruments is prohibited under applicable national law **[**[F210]of the United Kingdom, or any part of it, or of a third country**]**, the provisions governing the instruments shall give the institution the ability to limit their redemption;

c refusal to redeem the instruments, or the limitation of the redemption of the instruments where applicable, may not constitute an event of default of the institution.

3 The capital instruments may include a cap or restriction on the maximum level of distributions only where that cap or restriction is set out under applicable national law **[**[F211]of the United Kingdom, or any part of it, or of a third country**]** or the statute of the institution.

4 Where the capital instruments provide the owner with rights to the reserves of the institution in the event of insolvency or liquidation that are limited to the nominal value of the instruments, such a limitation shall apply to the same degree to the holders of all other Common Equity Tier 1 instruments issued by that institution.

The condition laid down in the first subparagraph is without prejudice to the possibility for a mutual, cooperative society, savings institution or a similar institution to recognise within Common Equity Tier 1 instruments that do not afford voting rights to the holder and that meet all the following conditions:

a the claim of the holders of the non-voting instruments in the insolvency or liquidation of the institution is proportionate to the share of the total Common Equity Tier 1 instruments that those non-voting instruments represent;

b the instruments otherwise qualify as Common Equity Tier 1 instruments.

5 Where the capital instruments entitle their owners to a claim on the assets of the institution in the event of its insolvency or liquidation that is fixed or subject to a cap, such a limitation shall apply to the same degree to all holders of all Common Equity Tier 1 instruments issued by the institution.

6 [F212The [F213PRA may] make technical standards] to specify the nature of the limitations on redemption necessary where the refusal by the institution of the redemption of own funds instruments is prohibited under applicable national law [F214of the United Kingdom, or any part of it, or of a third country].

F215...

Textual Amendments

F209 Words in Art. 29(2)(a) inserted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **85** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F210 Words in Art. 29(2)(b) inserted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **85** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F211 Words in Art. 29(3) inserted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **85** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F212 Words in Art. 29(6) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **222(1)(a)**(2) (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F213 Words in Art. 29(6) substituted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 47**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F214 Words in Art. 29(6) inserted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **85** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F215 Words in Art. 29(6) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **222(1)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 30

Consequences of the conditions for Common Equity Tier 1 instruments ceasing to be met

The following shall apply where, in the case of a Common Equity Tier 1 instrument, the conditions laid down in Article 28 or, where applicable, Article 29 cease to be met:

(a) that instrument shall immediately cease to qualify as a Common Equity Tier 1 instrument;

(b) the share premium accounts that relate to that instrument shall immediately cease to qualify as Common Equity Tier 1 items.

Article 31

Capital instruments subscribed by public authorities in emergency situations

1 In emergency situations, competent authorities may permit institutions to include in Common Equity Tier 1 capital instruments that comply at least with the conditions laid down in points (b) to (e) of Article 28(1) where all the following conditions are met:

a the capital instruments are issued after 1 January 2014 ;
b the capital instruments **[**[F216]amount to financial support provided by the state**]**;
c the capital instruments are issued within the context of recapitalisation measures **[**[F217]amounting to financial support provided by the state in the United Kingdom, or pursuant to state aid rules in a third country, at the time**]**;
d the capital instruments are fully subscribed and held by the State or a relevant public authority or public-owned entity;
e the capital instruments are able to absorb losses;
f except for the capital instruments referred to in Article 27, in the event of liquidation, the capital instruments entitle their owners to a claim on the residual assets of the institution after the payment of all senior claims;
g there are adequate exit mechanisms of the State or, where applicable, a relevant public authority or public-owned entity;
h the competent authority has granted its prior permission and has published its decision together with an explanation of that decision.

[F218] 2 . . . .

Textual Amendments

F216 Words in Art. 31(1)(b) substituted (31.12.2020) by The State Aid (Revocations and Amendments) (EU Exit) Regulations 2020 (S.I. 2020/1470), reg. 1(2), **Sch. 1 para. 3(2)(a)** (with Sch. 3)

F217 Words in Art. 31(1)(c) substituted (31.12.2020) by The State Aid (Revocations and Amendments) (EU Exit) Regulations 2020 (S.I. 2020/1470), reg. 1(2), **Sch. 1 para. 3(2)(b)** (with Sch. 3)

F218 Art. 31(2) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **86(c)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Section 2

Prudential filters

Article 32

Securitised assets

1 An institution shall exclude from any element of own funds any increase in its equity under the applicable accounting framework that results from securitised assets, including the following:

a such an increase associated with future margin income that results in a gain on sale for the institution;

b where the institution is the originator of a securitisation, net gains that arise from the capitalisation of future income from the securitised assets that provide credit enhancement to positions in the securitisation.

2 [F219The [F220PRA may] make technical standards] to specify further the concept of a gain on sale referred to in point (a) of paragraph 1.

F221 ...

Textual Amendments

F219 Words in Art. 32(2) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **222(1)(a)**(2) (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F220 Words in Art. 32(2) substituted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 47**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F221 Words in Art. 32(2) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **222(1)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 33

Cash flow hedges and changes in the value of own liabilities

1 Institutions shall not include the following items in any element of own funds:

a the fair value reserves related to gains or losses on cash flow hedges of financial instruments that are not valued at fair value, including projected cash flows;

b gains or losses on liabilities of the institution that are valued at fair value that result from changes in the own credit standing of the institution;

[F1c fair value gains and losses on derivative liabilities of the institution that result from changes in the own credit risk of the institution.]

2 For the purposes of point (c) of paragraph 1, institutions shall not offset the fair value gains and losses arising from the institution's own credit risk with those arising from its counterparty credit risk.

3 Without prejudice to point (b) of paragraph 1, institutions may include the amount of gains and losses on their liabilities in own funds where all the following conditions are met:

a the liabilities are [F222CRR covered bonds];

b the changes in the value of the institution's assets and liabilities are due to the same changes in the institution's own credit standing;

c there is a close correspondence between the value of the bonds referred to in point (a) and the value of the institution's assets;

d it is possible to redeem the mortgage loans by buying back the bonds financing the mortgage loans at market or nominal value.

4 [F223The [F224PRA may] make technical standards] to specify what constitutes close correspondence between the value of the bonds and the value of the assets, as referred to in point (c) of paragraph 3.

F225 ...

Textual Amendments

F222 Words in Art. 33(3)(a) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **87** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F223 Words in Art. 33(4) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **222(1)(a)**(2) (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F224 Words in Art. 33(4) substituted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 47**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F225 Words in Art. 33(4) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **222(1)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 34

Additional value adjustments

Institutions shall apply the requirements of Article 105 to all their assets measured at fair value when calculating the amount of their own funds and shall deduct from Common Equity Tier 1 capital the amount of any additional value adjustments necessary.

Article 35

Unrealised gains and losses measured at fair value

Except in the case of the items referred to in Article 33, institutions shall not make adjustments to remove from their own funds unrealised gains or losses on their assets or liabilities measured at fair value.

Section 3

Deductions from Common Equity Tier 1 items, exemptions and alternatives

Sub-Section 1

Deductions from Common Equity Tier 1 items

[F226] Article 36

Deductions from Common Equity Tier 1 items

Textual Amendments

F226 Art. 36 omitted (1.1.2022) by virtue of The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **5(2)**

Article 37

Deduction of intangible assets

Institutions shall determine the amount of intangible assets to be deducted in accordance with the following:

(a) the amount to be deducted shall be reduced by the amount of associated deferred tax liabilities that would be extinguished if the intangible assets became impaired or were derecognised under the applicable accounting framework;

(b) the amount to be deducted shall include goodwill included in the valuation of significant investments of the institution[F1;]

(c) [F64the amount to be deducted shall be reduced by the amount of the accounting revaluation of the subsidiaries' intangible assets derived from the consolidation of subsidiaries attributable to persons other than the undertakings included in the consolidation pursuant to Chapter 2 of Title II of Part One.]

Textual Amendments

F64 Inserted by Regulation (EU) 2019/876 of the European Parliament and of the Council of 20 May 2019 amending Regulation (EU) No 575/2013 as regards the leverage ratio, the net stable funding ratio, requirements for own funds and eligible liabilities, counterparty credit risk, market risk, exposures to central counterparties, exposures to collective investment undertakings, large exposures, reporting and disclosure requirements, and Regulation (EU) No 648/2012 (Text with EEA relevance).

Article 38

Deduction of deferred tax assets that rely on future profitability

1 Institutions shall determine the amount of deferred tax assets that rely on future profitability that require deduction in accordance with this Article.

2 Except where the conditions laid down in paragraph 3 are met, the amount of deferred tax assets that rely on future profitability shall be calculated without reducing it by the amount of the associated deferred tax liabilities of the institution.

3 The amount of deferred tax assets that rely on future profitability may be reduced by the amount of the associated deferred tax liabilities of the institution, provided the following conditions are met:

a the entity has a legally enforceable right under applicable national law [F227of the United Kingdom, or any part of it, or of a third country] to set off those current tax assets against current tax liabilities;

b the deferred tax assets and the deferred tax liabilities relate to taxes levied by the same tax authority and on the same taxable entity.

4 Associated deferred tax liabilities of the institution used for the purposes of paragraph 3 may not include deferred tax liabilities that reduce the amount of intangible assets or defined benefit pension fund assets required to be deducted.

5 The amount of associated deferred tax liabilities referred to in paragraph 4 shall be allocated between the following:

a deferred tax assets that rely on future profitability and arise from temporary differences that are not deducted in accordance with Article 48(1);

b all other deferred tax assets that rely on future profitability.

Institutions shall allocate the associated deferred tax liabilities according to the proportion of deferred tax assets that rely on future profitability that the items referred to in points (a) and (b) represent.

Textual Amendments

F227 Words in Art. 38(3)(a) inserted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **89** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 39

Tax overpayments, tax loss carry backs and deferred tax assets that do not rely on future profitability

1 The following items shall not be deducted from own funds and shall be subject to a risk weight in accordance with Chapter 2 or 3 of Title II of Part Three, as applicable:

a overpayments of tax by the institution for the current year;

b current year tax losses of the institution carried back to previous years that give rise to a claim on, or a receivable from, a central government, regional government or local tax authority.

2 [F1Deferred tax assets that do not rely on future profitability shall be limited to deferred tax assets which were created before 23 November 2016 and which arise from temporary differences, where all the following conditions are met:]

a they are automatically and mandatorily replaced without delay with a tax credit in the event that the institution reports a loss when the annual financial statements of the institution are formally approved, or in the event of liquidation or insolvency of the institution;

b an institution is able under the applicable national tax law [F228of the United Kingdom, or any part of it, or of a third country] to offset a tax credit referred to in point (a) against any tax liability of the institution or any other undertaking included in the same consolidation as the institution for tax purposes under that law or any other undertaking subject to the supervision on a consolidated basis in accordance with Chapter 2 of Title II of Part One;

c where the amount of tax credits referred to in point (b) exceeds the tax liabilities referred to in that point, any such excess is replaced without delay with a direct claim on [F229the government of the United Kingdom].

Institutions shall apply a risk weight of 100 % to deferred tax assets where the conditions laid down in points (a), (b) and (c) are met.

Textual Amendments

F228 Words in Art. 39(2)(b) inserted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **90(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F229 Words in Art. 39(2)(c) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **90(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 40

Deduction of negative amounts resulting from the calculation of expected loss amounts

The amount to be deducted in accordance with point (d) of Article 36(1) shall not be reduced by a rise in the level of deferred tax assets that rely on future profitability, or other additional tax effects, that could occur if provisions were to rise to the level of expected losses referred to in Section 3 of Chapter 3 of Title II of Part Three.

Article 41

Deduction of defined benefit pension fund assets

1 For the purposes of point (e) of Article 36(1), the amount of defined benefit pension fund assets to be deducted shall be reduced by the following:

a the amount of any associated deferred tax liability which could be extinguished if the assets became impaired or were derecognised under the applicable accounting framework;

b the amount of assets in the defined benefit pension fund which the institution has an unrestricted ability to use, provided that the institution has received the prior permission of the competent authority.

Those assets used to reduce the amount to be deducted shall receive a risk weight in accordance with Chapter 2 or 3 of Title II of Part Three, as applicable.

F230 2 . . . .

Textual Amendments

F230 Art. 41(2) omitted (1.1.2022) by virtue of The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **5(3)**

Article 42

Deduction of holdings of own Common Equity Tier 1 instruments

For the purposes of point (f) of Article 36(1), institutions shall calculate holdings of own Common Equity Tier 1 instruments on the basis of gross long positions subject to the following exceptions:

(a) institutions may calculate the amount of holdings of own Common Equity Tier 1 instruments on the basis of the net long position provided that both the following conditions are met:

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

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

(b) institutions shall determine the amount to be deducted for direct, indirect and synthetic holdings of index securities by calculating the underlying exposure to own Common Equity Tier 1 instruments included in those indices;

(c) institutions may net gross long positions in own Common Equity Tier 1 instruments resulting from holdings of index securities against short positions in own Common Equity Tier 1 instruments resulting from short positions in the underlying indices, including where those short positions involve counterparty risk, provided that both the following conditions are met:

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

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

Article 43

Significant investment in a financial sector entity

For the purposes of deduction, a significant investment of an institution in a financial sector entity shall arise where any of the following conditions is met:

(a) the institution owns more than 10 % of the Common Equity Tier 1 instruments issued by that entity;

(b) the institution has close links with that entity and owns Common Equity Tier 1 instruments issued by that entity;

(c) the institution owns Common Equity Tier 1 instruments issued by that entity and the entity is not included in consolidation pursuant to Chapter 2 of Title II of Part One but is included in the same accounting consolidation as the institution for the purposes of financial reporting under the applicable accounting framework.

Article 44

Deduction of holdings of Common Equity Tier 1 instruments of financial sector entities and where an institution has a reciprocal cross holding designed artificially to inflate own funds

Institutions shall make the deductions referred to in points (g), (h) and (i) of Article 36(1) in accordance with the following:

(a) holdings of Common Equity Tier 1 instruments and other capital instruments of financial sector entities shall be calculated on the basis of the gross long positions;

(b) Tier 1 own-fund insurance items shall be treated as holdings of Common Equity Tier 1 instruments for the purposes of deduction.

Article 45

Deduction of holdings of Common Equity Tier 1 instruments of financial sector entities

Institutions shall make the deductions required by points (h) and (i) of Article 36(1) in accordance with the following provisions:

(a) they may calculate direct, indirect and synthetic holdings of Common Equity Tier 1 instruments of the financial sector entities on the basis of the net long position in the same underlying exposure provided that both the following conditions are met:

(i) [F1the maturity date of the short position is either the same as, or later than the maturity date of the long position or the residual maturity of the short position is at least one year;]

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

(b) they shall determine the amount to be deducted for direct, indirect and synthetic holdings of index securities by calculating the underlying exposure to the capital instruments of the financial sector entities in those indices.

Article 46

Deduction of holdings of Common Equity Tier 1 instruments where an institution does not have a significant investment in a financial sector entity

1 For the purposes of point (h) of Article 36(1), institutions shall calculate the applicable amount to be deducted by multiplying the amount referred to in point (a) of this paragraph by the factor derived from the calculation referred to in point (b) of this paragraph:

a the aggregate amount by which the direct, indirect and synthetic holdings by the institution of the Common Equity Tier 1, Additional Tier 1 and Tier 2 instruments of financial sector entities in which the institution does not have a significant investment exceeds 10 % of the aggregate amount of Common Equity Tier 1 items of the institution calculated after applying the following to Common Equity Tier 1 items:

(i) Articles 32 to 35;

(ii) the deductions referred to in 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 Common Equity Tier 1 instruments of those financial sector entities in which the institution does not have a significant investment divided by the aggregate amount of direct, indirect and synthetic holdings by the institution of the Common Equity Tier 1, Additional Tier 1 and Tier 2 instruments of those financial sector entities.

2 Institutions shall exclude underwriting positions held for five working days or fewer from the amount 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 all Common Equity Tier 1 instruments held. Institutions shall determine the amount of each Common Equity Tier 1 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 Common Equity Tier 1 instruments of financial sector entities in which the institution does not have a significant investment represented by each Common Equity Tier 1 instrument held.

4 The amount of holdings referred to in point (h) of Article 36(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 **[**[F231], Articles 132a to 132c of Chapter 3 of the Standardised Approach and Internal Ratings Based Approach to Credit Risk (CRR) Part of the PRA Rulebook**]** and the requirements laid down in Title IV of Part Three, as applicable.

5 Institutions shall determine the amount of each Common Equity Tier 1 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.

Textual Amendments

F231 Words in Art. 46(4) inserted (1.1.2022) by The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/1376), regs. 1(3), **25(5)**

Article 47

Deduction of holdings of Common Equity Tier 1 instruments where an institution has a significant investment in a financial sector entity

For the purposes of point (i) of Article 36(1), the applicable amount to be deducted from Common Equity Tier 1 items shall exclude underwriting positions held for five working days or fewer and shall be determined in accordance with Articles 44 and 45 and Sub-section 2.

[[F232]*Article 47a*

Non-performing exposures

1 For the purposes of point (m) of Article 36(1), exposure shall include any of the following items, provided they are not included in the trading book of the institution:

a a debt instrument, including a debt security, a loan, an advance and a demand deposit;

b a loan commitment given, a financial guarantee given or any other commitment given, irrespective of whether it is revocable or irrevocable, with the exception of undrawn credit facilities that may be cancelled unconditionally at any time and without notice, or that effectively provide for automatic cancellation due to deterioration in the borrower's creditworthiness.

2 For the purposes of point (m) of Article 36(1), the exposure value of a debt instrument shall be its accounting value measured without taking into account any specific credit risk adjustments, additional value adjustments in accordance with Articles 34 and 105, amounts deducted in accordance with point (m) of Article 36(1), other own funds reductions related to the exposure or partial write-offs made by the institution since the last time the exposure was classified as non-performing.

For the purposes of point (m) of Article 36(1), the exposure value of a debt instrument that was purchased at a price lower than the amount owed by the debtor shall include the difference between the purchase price and the amount owed by the debtor.

For the purposes of point (m) of Article 36(1), the exposure value of a loan commitment given, a financial guarantee given or any other commitment given as referred to in point (b) of paragraph 1 of this Article shall be its nominal value, which shall represent the institution's maximum exposure to credit risk without taking account of any funded or unfunded credit protection. The nominal value of a loan commitment given shall be the undrawn amount that the institution has committed to lend and the nominal value of a financial guarantee given shall be the maximum amount the entity could have to pay if the guarantee is called on.

The nominal value referred to in the third subparagraph of this paragraph shall not take into account any specific credit risk adjustment, additional value adjustments in accordance with Articles 34 and 105, amounts deducted in accordance with point (m) of Article 36(1) or other own funds reductions related to the exposure.

3 For the purposes of point (m) of Article 36(1), the following exposures shall be classified as non-performing:

a an exposure in respect of which a default is considered to have occurred in accordance with Article 178;

b an exposure which is considered to be impaired in accordance with the applicable accounting framework;

c an exposure under probation pursuant to paragraph 7, where additional forbearance measures are granted or where the exposure becomes more than 30 days past due;

d an exposure in the form of a commitment that, were it drawn down or otherwise used, would likely not be paid back in full without realisation of collateral;

e an exposure in form of a financial guarantee that is likely to be called by the guaranteed party, including where the underlying guaranteed exposure meets the criteria to be considered as non-performing.

For the purposes of point (a), where an institution has on-balance-sheet exposures to an obligor that are past due by more than 90 days and that represent more than 20 % of all on-balance-sheet exposures to that obligor, all on- and off-balance-sheet exposures to that obligor shall be considered to be non-performing.

4 Exposures that have not been subject to a forbearance measure shall cease to be classified as non-performing for the purposes of point (m) of Article 36(1) where all the following conditions are met:

a the exposure meets the exit criteria applied by the institution for the discontinuation of the classification as impaired in accordance with the applicable accounting framework and of the classification as defaulted in accordance with Article 178;

b the situation of the obligor has improved to the extent that the institution is satisfied that full and timely repayment is likely to be made;

c the obligor does not have any amount past due by more than 90 days.

5 The classification of a non-performing exposure as non-current asset held for sale in accordance with the applicable accounting framework shall not discontinue its classification as non-performing exposure for the purposes of point (m) of Article 36(1).

6 Non-performing exposures subject to forbearance measures shall cease to be classified as non-performing for the purposes of point (m) of Article 36(1) where all the following conditions are met:

a the exposures have ceased to be in a situation that would lead to their classification as non-performing under paragraph 3;

b at least one year has passed since the date on which the forbearance measures were granted and the date on which the exposures were classified as non-performing, whichever is later;

c there is no past-due amount following the forbearance measures and the institution, on the basis of the analysis of the obligor's financial situation, is satisfied about the likelihood of the full and timely repayment of the exposure.

[[X3]Full and timely repayment may be considered likely where the obligor has executed regular and timely payments of amounts equal to either of the following:**]**

a the amount that was past due before the forbearance measure was granted, where there were amounts past due;

b the amount that has been written-off under the forbearance measures granted, where there were no amounts past due.

7 Where a non-performing exposure has ceased to be classified as non-performing pursuant to paragraph 6, such exposure shall be under probation until all the following conditions are met:

a at least two years have passed since the date on which the exposure subject to forbearance measures was re-classified as performing;

b regular and timely payments have been made during at least half of the period that the exposure would be under probation, leading to the payment of a substantial aggregate amount of principal or interest;

c none of the exposures to the obligor is more than 30 days past due.

Editorial Information

X3 Substituted by Corrigendum to Regulation (EU) 2019/630 of the European Parliament and of the Council of 17 April 2019 amending Regulation (EU) No 575/2013 as regards minimum loss coverage for non-performing exposures (Official Journal of the European Union L 111 of 25 April 2019).

Textual Amendments

F232 Inserted by Regulation (EU) 2019/630 of the European Parliament and of the Council of 17 April 2019 amending Regulation (EU) No 575/2013 as regards minimum loss coverage for non-performing exposures (Text with EEA relevance).

Article 47b

Forbearance measures

1 Forbearance measure is a concession by an institution towards an obligor that is experiencing or is likely to experience difficulties in meeting its financial commitments. A concession may entail a loss for the lender and shall refer to either of the following actions:

a a modification of the terms and conditions of a debt obligation, where such modification would not have been granted had the obligor not experienced difficulties in meeting its financial commitments;

b a total or partial refinancing of a debt obligation, where such refinancing would not have been granted had the obligor not experienced difficulties in meeting its financial commitments.

2 At least the following situations shall be considered forbearance measures:

a new contract terms are more favourable to the obligor than the previous contract terms, where the obligor is experiencing or is likely to experience difficulties in meeting its financial commitments;

b new contract terms are more favourable to the obligor than contract terms offered by the same institution to obligors with a similar risk profile at that time, where the obligor is experiencing or is likely to experience difficulties in meeting its financial commitments;

c the exposure under the initial contract terms was classified as non-performing before the modification to the contract terms or would have been classified as non-performing in the absence of modification to the contract terms;

d the measure results in a total or partial cancellation of the debt obligation;

e the institution approves the exercise of clauses that enable the obligor to modify the terms of the contract and the exposure was classified as non-performing before the exercise of those clauses, or would be classified as non-performing were those clauses not exercised;

f at or close to the time of the granting of debt, the obligor made payments of principal or interest on another debt obligation with the same institution, which was classified as a non-performing exposure or would have been classified as non-performing in the absence of those payments;

g the modification to the contract terms involves repayments made by taking possession of collateral, where such modification constitutes a concession.

3 The following circumstances are indicators that forbearance measures may have been adopted:

a the initial contract was past due by more than 30 days at least once during the three months prior to its modification or would be more than 30 days past due without modification;

b at or close to the time of concluding the credit agreement, the obligor made payments of principal or interest on another debt obligation with the same institution that was past due by 30 days at least once during the three months prior to the granting of new debt;

c the institution approves the exercise of clauses that enable the obligor to change the terms of the contract, and the exposure is 30 days past due or would be 30 days past due were those clauses not exercised.

4 For the purposes of this Article, the difficulties experienced by an obligor in meeting its financial commitments shall be assessed at obligor level, taking into account all the legal

entities in the obligor's group which are included in the accounting consolidation of the group, and natural persons who control that group.

Textual Amendments

F232 Inserted by Regulation (EU) 2019/630 of the European Parliament and of the Council of 17 April 2019 amending Regulation (EU) No 575/2013 as regards minimum loss coverage for non-performing exposures (Text with EEA relevance).

Article 47c

Deduction for non-performing exposures

1 For the purposes of point (m) of Article 36(1), institutions shall determine the applicable amount of insufficient coverage separately for each non-performing exposure to be deducted from Common Equity Tier 1 items by subtracting the amount determined in point (b) of this paragraph from the amount determined in point (a) of this paragraph, where the amount referred to in point (a) exceeds the amount referred to in point (b):

a the sum of:

(i) the unsecured part of each non-performing exposure, if any, multiplied by the applicable factor referred to in paragraph 2;

(ii) the secured part of each non-performing exposure, if any, multiplied by the applicable factor referred to in paragraph 3;

b the sum of the following items provided they relate to the same non-performing exposure:

(i) specific credit risk adjustments;

(ii) additional value adjustments in accordance with Articles 34 and 105;

(iii) other own funds reductions;

(iv) for institutions calculating risk-weighted exposure amounts using the Internal Ratings Based Approach, the absolute value of the amounts deducted pursuant to point (d) of Article 36(1) which relate to non-performing exposures, where the absolute value attributable to each non-performing exposure is determined by multiplying the amounts deducted pursuant to point (d) of Article 36(1) by the contribution of the expected loss amount for the non-performing exposure to total expected loss amounts for defaulted or non-defaulted exposures, as applicable;

(v) where a non-performing exposure is purchased at a price lower than the amount owed by the debtor, the difference between the purchase price and the amount owed by the debtor;

(vi) amounts written-off by the institution since the exposure was classified as non-performing.

The secured part of a non-performing exposure is that part of the exposure which, for the purpose of calculating own funds requirements pursuant to Title II of Part Three, is considered to be covered by a funded credit protection or unfunded credit protection or fully and completely secured by mortgages.

The unsecured part of a non-performing exposure corresponds to the difference, if any, between the value of the exposure as referred to in Article 47a(1) and the secured part of the exposure, if any.

2 For the purposes of point (a)(i) of paragraph 1, the following factors shall apply:

a 0,35 for the unsecured part of a non-performing exposure to be applied during the period between the first and the last day of the third year following its classification as non-performing;

b 1 for the unsecured part of a non-performing exposure to be applied as of the first day of the fourth year following its classification as non-performing.

3 For the purposes of point (a)(ii) of paragraph 1, the following factors shall apply:

a 0,25 for the secured part of a non-performing exposure to be applied during the period between the first and the last day of the fourth year following its classification as non-performing;

b 0,35 for the secured part of a non-performing exposure to be applied during the period between the first and the last day of the fifth year following its classification as non-performing;

c 0,55 for the secured part of a non-performing exposure to be applied during the period between the first and the last day of the sixth year following its classification as non-performing;

d 0,70 for the part of a non-performing exposure secured by immovable property pursuant to Title II of Part Three or that is a residential loan guaranteed by an eligible protection provider as referred to in Article 201, to be applied during the period between the first and the last day of the seventh year following its classification as non-performing;

e 0,80 for the part of a non-performing exposure secured by other funded or unfunded credit protection pursuant to Title II of Part Three to be applied during the period between the first and the last day of the seventh year following its classification as non-performing;

f 0,80 for the part of a non-performing exposure secured by immovable property pursuant to Title II of Part Three or that is a residential loan guaranteed by an eligible protection provider as referred to in Article 201, to be applied during the period between the first and the last day of the eighth year following its classification as non-performing;

g 1 for the part of a non-performing exposure secured by other funded or unfunded credit protection pursuant to Title II of Part Three to be applied as of the first day of the eighth year following its classification as non-performing;

h 0,85 for the part of a non-performing exposure secured by immovable property pursuant to Title II of Part Three or that is a residential loan guaranteed by an eligible protection provider as referred to in Article 201, to be applied during the period between the first and the last day of the ninth year following its classification as non-performing;

i 1 for the part of a non-performing exposure secured by immovable property pursuant to Title II of Part Three or that is a residential loan guaranteed by an eligible protection provider as referred to in Article 201, to be applied as of the first day of the tenth year following its classification as non-performing.

[[F233]4 By way of derogation from paragraph 3 of this Article, the following factors shall apply to the part of the non-performing exposure guaranteed or insured by an official export credit agency or guaranteed or counter-guaranteed by an eligible protection provider referred to in points (a) to (e) of Article 201(1), unsecured exposures to which would be assigned a risk weight of 0 % under Chapter 2 of Title II of Part Three:]

a 0 for the secured part of the non-performing exposure to be applied during the period between one year and seven years following its classification as non-performing; and b 1 for the secured part of the non-performing exposure to be applied as of the first day of the eighth year following its classification as non-performing.

5 [F234The PRA F235...] shall assess the range of practices applied for the valuation of secured non-performing exposures and may develop guidelines to specify a common methodology, including possible minimum requirements for re-valuation in terms of timing and ad hoc methods, for the prudential valuation of eligible forms of funded and unfunded credit protection, in particular regarding assumptions pertaining to their recoverability and enforceability. Those guidelines may also include a common methodology for the determination of the secured part of a non-performing exposure, as referred to in paragraph 1.

F236 ...

6 By way of derogation from paragraph 2, where an exposure has, between one year and two years following its classification as non-performing, been granted a forbearance measure, the factor applicable in accordance with paragraph 2 on the date on which the forbearance measure is granted shall be applicable for an additional period of one year.

By way of derogation from paragraph 3, where an exposure has, between two and six years following its classification as non-performing, been granted a forbearance measure, the factor applicable in accordance with paragraph 3 on the date on which the forbearance measure is granted shall be applicable for an additional period of one year.

This paragraph shall only apply in relation to the first forbearance measure that has been granted since the classification of the exposure as non-performing.**]**

Textual Amendments

F232 Inserted by Regulation (EU) 2019/630 of the European Parliament and of the Council of 17 April 2019 amending Regulation (EU) No 575/2013 as regards minimum loss coverage for non-performing exposures (Text with EEA relevance).

F233 Substituted by Regulation (EU) 2020/873 of the European Parliament and of the Council of 24 June 2020 amending Regulations (EU) No 575/2013 and (EU) 2019/876 as regards certain adjustments in response to the COVID-19 pandemic (Text with EEA relevance).

F234 Words in Art. 47c(5) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **21(2)(a)**; 2020 c. 1, Sch. 5 para. 1(1)

F235 Words in Art. 47c(5) omitted (1.1.2022) by virtue of Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 9**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F236 Words in Art. 47c(5) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **21(2)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

Sub-Section 2

Exemptions from and alternatives to deduction from Common Equity Tier 1 items

Article 48

Threshold exemptions from deduction from Common Equity Tier 1 items

1 In making the deductions required pursuant to points (c) and (i) of Article 36(1), institutions are not required to deduct the amounts of the items listed in points (a) and (b) of

this paragraph which in aggregate are equal to or less than the threshold amount referred to in paragraph 2:

a deferred tax assets that are dependent on future profitability and arise from temporary differences, and in aggregate are equal to or less than 10 % of the Common Equity Tier 1 items of the institution calculated after applying the following:

(i) Articles 32 to 35;

(ii) points (a) to (h), points (k)(ii) to (v) and point (l) of Article 36(1), excluding deferred tax assets that rely on future profitability and arise from temporary differences.

b where an institution has a significant investment in a financial sector entity, the direct, indirect and synthetic holdings of that institution of the Common Equity Tier 1 instruments of those entities that in aggregate are equal to or less than 10 % of the Common Equity Tier 1 items of the institution calculated after applying the following:

(i) Article 32 to 35;

(ii) points (a) to (h), points (k)(ii) to (v) and point (l), of Article 36(1) excluding deferred tax assets that rely on future profitability and arise from temporary differences.

2 For the purposes of paragraph 1, the threshold amount shall be equal to the amount referred to in point (a) of this paragraph multiplied by the percentage referred to in point (b) of this paragraph:

a the residual amount of Common Equity Tier 1 items after applying the adjustments and deductions in Articles 32 to 36 in full and without applying the threshold exemptions specified in this Article;

b 17,65 %.

3 For the purposes of paragraph 1, an institution shall determine the portion of deferred tax assets in the total amount of items that is not required to be deducted by dividing the amount specified in point (a) of this paragraph by the amount specified in point (b) of this paragraph:

a the amount of deferred tax assets that are dependent on future profitability and arise from temporary differences, and in aggregate are equal to or less than 10 % of the Common Equity Tier 1 items of the institution;

b the sum of the following:

(i) the amount referred to in point (a);

(ii) the amount of direct, indirect and synthetic holdings by the institution of the own funds instruments of financial sector entities in which the institution has a significant investment, and in aggregate are equal to or less than 10 % of the Common Equity Tier 1 items of the institution.

The proportion of significant investments in the total amount of items that is not required to be deducted is equal to one minus the proportion referred to in the first subparagraph.

4 The amounts of the items that are not deducted pursuant to paragraph 1 shall be risk weighted at 250 %.

Article 49

Requirement for deduction where consolidation [F237or supplementary supervision is] applied

1 For the purposes of calculating own funds on an individual basis, a sub-consolidated basis and a consolidated basis, where the competent authorities require or permit institutions to apply [F238method 1 or 2 or a combination of these under Annex 2 of the Financial Conglomerates part of the PRA Rulebook and Chapter 3 of the FCA General Prudential sourcebook], the competent authorities may permit institutions not to deduct the holdings of own funds instruments of a financial sector entity in which the parent institution, parent financial holding company or parent mixed financial holding company or institution has a significant investment, provided that the conditions laid down in points (a) to (e) of this paragraph are met:

a the financial sector entity is an insurance undertaking, a re-insurance undertaking or an insurance holding company;
b that insurance undertaking, re-insurance undertaking or insurance holding company is included in the same supplementary supervision under [F239the United Kingdom enactment and rules which implemented] Directive 2002/87/EC as the parent institution, parent financial holding company or parent mixed financial holding company or institution that has the holding;
c the institution has received the prior permission of the competent authorities;
d prior to granting the permission referred to in point (c), and on a continuing basis, the competent authorities are satisfied that the level of integrated management, risk management and internal control regarding the entities that would be included in the scope of consolidation under method 1, 2 or 3 is adequate;
e the holdings in the entity belong to one of the following:

(i) the parent credit institution;

(ii) the parent financial holding company;

(iii) the parent mixed financial holding company;

(iv) the institution;

(v) a subsidiary of one of the entities referred to in points (i) to (iv) that is included in the scope of consolidation pursuant to Chapter 2 of Title II of Part One.

The method chosen shall be applied in a consistent manner over time.

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, unless the competent authorities determine those deductions to be required for specific purposes, in particular structural separation of banking activities and resolution planning.

F240 ...

[F64This paragraph shall not apply when calculating own funds for the purposes of the requirements laid down in Articles 92a and 92b, which shall be calculated in accordance with the deduction framework set out in Article 72e(4).]

F241 3 . . . .

4 The holdings in respect of which deduction is not made in accordance with paragraph 1 **[**[F242]or 2**]** shall qualify as exposures and shall be risk weighted in accordance with Chapter 2 or 3 of Title II of Part Three **[**[F243]and Articles 132a to 132c of Chapter 3 of the Standardised Approach and Internal Ratings Based Approach to Credit Risk (CRR) Part of the PRA Rulebook**]**, as applicable.

5 Where an institution applies method 1, 2 or 3 of **[**[F244]Annex 2 of the Financial Conglomerates part of the PRA Rulebook[F245]...**]**, the institution shall disclose the supplementary own funds requirement and capital adequacy ratio of the financial conglomerate as calculated in accordance with **[**[F246]Chapter 3 and Annex 2 of the Financial Conglomerates Part of the PRA Rulebook**]**.

6 **[**[F247]Where a competent authority applies method 1, 2 or a combination of these under Annex 2 of the Financial Conglomerates part of the PRA Rulebook[F248]..., the competent authority must disclose the supplementary own funds requirement and capital adequacy ratio of the financial conglomerate.**]**

Textual Amendments

F64 Inserted by Regulation (EU) 2019/876 of the European Parliament and of the Council of 20 May 2019 amending Regulation (EU) No 575/2013 as regards the leverage ratio, the net stable funding ratio, requirements for own funds and eligible liabilities, counterparty credit risk, market risk, exposures to central counterparties, exposures to collective investment undertakings, large exposures, reporting and disclosure requirements, and Regulation (EU) No 648/2012 (Text with EEA relevance).

F237 Words in Art. 49 heading substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **91(2)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F238 Words in Art. 49(1) substituted (31.12.2020) by The Financial Conglomerates and Other Financial Groups (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/264), regs. 1, **5(4)(a)(i)** (with reg. 6) (as amended by S.I. 2020/1301, reg. 3, **Sch. para. 15** and with savings in S.I. 2019/680, **reg. 11**); 2020 c. 1, **Sch. 5 para. 1(1)**

F239 Words in Art. 49(1)(b) inserted (31.12.2020) by The Financial Conglomerates and Other Financial Groups (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/264), regs. 1, **5(4)(a)(ii)** (with reg. 6) (as amended by S.I. 2020/1301, reg. 3, **Sch. para. 15** and with savings in S.I. 2019/680, **reg. 11**); 2020 c. 1, **Sch. 5 para. 1(1)**

F240 Words in Art. 49(2) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **91(3)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F241 Art. 49(3) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **91(4)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F242 Words in Art. 49(4) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **91(5)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F243 Words in Art. 49(4) inserted (1.1.2022) by The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/1376), regs. 1(3), **25(6)(a)**

F244 Words in Art. 49(5) substituted (31.12.2020) by The Financial Conglomerates and Other Financial Groups (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/264), regs. 1, **5(4)(b)** (with reg. 6) (as amended by S.I. 2020/1301, reg. 3, **Sch. para. 15** and with savings in S.I. 2019/680, **reg. 11**); 2020 c. 1, **Sch. 5 para. 1(1)**

F245 Words in Art. 49(5) omitted (1.1.2022) by virtue of The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/1376), regs. 1(3), **25(6)(b)(i)**

F246 Words in Art. 49(5) substituted (1.1.2022) by The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/1376), regs. 1(3), **25(6)(b)(ii)**

F247 Art. 49(6) substituted (31.12.2020) by The Financial Conglomerates and Other Financial Groups (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/264), regs. 1, **5(4)(c)** (with reg. 6) (as amended by S.I. 2020/1301, reg. 3, **Sch. para. 15** and with savings in S.I. 2019/680, **reg. 11**); 2020 c. 1, **Sch. 5 para. 1(1)**

F248 Words in Art. 49(6) omitted (1.1.2022) by virtue of Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 10**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

Section 4

Common Equity Tier 1 capital

Article 50

Common Equity Tier 1 capital

The Common Equity Tier 1 capital of an institution shall consist of Common Equity Tier 1 items after the application of the adjustments required by Articles 32 to 35, the deductions pursuant to Article 36 and the exemptions and alternatives laid down in Articles 48, 49 and 79.

CHAPTER 3

Additional Tier 1 capital

Section 1

Additional Tier 1 items and instruments

Article 51

Additional Tier 1 items

Additional Tier 1 items shall consist of the following:

(a) capital instruments, where the conditions laid down in Article 52(1) are met;

(b) the share premium accounts related to the instruments referred to in point (a).

Instruments included under point (a) shall not qualify as Common Equity Tier 1 or Tier 2 items.

Article 52

Additional Tier 1 instruments

1 Capital instruments shall qualify as Additional Tier 1 instruments only if the following conditions are met:

[F1a the instruments are directly issued by an institution and fully paid up;]

[F1b the instruments are not owned by any of the following:]

(i) the institution or its subsidiaries;

(ii) an undertaking in which the institution has a 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;

[F1c the acquisition of ownership of the instruments is not funded directly or indirectly by the institution;]

d the instruments rank below Tier 2 instruments in the event of the insolvency of the institution;

e the instruments are neither secured nor subject to a guarantee that enhances the seniority of the claims by any of the following:

(i) the institution or its subsidiaries;

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

(iii) the parent financial holding company or its subsidiaries;

(iv) the mixed activity holding company or its subsidiaries;

(v) the mixed financial holding company or its subsidiaries;

(vi) any undertaking that has close links with entities referred to in points (i) to (v);

f the instruments are not subject to any arrangement, contractual or otherwise, that enhances the seniority of the claim under the instruments in insolvency or liquidation;

g the instruments are perpetual and the provisions governing them include no incentive for the institution to redeem them;

[F1h where the instruments include one or more early redemption options including call options, the options are exercisable at the sole discretion of the issuer;]

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

[F1j the provisions governing the instruments do not indicate explicitly or implicitly that the instruments would be called, redeemed or repurchased, as applicable, by the institution other than in the case of the insolvency or liquidation of the institution and the institution does not otherwise provide such an indication;]

k the institution does not indicate explicitly or implicitly that the competent authority would consent to a request to call, redeem or repurchase the instruments;

l distributions under the instruments meet the following conditions:

(i) they are paid out of distributable items;

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

(iii) the provisions governing the instruments give the institution full discretion at all times to cancel the distributions on the instruments for an unlimited period and on a non-cumulative basis, and the institution may use such cancelled payments without restriction to meet its obligations as they fall due;

(iv) cancellation of distributions does not constitute an event of default of the institution;

(v) the cancellation of distributions imposes no restrictions on the institution;

m the instruments do not contribute to a determination that the liabilities of an institution exceed its assets, where such a determination constitutes a test of insolvency under applicable national law [F249of the United Kingdom, or any part of it, or of a third country];

n the provisions governing the instruments require that, upon the occurrence of a trigger event, the principal amount of the instruments be written down on a permanent or temporary basis or the instruments be converted to Common Equity Tier 1 instruments;

o the provisions governing the instruments include no feature that could hinder the recapitalisation of the institution;

[F1p where the issuer is established in a third country and has been designated [F250by the Bank] as part of a resolution group the resolution entity of which is established in the [F251United Kingdom] or where the issuer is established [F252in the United Kingdom], the law or contractual provisions governing the instruments require that, upon a decision by the resolution authority to exercise the write-down and conversion powers referred to in [F253section 6B of the Banking Act 2009], the principal amount of the instruments is to be written down on a permanent basis or the instruments are to be converted to Common Equity Tier 1 instruments;

where the issuer is established in a third country and has not been designated [F250by the Bank] as part of a resolution group the resolution entity of which is established in the [F251United Kingdom], the law or contractual provisions governing the instruments require that, upon a decision by the relevant third-country authority, the principal amount of the instruments is to be written down on a permanent basis or the instruments are to be converted into Common Equity Tier 1 instruments;]

[F64q where the issuer is established in a third country and has been designated [F254by the Bank] as part of a resolution group the resolution entity of which is established in the [F255United Kingdom] or where the issuer is established [F256in the United Kingdom], the instruments may only be issued under, or be otherwise subject to the laws of a third country where, under those laws, the exercise of the write-down and conversion powers referred to in [F257section 6B of the Banking Act 2009] is effective and enforceable on the basis of statutory provisions or legally enforceable contractual provisions that recognise resolution or other write-down or conversion actions;

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

The condition set out in point (d) of the first subparagraph shall be deemed to be met notwithstanding the fact that the instruments are included in Additional Tier 1 or Tier 2 by virtue of Article 484(3), provided that they rank pari passu.

[F64For the purposes of point (a) of the first subparagraph, only the part of a capital instrument that is fully paid up shall be eligible to qualify as an Additional Tier 1 instrument.]

2 [F258The [F259PRA may] make technical standards] to specify all the following:

a the form and nature of incentives to redeem;
b the nature of any write up of the principal amount of an Additional Tier 1 instrument following a write down of its principal amount on a temporary basis;
c the procedures and timing for the following:

(i) determining that a trigger event has occurred;

(ii) writing up the principal amount of an Additional Tier 1 instrument following a write down of its principal amount on a temporary basis;

d features of instruments that could hinder the recapitalisation of the institution;
e the use of special purpose entities for indirect issuance of own funds instruments.

F260 ...

Textual Amendments

F64 Inserted by Regulation (EU) 2019/876 of the European Parliament and of the Council of 20 May 2019 amending Regulation (EU) No 575/2013 as regards the leverage ratio, the net stable funding ratio, requirements for own funds and eligible liabilities, counterparty credit risk, market risk, exposures to central counterparties, exposures to collective investment undertakings, large exposures, reporting and disclosure requirements, and Regulation (EU) No 648/2012 (Text with EEA relevance).

F249 Words in Art. 52(1)(m) inserted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **92** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F250 Words in Art. 52(1)(p) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **22(2)(a)**; 2020 c. 1, Sch. 5 para. 1(1)

F251 Words in Art. 52(1)(p) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **22(2)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

F252 Words in Art. 52(1)(p) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **22(2)(c)**; 2020 c. 1, Sch. 5 para. 1(1)

F253 Words in Art. 52(1)(p) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **22(2)(d)**; 2020 c. 1, Sch. 5 para. 1(1)

F254 Words in Art. 52(1)(q) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **22(3)(a)**; 2020 c. 1, Sch. 5 para. 1(1)

F255 Words in Art. 52(1)(q) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **22(3)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

F256 Words in Art. 52(1)(q) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **22(3)(c)**; 2020 c. 1, Sch. 5 para. 1(1)

F257 Words in Art. 52(1)(q) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **22(3)(d)**; 2020 c. 1, Sch. 5 para. 1(1)

F258 Words in Art. 52(2) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **222(1)(a)**(2) (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F259 Words in Art. 52(2) substituted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 47**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F260 Words in Art. 52(2) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **222(1)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 53

Restrictions on the cancellation of distributions on Additional Tier 1 instruments and features that could hinder the recapitalisation of the institution

For the purposes of points (l)(v) and (o) of Article 52(1), the provisions governing Additional Tier 1 instruments shall, in particular, not include the following:

(a) a requirement for distributions on the instruments to be made in the event of a distribution being made on an instrument issued by the institution that ranks to the same degree as, or more junior than, an Additional Tier 1 instrument, including a Common Equity Tier 1 instrument;

(b) a requirement for the payment of distributions on Common Equity Tier 1, Additional Tier 1 or Tier 2 instruments to be cancelled in the event that distributions are not made on those Additional Tier 1 instruments;

(c) an obligation to substitute the payment of interest or dividend by a payment in any other form. The institution shall not otherwise be subject to such an obligation.

Article 54

Write down or conversion of Additional Tier 1 instruments

1 For the purposes of point (n) of Article 52(1), the following provisions shall apply to Additional Tier 1 instruments:

a a trigger event occurs when the Common Equity Tier 1 capital ratio of the institution referred to in point (a) of Article 92(1) falls below either of the following:

(i) 5,125 %;

(ii) a level higher than 5,125 %, where determined by the institution and specified in the provisions governing the instrument;

b institutions may specify in the provisions governing the instrument one or more trigger events in addition to that referred to in point (a);

c where the provisions governing the instruments require them to be converted into Common Equity Tier 1 instruments upon the occurrence of a trigger event, those provisions shall specify either of the following:

(i) the rate of such conversion and a limit on the permitted amount of conversion;

(ii) a range within which the instruments will convert into Common Equity Tier 1 instruments;

d where the provisions governing the instruments require their principal amount to be written down upon the occurrence of a trigger event, the write down shall reduce all the following:

(i) the claim of the holder of the instrument in the insolvency or liquidation of the institution;

(ii) the amount required to be paid in the event of the call or redemption of the instrument;

(iii) the distributions made on the instrument [F1;]

[F64e where the Additional Tier 1 instruments have been issued by a subsidiary undertaking established in a third country, the 5,125 % or higher trigger referred to in point (a) shall be calculated in accordance with the national law of that third country or contractual provisions governing the instruments, provided that the competent authority F261... is satisfied that those provisions are at least equivalent to the requirements set out in this Article.]

2 Write down or conversion of an Additional Tier 1 instrument shall, under the applicable accounting framework, generate items that qualify as Common Equity Tier 1 items.

3 The amount of Additional Tier 1 instruments recognised in Additional Tier 1 items is limited to the minimum amount of Common Equity Tier 1 items that would be generated if the principal amount of the Additional Tier 1 instruments were fully written down or converted into Common Equity Tier 1 instruments.

4 The aggregate amount of Additional Tier 1 instruments that is required to be written down or converted upon the occurrence of a trigger event shall be no less than the lower of the following:

a the amount required to restore fully the Common Equity Tier 1 ratio of the institution to 5,125 %;
b the full principal amount of the instrument.

5 When a trigger event occurs institutions shall do the following:

a immediately inform the competent authorities;
b inform the holders of the Additional Tier 1 instruments;
c write down the principal amount of the instruments, or convert the instruments into Common Equity Tier 1 instruments without delay, but no later than within one month, in accordance with the requirement laid down in this Article.

6 An institution issuing Additional Tier 1 instruments that convert to Common Equity Tier 1 on the occurrence of a trigger event shall ensure that its authorised share capital is at all times sufficient, for converting all such convertible Additional Tier 1 instruments into shares if a trigger event occurs. All necessary authorisations shall be obtained at the date of issuance of such convertible Additional Tier 1 instruments. The institution shall maintain at all times the necessary prior authorisation to issue the Common Equity Tier 1 instruments into which such Additional Tier 1 instruments would convert upon occurrence of a trigger event.

7 An institution issuing Additional Tier 1 instruments that convert to Common Equity Tier 1 on the occurrence of a trigger event shall ensure that there are no procedural impediments to that conversion by virtue of its incorporation or statutes or contractual arrangements.

Textual Amendments

F64 Inserted by Regulation (EU) 2019/876 of the European Parliament and of the Council of 20 May 2019 amending Regulation (EU) No 575/2013 as regards the leverage ratio, the net stable funding ratio, requirements for own funds and eligible liabilities, counterparty credit risk, market risk, exposures to central counterparties, exposures to collective investment undertakings, large exposures, reporting and disclosure requirements, and Regulation (EU) No 648/2012 (Text with EEA relevance).

F261 Words in Art. 54(1)(e) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **23**; 2020 c. 1, Sch. 5 para. 1(1)

Article 55

Consequences of the conditions for Additional Tier 1 instruments ceasing to be met

The following shall apply where, in the case of an Additional Tier 1 instrument, the conditions laid down in Article 52(1) cease to be met:

(a) that instrument shall immediately cease to qualify as an Additional Tier 1 instrument;

(b) the part of the share premium accounts that relates to that instrument shall immediately cease to qualify as an Additional Tier 1 item.

Section 2

Deductions from Additional Tier 1 items

Article 56

Deductions from Additional Tier 1 items

Institutions shall deduct the following from Additional Tier 1 items:

(a) direct, indirect and synthetic holdings by an institution of own Additional Tier 1 instruments, including own Additional Tier 1 instruments that an institution could be obliged to purchase as a result of existing contractual obligations;

(b) direct, indirect and synthetic holdings of the Additional Tier 1 instruments of financial sector entities with which the institution has reciprocal cross holdings that the competent authority considers to have been designed to inflate artificially the own funds of the institution;

(c) the applicable amount determined in accordance with Article 60 of direct, indirect and synthetic holdings of the Additional Tier 1 instruments of financial sector entities, where an institution does not have a significant investment in those entities;

(d) direct, indirect and synthetic holdings by the institution of the Additional Tier 1 instruments of financial sector entities where the institution has a significant investment in those entities, excluding underwriting positions held for five working days or fewer;

(e) **[**[X2]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;**]**

(f) any tax charge relating to Additional Tier 1 items foreseeable at the moment of its calculation, except where the institution suitably adjusts the amount of Additional Tier 1 items insofar as such tax charges reduce the amount up to which those items may be applied to cover risks or losses.

Editorial Information

X2 Substituted by Corrigendum to 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 (Official Journal of the European Union L 176 of 27 June 2013) (Corrected version in Official Journal of the European Union L 321 of 30 November 2013).

Article 57

Deductions of holdings of own Additional Tier 1 instruments

For the purposes of point (a) of Article 56, institutions shall calculate holdings of own Additional Tier 1 instruments on the basis of gross long positions subject to the following exceptions:

(a) institutions may calculate the amount of holdings of own Additional Tier 1 instruments on the basis of the net long position provided that both the following conditions are met:

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

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

(b) institutions shall determine the amount to be deducted for direct, indirect or synthetic holdings of index securities by calculating the underlying exposure to own Additional Tier 1 instruments in those indices;

(c) institutions may net gross long positions in own Additional Tier 1 instruments resulting from holdings of index securities against short positions in own Additional Tier 1 instruments resulting from short positions in the underlying indices, including where those short positions involve counterparty risk, provided that both the following conditions are met:

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

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

Article 58

Deduction of holdings of Additional Tier 1 instruments of financial sector entities and where an institution has a reciprocal cross holding designed artificially to inflate own funds

Institutions shall make the deductions required by points (b), (c) and (d) of Article 56 in accordance with the following:

(a) holdings of Additional Tier 1 instruments shall be calculated on the basis of the gross long positions;

(b) Additional Tier 1 own-fund insurance items shall be treated as holdings of Additional Tier 1 instruments for the purposes of deduction.

Article 59

Deduction of holdings of Additional Tier 1 instruments of financial sector entities

Institutions shall make the deductions required by points (c) and (d) of Article 56 in accordance with the following:

(a) they may calculate direct, indirect and synthetic holdings of Additional Tier 1 instruments of the financial sector entities on the basis of the net long position in the same underlying exposure provided that both the following conditions are met:

  (i) [F1the maturity date of the short position is either the same as, or later than the maturity date of the long position or the residual maturity of the short position is at least one year;]

  (ii) either both the short position and the long 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 calculating the underlying exposure to the capital instruments of the financial sector entities in those indices.

Article 60

Deduction of holdings of Additional Tier 1 instruments where an institution does not have a significant investment in a financial sector entity

1 For the purposes of point (c) of Article 56, 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 and Tier 2 instruments of financial sector entities in which the institution does not have a significant investment exceeds 10 % of the Common Equity Tier 1 items of the institution calculated after applying the following:

  (i) Article 32 to 35;

  (ii) points (a) to (g), points (k)(ii) to (v) and point (l) of Article 36(1), excluding 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 Additional Tier 1 instruments of those financial sector entities in which the institution does not have a significant investment divided by the aggregate amount of all direct, indirect and synthetic holdings by the institution of the Common Equity Tier 1, Additional Tier 1 and Tier 2 instruments of those financial sector entities.

2 Institutions shall exclude underwriting positions held for five working days or fewer from the amount 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 all Additional Tier 1 instruments held. Institutions shall determine the amount of each Additional Tier 1 instrument to be 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 Additional Tier 1 instruments of financial sector entities in which the institution does not have a significant investment represented by each Additional Tier 1 instrument held.

4 The amount of holdings referred to in point (c) of Article 56 that is equal to or less than 10 % of the Common Equity Tier 1 items of the institution after applying the provisions laid down in points (a)(i), (ii) and (iii) of paragraph 1 shall not be deducted and shall be subject to the applicable risk weights in accordance with Chapter 2 or 3 of Title II of Part Three **[**[F262], Articles 132a to 132c of Chapter 3 of the Standardised Approach and Internal Ratings Based Approach to Credit Risk (CRR) Part of the PRA Rulebook**]** and the requirements laid down in Title IV of Part Three, as applicable.

5 Institutions shall determine the amount of each Additional Tier 1 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.

Textual Amendments

F262 Words in Art. 60(4) inserted (1.1.2022) by The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/1376), regs. 1(3), **25(7)**

Section 3

Additional Tier 1 capital

Article 61

Additional Tier 1 capital

The Additional Tier 1 capital of an institution shall consist of Additional Tier 1 items after the deduction of the items referred to in Article 56 and the application of Article 79.

CHAPTER 4

Tier 2 capital

Section 1

Tier 2 items and instruments

Article 62

Tier 2 items

Tier 2 items shall consist of the following:

(a) [F1capital instruments where the conditions set out in Article 63 are met, and to the extent specified in Article 64;]

(b) the share premium accounts related to instruments referred to in point (a);

(c) for institutions calculating risk-weighted exposure amounts in accordance with Chapter 2 of Title II of Part Three [F263and Articles 132a to 132c of Chapter 3 of the Standardised Approach and Internal Ratings Based Approach to Credit Risk (CRR) Part of the PRA Rulebook], general credit risk adjustments, gross of tax effects, of up to 1,25 % of risk-weighted exposure amounts calculated in accordance with Chapter 2 of Title II of Part Three [F263and Articles 132a to 132c of Chapter 3 of the Standardised Approach and Internal Ratings Based Approach to Credit Risk (CRR) Part of the PRA Rulebook];

(d) for institutions calculating risk-weighted exposure amounts under Chapter 3 of Title II of Part Three, positive amounts, gross of tax effects, resulting from the calculation laid down in Articles 158 and 159 up to 0,6 % of risk-weighted exposure amounts calculated under Chapter 3 of Title II of Part Three.

Items included under point (a) shall not qualify as Common Equity Tier 1 or Additional Tier 1 items.

Textual Amendments

F263 Words in Art. 62(c) inserted (1.1.2022) by The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/1376), regs. 1(3), **25(8)**

Article 63

Tier 2 instruments

[F1Capital instruments shall qualify as Tier 2 instruments, provided that the following conditions are met:]

(a) [F1the instruments are directly issued by an institution and fully paid up;]

(b) [F1the instruments are not owned by any of the following:]

(i) the institution or its subsidiaries;

(ii) an undertaking in which the institution has 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) [F1the acquisition of ownership of the instruments is not funded directly or indirectly by the institution;

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

(e) [F1the instruments are not secured or are not subject to a guarantee 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) the parent financial holding company or its subsidiaries;

(iv) the mixed activity holding company or its subsidiaries;

(v) the mixed financial holding company or its subsidiaries;

(vi) any undertaking that has close links with entities referred to in points (i) to (v);

(f) [F1the instruments are not subject to any arrangement that otherwise enhances the seniority of the claim under the instruments;

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

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

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

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

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

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

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

(n) where the issuer is established in a third country and has been designated [F264by the Bank] as part of a resolution group the resolution entity of which is established in the [F265United Kingdom] or where the issuer is established in [F266the United Kingdom], the law or contractual provisions governing the instruments require that, upon a decision by the resolution authority to exercise the write-down and conversion powers referred to in [F267section 6B of the Banking Act 2009], the principal amount of the instruments is to be written down on a permanent basis or the instruments are to be converted to Common Equity Tier 1 instruments;

where the issuer is established in a third country and has not been designated [F264by the Bank] as a part of a resolution group the resolution entity of which is established in the [F265United Kingdom], the law or contractual provisions governing the instruments require that, upon a decision by the relevant third-country authority, the principal amount of the instruments is to be written down on a permanent basis or the instruments are to be converted into Common Equity Tier 1 instruments;]

(o) [F64where the issuer is established in a third country and has been designated [F268by the Bank] as part of a resolution group the resolution entity of which is established in the [F269United Kingdom] or where the issuer is established in [F270the United Kingdom], the instruments may only be issued under, or be otherwise subject to the laws of a third country where, under those laws, the exercise of the write-down and conversion powers referred to in [F271section 6B of the Banking Act 2009] is effective and enforceable on the basis of statutory provisions or legally enforceable contractual provisions that recognise resolution or other write-down or conversion actions;

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

[F64For the purposes of point (a) of the first paragraph, only the part of the capital instrument that is fully paid up shall be eligible to qualify as a Tier 2 instrument.]

Textual Amendments

F64 Inserted by Regulation (EU) 2019/876 of the European Parliament and of the Council of 20 May 2019 amending Regulation (EU) No 575/2013 as regards the leverage ratio, the net stable funding ratio, requirements for own funds and eligible liabilities, counterparty credit risk, market risk, exposures to central counterparties, exposures to collective investment undertakings, large exposures, reporting and disclosure requirements, and Regulation (EU) No 648/2012 (Text with EEA relevance).

F264 Words in Art. 63(n) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **24(2)(a)**; 2020 c. 1, Sch. 5 para. 1(1)

F265 Words in Art. 63(n) substituted (1.1.2022) by The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/1376), regs. 1(3), **25(9)(b)**

F266 Words in Art. 63(n) substituted (1.1.2022) by The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/1376), regs. 1(3), **25(9)(a)**

F267 Words in Art. 63(n) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **24(2)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

F268 Words in Art. 63(o) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **24(3)(a)**; 2020 c. 1, Sch. 5 para. 1(1)

F269 Words in Art. 63(o) substituted (1.1.2022) by The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/1376), regs. 1(3), **25(9)(b)**

F270 Words in Art. 63(o) substituted (1.1.2022) by The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/1376), regs. 1(3), **25(9)(a)**

F271 Words in Art. 63(o) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **24(3)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

[F1 *Article 64*

Amortisation of Tier 2 instruments

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

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

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

b the number of remaining days of contractual maturity of the instruments.**]**

Article 65

Consequences of the conditions for Tier 2 instruments ceasing to be met

Where in the case of a Tier 2 instrument the conditions laid down in Article 63 cease to be met, the following shall apply:

(a) that instrument shall immediately cease to qualify as a Tier 2 instrument;

(b) the part of the share premium accounts that relate to that instrument shall immediately cease to qualify as Tier 2 items.

Section 2

Deductions from Tier 2 items

Article 66

Deductions from Tier 2 items

The following shall be deducted from Tier 2 items:

(a) direct, indirect and synthetic holdings by an institution of own Tier 2 instruments, including own Tier 2 instruments that an institution could be obliged to purchase as a result of existing contractual obligations;

(b) direct, indirect and synthetic holdings of the Tier 2 instruments of financial sector entities with which the institution has reciprocal cross holdings that the competent authority considers to have been designed to inflate artificially the own funds of the institution;

(c) the applicable amount determined in accordance with Article 70 of direct, indirect and synthetic holdings of the Tier 2 instruments of financial sector entities, where an institution does not have a significant investment in those entities;

(d) direct, indirect and synthetic holdings by the institution of the Tier 2 instruments of financial sector entities where the institution has a significant investment in those entities, excluding underwriting positions held for fewer than five working days[[F1];]

(e) [[F64]the amount of items required to be deducted from eligible liabilities items pursuant to Article 72e that exceeds the eligible liabilities items of the institution.]

Textual Amendments

F64 Inserted by Regulation (EU) 2019/876 of the European Parliament and of the Council of 20 May 2019 amending Regulation (EU) No 575/2013 as regards the leverage ratio, the net stable funding ratio, requirements for own funds and eligible liabilities, counterparty credit risk, market risk, exposures to central counterparties, exposures to collective investment undertakings, large exposures, reporting and disclosure requirements, and Regulation (EU) No 648/2012 (Text with EEA relevance).

Article 67

Deductions of holdings of own Tier 2 instruments

For the purposes of point (a) of Article 66, institutions shall calculate holdings on the basis of the gross long positions subject to the following exceptions:

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

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

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

(b) institutions shall determine the amount to be deducted for direct, indirect and synthetic holdings of index securities by calculating the underlying exposure to own Tier 2 instruments in those indices;

(c) institutions may net gross long positions in own Tier 2 instruments resulting from holdings of index securities against short positions in own Tier 2 instruments resulting from short positions in the underlying indices, including where those short positions involve counterparty risk, provided that both the following conditions are met:

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

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

Article 68

Deduction of holdings of Tier 2 instruments of financial sector entities and where an institution has a reciprocal cross holding designed artificially to inflate own funds

Institutions shall make the deductions required by points (b), (c) and (d) of Article 66 in accordance with the following provisions:

(a) holdings of Tier 2 instruments shall be calculated on the basis of the gross long positions;

(b) holdings of Tier 2 own-fund insurance items and Tier 3 own-fund insurance items shall be treated as holdings of Tier 2 instruments for the purposes of deduction.

Article 69

Deduction of holdings of Tier 2 instruments of financial sector entities

Institutions shall make the deductions required by points (c) and (d) of Article 66 in accordance with the following:

(a) they may calculate direct, indirect and synthetic holdings of Tier 2 instruments of the financial sector entities on the basis of the net long position in the same underlying exposure provided that both the following conditions are met:

 (i) [F1the maturity date of the short position is either the same as, or later than the maturity date of the long position or the residual maturity of the short position is at least one year;]

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

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

Article 70

Deduction of Tier 2 instruments where an institution does not have a significant investment in a relevant entity

1 For the purposes of point (c) of Article 66, 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 and Tier 2 instruments of financial sector entities in which the institution does not have a significant investment exceeds 10 % of the Common Equity Tier 1 items of the institution calculated 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 Tier 2 instruments of financial sector entities in which the institution does not have a significant investment divided by the aggregate amount of all direct, indirect and synthetic holdings by the institution of the Common Equity Tier 1, Additional Tier 1 and Tier 2 instruments of those financial sector entities.

2 Institutions shall exclude underwriting positions held for five working days or fewer from the amount 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 Tier 2 instrument held. Institutions shall determine the amount to be deducted from each Tier 2 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 total 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 Tier 2 instruments of financial sector entities in which the institution does not have a significant investment represented by each Tier 2 instrument held.

4 The amount of holdings referred to in point (c) of Article 66(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 **[**[F272], Articles 132a to 132c of Chapter 3 of the Standardised Approach and Internal Ratings Based Approach to Credit Risk (CRR) Part of the PRA Rulebook**]** and the requirements laid down in Title IV of Part Three, as applicable.

5 Institutions shall determine the amount of each Tier 2 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.

Textual Amendments

F272 Words in Art. 70(4) inserted (1.1.2022) by The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/1376), regs. 1(3), **25(10)**

Section 3

Tier 2 capital

Article 71

Tier 2 capital

The Tier 2 capital of an institution shall consist of the Tier 2 items of the institution after the deductions referred to in Article 66 and the application of Article 79.

CHAPTER 5

Own funds

Article 72

Own funds

The own funds of an institution shall consist of the sum of its Tier 1 capital and Tier 2 capital.

[F64 CHAPTER 5a

Eligible liabilities

Section 1

Eligible liabilities items and instruments

Article 72a

Eligible liabilities items

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

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

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

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

a covered deposits;

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

c the part of eligible deposits from natural persons and micro, small and medium-sized enterprises which exceeds the coverage level referred to [F273regulation 7A(3) of the Deposit Guarantee Scheme Regulations 2015];

d deposits that would be eligible deposits from natural persons, micro, small and medium–sized enterprises if they were not made through branches located outside the [F274United Kingdom] of institutions established in the [F274United Kingdom];

e secured liabilities, including covered bonds and liabilities in the form of financial instruments used for hedging purposes that form an integral part of the cover pool and that in accordance with [F275the law of the United Kingdom or any part of it] are secured in a manner similar to covered bonds, provided that all secured assets relating to a covered bond cover pool remain unaffected, segregated and with enough funding and excluding any part of a secured liability or a liability for which collateral has been pledged that exceeds the value of the assets, pledge, lien or collateral against which it is secured;

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

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

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

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

(i) systems or system operators designated in accordance with [F276regulation 4 of the Financial Markets and Insolvency (Settlement Finality) Regulations 1999];

(ii) [F277participants, as defined in regulation 2(1) of the Financial Markets and Insolvency (Settlement Finality) Regulations 1999, in a system designated in accordance with Regulation 4 of those Regulations and arising from the participation in such a system; or]

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

j a liability to any of the following:

(i) an employee in relation to accrued salary, pension benefits or other fixed remuneration, except for the variable component of the remuneration that is not regulated by a collective bargaining agreement, and except for the variable component of the remuneration of material risk takers [F278within the meaning of Rule 3 of Part 152 (remuneration) of the PRA rulebook (other than persons deemed by virtue of rule 3.2 not to be material risk takers and notified to the PRA in accordance with rule 3.3)];

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

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

(iv) deposit guarantee schemes where the liability arises from [F279levies imposed by the scheme manager under section 213(3)(b) or (4) of FSMA];

k liabilities arising from derivatives;

l liabilities arising from debt instruments with embedded derivatives.

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

Textual Amendments

F273 Words in Art. 72a(2)(c) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **25(2)(a)**; 2020 c. 1, Sch. 5 para. 1(1)

F274 Words in Art. 72a(2)(d) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **25(2)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

F275 Words in Art. 72a(2)(e) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **25(2)(c)**; 2020 c. 1, Sch. 5 para. 1(1)

F276 Words in Art. 72a(2)(i)(i) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **25(2)(d)(i)**; 2020 c. 1, **Sch. 5 para. 1(1)**

F277 Art. 72a(2)(i)(ii) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **25(2)(d)(ii)**; 2020 c. 1, **Sch. 5 para. 1(1)**

F278 Words in Art. 72a(2)(j)(i) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **25(2)(e)(i)**; 2020 c. 1, **Sch. 5 para. 1(1)**

F279 Words in Art. 72a(2)(j)(iv) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **25(2)(e)(ii)**; 2020 c. 1, **Sch. 5 para. 1(1)**

Article 72b

Eligible liabilities instruments

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

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

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

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

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

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

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

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

(i) the contractual provisions governing the liabilities specify that in the event of normal insolvency proceedings [F280as defined in section 3(1) of the Banking Act 2009], the claim on the principal amount of the instruments ranks below claims arising from any of the excluded liabilities referred to in Article 72a(2) of this Regulation;

(ii) the applicable law specifies that in the event of normal insolvency proceedings [F281as defined in section 3(1) of the Banking Act 2009], the claim on the principal amount of the instruments ranks below claims arising from any of the excluded liabilities referred to in Article 72a(2) of this Regulation;

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

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

(i) the institution or its subsidiaries;

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

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

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

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

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

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

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

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

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

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

n for instruments issued after 28 June 2021 the relevant contractual documentation and, where applicable, the prospectus related to the issuance explicitly refer to the possible exercise of the write-down and conversion powers in accordance with [F282section 12AA of the Banking Act 2009].

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

For the purposes of point (d) of the first subparagraph of this Article, where some of the excluded liabilities referred to in Article 72a(2) are subordinated to ordinary unsecured claims under **[**[F283]the insolvency law of the United Kingdom or any part of it**]**, inter alia, due to being held by a creditor who has close links with the debtor, by being or having been a shareholder, in a control or group relationship, a member of the management body or related to any of those persons, subordination shall not be assessed by reference to claims arising from such excluded liabilities.

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

- a all the conditions set out in paragraph 2 except for the condition set out in point (d) of the first subparagraph of paragraph 2 are met;
- b the liabilities rank *pari passu* with the lowest ranking excluded liabilities referred to in Article 72a(2) with the exception of the excluded liabilities that are subordinated to ordinary unsecured claims under **[**[F284]the insolvency law of the United Kingdom**]** referred to in the third subparagraph of paragraph 2 of this Article; and
- c the inclusion of those liabilities in eligible liabilities items would not give rise to a material risk of a successful legal challenge or of valid compensation claims as assessed by the resolution authority in relation to the principles referred to in **[**[F285]United Kingdom legislation which immediately before IP completion day gave effect to**]** point (g) of Article 34(1) and Article 75 of Directive 2014/59/EU.

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

- a the institution is not permitted to include in eligible liabilities items liabilities referred to in paragraph 3;
- b all the conditions set out in paragraph 2, except for the condition set out in point (d) of the first subparagraph of paragraph 2, are met;
- c the liabilities rank *pari passu* or are senior to the lowest ranking excluded liabilities referred to in Article 72a(2), with the exception of the excluded liabilities subordinated to ordinary unsecured claims under **[**[F286]the insolvency law of the United Kingdom**]** referred to in the third subparagraph of paragraph 2 of this Article;
- d on the balance sheet of the institution, the amount of the excluded liabilities referred to in Article 72a(2) which rank *pari passu* or below those liabilities in insolvency does not exceed 5 % of the amount of the own funds and eligible liabilities of the institution;
- e the inclusion of those liabilities in eligible liabilities items would not give rise to a material risk of a successful legal challenge or of valid compensation claims as assessed by the resolution authority in relation to the principles referred to in **[**[F287]United Kingdom legislation which immediately before IP completion day gave effect to**]** point (g) of Article 34(1) and Article 75 of Directive 2014/59/EU.

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

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

7 **[**[F288]The Bank may make**]**[F289]... technical standards to specify:

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

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

Those [F289]... technical standards shall be fully aligned with the **[**[F290]technical standards**]** referred to in point (a) of Article 28(5) and in point (a) of Article 52(2).

[F291]...

Textual Amendments

F280 Words in Art. 72b(2)(d)(i) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **26(2)(a)(i)**; 2020 c. 1, Sch. 5 para. 1(1)

F281 Words in Art. 72b(2)(d)(ii) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **26(2)(a)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)

F282 Words in Art. 72b(2)(n) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **26(2)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

F283 Words in Art. 72b(2) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **26(2)(c)**; 2020 c. 1, Sch. 5 para. 1(1)

F284 Words in Art. 72b(3)(b) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **26(3)(a)**; 2020 c. 1, Sch. 5 para. 1(1)

F285 Words in Art. 72b(3)(c) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **26(3)(b)** (as amended (30.12.2020) by S.I. 2020/1301, regs. 1, 3, **Sch. para. 46**); 2020 c. 1, **Sch. 5 para. 1(1)**

F286 Words in Art. 72b(4)(c) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **26(4)(a)**; 2020 c. 1, Sch. 5 para. 1(1)

F287 Words in Art. 72b(4)(e) inserted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **26(4)(b)** (as amended (30.12.2020) by S.I. 2020/1301, regs. 1, 3, **Sch. para. 46**); 2020 c. 1, **Sch. 5 para. 1(1)**

F288 Words in Art. 72b(7) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **26(5)(a)**; 2020 c. 1, Sch. 5 para. 1(1)

F289 Words in Art. 72b(7) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **26(5)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

F290 Words in Art. 72b(7) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **26(5)(c)**; 2020 c. 1, Sch. 5 para. 1(1)

F291 Words in Art. 72b(7) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **26(5)(d)**; 2020 c. 1, Sch. 5 para. 1(1)

Article 72c

Amortisation of eligible liabilities instruments

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

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

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

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

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

Article 72d

Consequences of the eligibility conditions ceasing to be met

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

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

Section 2

Deductions from eligible liabilities items

Article 72e

Deductions from eligible liabilities items

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

- a direct, indirect and synthetic holdings by the institution of own eligible liabilities instruments, including own liabilities that that institution could be obliged to purchase as a result of existing contractual obligations;
- b direct, indirect and synthetic holdings by the institution of eligible liabilities instruments of G-SII entities with which the institution has reciprocal cross holdings that the competent authority considers to have been designed to artificially inflate the loss absorption and recapitalisation capacity of the resolution entity;
- c the applicable amount determined in accordance with Article 72i of direct, indirect and synthetic holdings of eligible liabilities instruments of G-SII entities, where the institution does not have a significant investment in those entities;
- d direct, indirect and synthetic holdings by the institution of eligible liabilities instruments of G-SII entities, where the institution has a significant investment in those entities, excluding underwriting positions held for five business days or fewer.

2 For the purposes of this Section, all instruments ranking *pari passu* with eligible liabilities instruments shall be treated as eligible liabilities instruments, with the exception of

instruments ranking *pari passu* with instruments recognised as eligible liabilities pursuant to Article 72b(3) and (4).

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

$$h = \sum_i \left(H_i \times \frac{l_i}{L_i} \right)$$

where:

h	=	the amount of holdings of the eligible liabilities instruments referred to in Article 72b(3);
i	=	the index denoting the issuing institution;
H_i	=	the total amount of holdings of eligible liabilities of the issuing institution i referred to in Article 72b(3);
l_i	=	the amount of liabilities included in eligible liabilities items by the issuing institution i within the limits specified in Article 72b(3) according to the latest disclosures by the issuing institution; and
L_i	=	the total amount of the outstanding liabilities of the issuing institution i referred to in Article 72b(3) according to the latest disclosures by the issuer.

4 Where **[**[F292]a UK parent institution or a parent institution in the United Kingdom**]** 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 **[**[F293]after duly considering the opinion of a relevant foreign resolution authority within the meaning of section 83ZE(10) of the Banking Act 2009**]**, may permit the parent institution to deduct such holdings by deducting a lower amount specified by the resolution authority of that parent institution. That adjusted amount shall be at least equal to the amount (m) calculated as follows:

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

where:

i	=	the index denoting the subsidiary;
OP_i	=	the amount of own funds instruments issued by subsidiary i and held by the parent institution;
LP_i	=	the amount of eligible liabilities items issued by subsidiary i and held by the parent institution;
β	=	percentage of own funds instruments and eligible liabilities items issued by subsidiary i and held by the parent undertaking;
O_i	=	the amount of own funds of subsidiary i, not taking into account the deduction calculated in accordance with this paragraph;
L_i	=	the amount of eligible liabilities of subsidiary i, not taking into account the deduction calculated in accordance with this paragraph;
r_i	=	the ratio applicable to subsidiary i at the level of its resolution group in accordance with point (a) of Article 92a(1) of this Regulation [F294]...; and
$aRWA_i$	=	the total risk exposure amount of the G-SII entity i calculated in accordance with Article 92(3) and

(4), taking into account the adjustments set out in Article 12a.

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

Textual Amendments

F292 Words in Art. 72e(4) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **27(2)(a)**; 2020 c. 1, Sch. 5 para. 1(1)

F293 Words in Art. 72e(4) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **27(2)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

F294 Words in Art. 72e(4) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **27(2)(c)**; 2020 c. 1, Sch. 5 para. 1(1)

Article 72f

Deduction of holdings of own eligible liabilities instruments

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

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

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

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

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

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

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

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

Article 72g

Deduction base for eligible liabilities items

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

Article 72h

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

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

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

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

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

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

Article 72i

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

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

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

(i) Articles 32 to 35;

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

(iii) Articles 44 and 45;

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

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

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

- a the amount of holdings required to be deducted pursuant to paragraph 1;
- b the proportion of the aggregate amount of direct, indirect and synthetic holdings by the institution of the eligible liabilities instruments of G-SII entities in which the institution does not have a significant investment represented by each eligible liabilities instrument held by the institution.

4 The amount of holdings referred to in point (c) of Article 72e(1) that is equal to or less than 10 % of the Common Equity Tier 1 items of the institution after applying the provisions laid down in points (a)(i), (a)(ii) and (a)(iii) of paragraph 1 of this Article shall not be deducted and shall be subject to the applicable risk weights in accordance with Chapter 2 or 3 of Title II of Part Three **[**[F295], Articles 132a to 132c of Chapter 3 of the Standardised Approach and Internal Ratings Based Approach to Credit Risk (CRR) Part of the PRA Rulebook**]** and the requirements laid down in Title IV of Part Three, as applicable.

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

Textual Amendments

F295 Words in Art. 72i(4) inserted (1.1.2022) by The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/1376), regs. 1(3), **25(11)**

Article 72j

Trading book exception from deductions from eligible liabilities items

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

- a the holdings are in the trading book;
- b the eligible liabilities instruments are held for no longer than 30 business days.

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

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

Section 3

Own funds and eligible liabilities

Article 72k

Eligible liabilities

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

Article 72l

Own funds and eligible liabilities

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

CHAPTER 6

[F1General requirements for own funds and eligible liabilities]

Article 73

[F1Distributions on instruments]

[F1 1 Capital instruments and liabilities for which an institution has the sole discretion to decide to pay distributions in a form other than cash or own funds instruments shall not be eligible to qualify as Common Equity Tier 1, Additional Tier 1, Tier 2 or eligible liabilities instruments, unless the institution has received the prior permission of the competent authority.

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

- a the ability of the institution to cancel payments under the instrument would not be adversely affected by the discretion referred to in paragraph 1, or by the form in which distributions could be made;
- b the ability of the capital instrument or of the liability to absorb losses would not be adversely affected by the discretion referred to in paragraph 1, or by the form in which distributions could be made;
- c the quality of the capital instrument or liability would not otherwise be reduced by the discretion referred to in paragraph 1, or by the form in which distributions could be made.

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

3 Capital instruments and liabilities for which a legal person other than the institution issuing them has the discretion to decide or require that the payment of distributions on those instruments or liabilities shall be made in a form other than cash or own funds instruments

shall not be eligible to qualify as Common Equity Tier 1, Additional Tier 1, Tier 2 or eligible liabilities instruments.

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

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).

[[F1]6 Institutions shall report and disclose the broad market indices on which their capital instruments and eligible liabilities instruments rely.**]**

7 **[**[F296]The **[**[F297]PRA may**]** make 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.

[F298] ...

Textual Amendments

F296 Words in Art. 73(7) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **222(1)(a)**(2) (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F297 Words in Art. 73(7) substituted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 47**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F298 Words in Art. 73(7) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **222(1)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

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 **[**[F299]and Articles 132a to 132c of Chapter 3 of the Standardised Approach and Internal Ratings Based Approach to Credit Risk (CRR) Part of the PRA Rulebook**]**, as applicable.

Textual Amendments

F299 Words in Art. 74 inserted (1.1.2022) by The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/1376), regs. 1(3), **25(12)**

Article 75

Deduction and maturity requirements for short positions

[F1The maturity requirements for short positions referred to in point (a) of Article 45, point (a) of Article 59, point (a) of Article 69 and point (a) of Article 72h shall be considered to be met in respect of positions held where all the following conditions are met:]

(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 capital instruments

[F11 For the purposes of point (a) of Article 42, point (a) of Article 45, point (a) of Article 57, point (a) of Article 59, point (a) of Article 67, point (a) of Article 69 and point (a) of Article 72h, institutions may reduce the amount of a long position in a capital instrument by the portion of an index that is made up of the same underlying exposure that is being hedged, provided that all the following conditions are met:

a either both the long position being hedged and the short position in an index used to hedge that long position are held in the trading book or both are held in the non-trading book;
b the positions referred to in point (a) are held at fair value on the balance sheet of the institution;
c the short position referred to in point (a) qualifies as an effective hedge under the internal control processes of the institution;
d the competent authorities assess the adequacy of the internal control processes referred to in point (c) on at least an annual basis and are satisfied with their continuing appropriateness.

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

a own Common Equity Tier 1, Additional Tier 1, Tier 2 and eligible liabilities instruments included in indices;
b Common Equity Tier 1, Additional Tier 1 and Tier 2 instruments of financial sector entities, included in indices;
c eligible liabilities instruments of institutions, included in indices.

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

4 [F300The [F301PRA may] make 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.

F302...

Textual Amendments

F300 Words in Art. 76(4) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **222(1)(a)**(2) (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F301 Words in Art. 76(4) substituted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 47**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F302 Words in Art. 76(4) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **222(1)(b)** (with savings in S.I. 2019/680, **reg. 11**); 2020 c. 1, **Sch. 5 para. 1(1)**

[F1 *Article 77*

Conditions for reducing own funds and eligible liabilities

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

a reduce, redeem or repurchase Common Equity Tier 1 instruments issued by the institution in a manner that is permitted under applicable national law [F303of the United Kingdom, or any part of it, or of a third country];

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

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

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

Textual Amendments

F303 Words in Art. 77(1)(a) inserted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **93** (with savings in S.I. 2019/680, **reg. 11**); 2020 c. 1, **Sch. 5 para. 1(1)**

[F1 *Article 78*

Supervisory permission to reduce own funds

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

a before or at the same time as any of the actions referred to in Article 77(1), the institution replaces the instruments or the related share premium accounts referred to in Article 77(1) with own funds instruments of equal or higher quality at terms that are sustainable for the income capacity of the institution;
b the institution has demonstrated to the satisfaction of the competent authority that the own funds and eligible liabilities of the institution would, following the action referred to in Article 77(1) of this Regulation, exceed the requirements laid down in this Regulation and in [F304Directive 2013/36/EU UK law and in the United Kingdom legislation that implemented Directive 2014/59/EU as amended from time to time] by a margin that the competent authority considers necessary.

Where an institution provides sufficient safeguards as to its capacity to operate with own funds above the amounts required in this Regulation and in [F305Directive 2013/36/EU UK law], the competent authority may grant that institution a general prior permission to take any of the actions set out in Article 77(1) of this Regulation, subject to criteria that ensure that any such future action will be in accordance with the conditions set out in points (a) and (b) of this paragraph. That general prior permission shall be granted only for a specified period, which shall not exceed one year, after which it may be renewed. The general prior permission shall be granted for a certain predetermined amount, which shall be set by the competent authority. In the case of Common Equity Tier 1 instruments, that predetermined amount shall not exceed 3 % of the relevant issue and shall not exceed 10 % of the amount by which Common Equity Tier 1 capital exceeds the sum of the Common Equity Tier 1 capital requirements laid down in this Regulation, in [F304Directive 2013/36/EU UK law and in the United Kingdom legislation that implemented Directive 2014/59/EU as amended from time to time] by a margin that the competent authority considers necessary. In the case of Additional Tier 1 or Tier 2 instruments, that predetermined amount shall not exceed 10 % of the relevant issue and shall not exceed 3 % of the total amount of outstanding Additional Tier 1 or Tier 2 instruments, as applicable.

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

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

3 Where an institution takes an action referred to in point (a) of Article 77(1) and the refusal of redemption of Common Equity Tier 1 instruments referred to in Article 27 is prohibited by applicable national law [F306of the United Kingdom, or any part of it, or of a third country], the competent authority may waive the conditions set out in paragraph 1 of this Article, provided that the competent authority requires the institution to limit the redemption of such instruments on an appropriate basis.

4 Competent authorities may permit institutions to call, redeem, repay or repurchase Additional Tier 1 or Tier 2 instruments or related share premium accounts during the five years following their date of issuance where the conditions set out in paragraph 1 and one of the following conditions is met:
a there is a change in the regulatory classification of those instruments that would be likely to result in their exclusion from own funds or reclassification as own funds of lower quality, and both the following conditions are met:

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

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

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

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

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

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

5 [F307The [F308PRA may] make technical standards] to specify the following:

a the meaning of ‘ sustainable for the income capacity of the institution ’ ;

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

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

F309...]

Textual Amendments

F304 Words in Art. 78 substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **28(2)**; 2020 c. 1, Sch. 5 para. 1(1)

F305 Words in Art. 78(1) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **28(3)**; 2020 c. 1, Sch. 5 para. 1(1)

F306 Words in Art. 78(3) inserted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **94(3)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F307 Words in Art. 78(5) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **222(1)(a)(2)** (with savings in S.I. 2019/680, **reg. 11**) and The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **28(4)(a)**; 2020 c. 1, **Sch. 5 para. 1(1)**

F308 Words in Art. 78(5) substituted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 47**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F309 Words in Art. 78(5) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **222(1)(b)** (with savings in S.I. 2019/680, **reg. 11**); 2020 c. 1, **Sch. 5 para. 1(1)**; and by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **28(4)(b)**; 2020 c. 1, **Sch. 5 para. 1(1)**

[F64 *Article 78a*

Permission to reduce eligible liabilities instruments

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

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

b the institution has demonstrated to the satisfaction of the resolution authority that the own funds and eligible liabilities of the institution would, following the action referred to in Article 77(2) of this Regulation, exceed the requirements for own funds and eligible liabilities laid down in this Regulation and in [F310Directive 2013/36/EU UK law and in the United Kingdom legislation that implemented Directive 2014/59/EU as amended from time to time] by a margin that the resolution authority, in agreement with the competent authority, considers necessary;

c the institution has demonstrated to the satisfaction of the resolution authority that the partial or full replacement of the eligible liabilities with own funds instruments is necessary to ensure compliance with the own funds requirements laid down in this Regulation and in [F311Directive 2013/36/EU UK law] for continuing authorisation.

Where an institution provides sufficient safeguards as to its capacity to operate with own funds and eligible liabilities above the amount of the requirements laid down in this Regulation and in [F310Directive 2013/36/EU UK law and in the United Kingdom legislation that implemented Directive 2014/59/EU as amended from time to time], the resolution authority, after consulting the competent authority, may grant that institution a general prior permission to effect calls, redemptions, repayments or repurchases of eligible liabilities instruments, subject to criteria that ensure that any such future action will be in accordance with the conditions set out in points (a) and (b) of this paragraph. That general prior permission shall be granted only for a specified period, which shall not exceed one year, after which it may be renewed. The general prior permission shall be granted for a certain predetermined amount, which shall be set by the resolution authority. [F312the resolution authority] shall inform the competent authorities about any general prior permission granted.

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

2 When assessing the sustainability of the replacement instruments for the income capacity of the institution referred to in point (a) of paragraph 1, [F312the resolution authority] shall consider the extent to which those replacement capital instruments or replacement eligible liabilities would be more costly for the institution than those they would replace.

3 [F313The Bank may make] technical standards to specify the following:

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

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

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

d the meaning of ' sustainable for the income capacity of the institution ' .

For the purposes of point (d) of the first subparagraph of this paragraph, the F314... technical standards shall be fully aligned with the [F315technical standards] referred to in Article 78.

F316...]

Textual Amendments

F64 Inserted by Regulation (EU) 2019/876 of the European Parliament and of the Council of 20 May 2019 amending Regulation (EU) No 575/2013 as regards the leverage ratio, the net stable funding ratio, requirements for own funds and eligible liabilities, counterparty credit risk, market risk, exposures to central counterparties, exposures to collective investment undertakings, large exposures, reporting and disclosure requirements, and Regulation (EU) No 648/2012 (Text with EEA relevance).

F310 Words in Art. 78a substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **29(3)**; 2020 c. 1, Sch. 5 para. 1(1)

F311 Words in Art. 78a(1)(c) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **29(4)**; 2020 c. 1, Sch. 5 para. 1(1)

F312 Words in Art. 78a substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **29(2)**; 2020 c. 1, Sch. 5 para. 1(1)

F313 Words in Art. 78a(3) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **29(5)(a)**; 2020 c. 1, Sch. 5 para. 1(1)

F314 Words in Art. 78a(3) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **29(5)(b)(i)**; 2020 c. 1, Sch. 5 para. 1(1)

F315 Words in Art. 78a(3) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **29(5)(b)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)

F316 Words in Art. 78a(3) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **29(5)(c)**; 2020 c. 1, Sch. 5 para. 1(1)

Article 79

[F1Temporary waiver from deduction from own funds and eligible liabilities]

[F11 Where an institution holds capital instruments or liabilities that qualify as own funds instruments in a financial sector entity or as eligible liabilities instruments in an institution and where the competent authority considers those holdings to be for the purposes of a financial assistance operation designed to reorganise and restore the viability of that entity or that institution, the competent authority may waive on a temporary basis the provisions on deduction that would otherwise apply to those instruments.]

2 [F317The [F318PRA may] make 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.

F319...

Textual Amendments

F317 Words in Art. 79(2) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **222(1)(a)(2)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F318 Words in Art. 79(2) substituted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 47**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F319 Words in Art. 79(2) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **222(1)(b)** (with savings in S.I. 2019/680, **reg. 11**); 2020 c. 1, **Sch. 5 para. 1(1)**

[F64 Article 79a

Assessment of compliance with the conditions for own funds and eligible liabilities instruments

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

Textual Amendments

F64 Inserted by Regulation (EU) 2019/876 of the European Parliament and of the Council of 20 May 2019 amending Regulation (EU) No 575/2013 as regards the leverage ratio, the net stable funding ratio, requirements for own funds and eligible liabilities, counterparty credit risk, market risk, exposures to central counterparties, exposures to collective investment undertakings, large exposures, reporting and disclosure requirements, and Regulation (EU) No 648/2012 (Text with EEA relevance).

F320 Article 80

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

. . . .

Textual Amendments

F320 Art. 80 omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **95** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

TITLE II

MINORITY INTEREST AND ADDITIONAL TIER 1 AND TIER 2 INSTRUMENTS ISSUED BY SUBSIDIARIES

Article 81

Minority interests that qualify for inclusion in consolidated Common Equity Tier 1 capital

[[F1]1 Minority interests shall comprise the sum of Common Equity Tier 1 items of a subsidiary where the following conditions are met:

a the subsidiary is one of the following:

i an institution;

[[F321]ii an undertaking which is subject, by virtue of the applicable national law of the United Kingdom, or any part of it, or of a third country, to the requirements of this Regulation and Directive 2013/36/EU UK law;**]**

[[F322]iia an intermediate financial holding company or intermediate mixed financial holding company that is subject to the requirements of this Regulation on a sub-consolidated basis;

iib an intermediate investment holding company that is subject to the requirements of Part 9C rules on a consolidated basis;

iic an FCA investment firm;**]**

iii an intermediate financial holding company in a third country that is subject to prudential requirements **[**[F323]which are**]** as stringent as those applied to credit institutions of that third country and **[**[F324]which**]** the **[**[F325]Treasury have**][**[F326]determined**]** in accordance with Article 107(4) [F327]... are at least equivalent to those of this Regulation;

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

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

2 Minority interests that are funded directly or indirectly, through a special purpose entity or otherwise, by the parent undertaking of the institution, or its subsidiaries shall not qualify as consolidated Common Equity Tier 1 capital.

Textual Amendments

F321 Art. 81(1)(a)(ii) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **96** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F322 Art. 81(1)(a)(iia)-(iic) inserted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 11(2)**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F323 Words in Art. 81(1)(a)(iii) inserted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 11(3)(a)**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F324 Word in Art. 81(1)(a)(iii) substituted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 11(3)(b)**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F325 Words in Art. 81(1)(a)(iii) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **30(a)**; 2020 c. 1, Sch. 5 para. 1(1)

F326 Word in Art. 81(1)(a)(iii) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **30(b)**; 2020 c. 1, Sch. 5 para. 1(1)

F327 Words in Art. 81(1)(a)(iii) omitted (1.1.2022) by virtue of Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 11(3)(c)**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

[F1 Article 82

Qualifying Additional Tier 1, Tier 1, Tier 2 capital and qualifying own funds

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

(a) the subsidiary is either of the following:

(i) an institution;

(ii) **[**F328an undertaking which is subject, by virtue of the applicable national law of the United Kingdom, or any part of it, or of a third country, to the requirements of this Regulation and Directive 2013/36/EU UK law;**]**

(iia) **[**F329an intermediate financial holding company or intermediate mixed financial holding company that is subject to the requirements of this Regulation on a sub-consolidated basis;

(iib) an intermediate investment holding company that is subject to the requirements of Part 9C rules on a consolidated basis;

(iic) an FCA investment firm;**]**

(iii) an intermediate financial holding company in a third country that is subject to prudential requirements **[**F330which are**]** as stringent as those applied to credit institutions of that third country and **[**F331which**]** the **[**F332Treasury have**]****[**F333determined**]** in accordance with Article 107(4) F334... are at least equivalent to those of this Regulation;

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

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

Textual Amendments

F328 Art. 82(a)(ii) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **97** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F329 Art. 82(a)(iia)-(iic) inserted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 12(2)**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F330 Words in Art. 82(a)(iii) inserted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 12(3)(a)**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F331 Word in Art. 82(a)(iii) substituted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 12(3)(b)**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F332 Words in Art. 82(a)(iii) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **31(a)**; 2020 c. 1, Sch. 5 para. 1(1)

F333 Word in Art. 82(a)(iii) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **31(b)**; 2020 c. 1, Sch. 5 para. 1(1)

F334 Words in Art. 82(a)(iii) omitted (1.1.2022) by virtue of Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 12(3)(c)**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

Article 83

Qualifying Additional Tier 1 and Tier 2 capital issued by a special purpose entity

[[F1]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.

2 **[**[F335]The **[**[F336]PRA may**]** make technical standards**]** to specify the types of assets that can relate to the operation of special purpose entities and the concepts of minimal and insignificant referred to in the second subparagraph of paragraph 1.

[F337] ...

Textual Amendments

F335 Words in Art. 83(2) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **222(1)(a)(2)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F336 Words in Art. 83(2) substituted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 47**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F337 Words in Art. 83(2) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **222(1)(b)** (with savings in S.I. 2019/680, **reg. 11**); 2020 c. 1, **Sch. 5 para. 1(1)**

Article 84

Minority interests included in consolidated Common Equity Tier 1 capital

1 Institutions shall determine the amount of minority interests of a subsidiary that is included in consolidated Common Equity Tier 1 capital by subtracting from the minority interests of that undertaking the result of multiplying the amount referred to in point (a) by the percentage referred to in point (b):

a the Common Equity Tier 1 capital of the subsidiary minus the lower of the following:

(i) **[**[F338]the amount of Common Equity Tier 1 capital of that subsidiary required to meet the following:

A the sum of the requirement laid down in point (a) of Article 92(1), the requirements referred to in Articles 458, 459 and 500, the specific own funds requirements referred to in regulation 34 of the Capital Requirements Regulations 2013, the combined buffer requirement defined in regulation 2 of the Capital Requirements (Capital Buffers and Macro-prudential Measures) Regulations 2014, and any additional local supervisory regulations in third countries insofar as those requirements are to be met by Common Equity Tier 1 capital, or

B where the subsidiary is an FCA investment firm, the sum of the own funds requirements set out in Part 9C rules which apply to the subsidiary and any requirements set out in additional local supervisory regulations in third countries insofar as those requirements are to be met by Common Equity Tier 1 capital;**]**

(ii) the amount of consolidated Common Equity Tier 1 capital that relates to that subsidiary that is required on a consolidated basis to meet the sum of the requirement laid down in point (a) of Article 92(1), the requirements referred to in Articles 458 and 459, the specific own funds requirements referred to in **[**[F339]regulation 34 of the Capital Requirements Regulations 2013**]**, the combined buffer requirement defined in **[**[F340]regulation 2 of the Capital Requirements (Capital Buffers and Macro-prudential Measures) Regulations 2014**]**, the requirements referred to in Article 500 and any additional local supervisory regulations in third countries insofar as those requirements are to be met by Common Equity Tier 1 capital.

b the minority interests of the subsidiary expressed as a percentage of all Common Equity Tier 1 instruments of that undertaking plus the related share premium accounts, retained earnings and other reserves.

2 The calculation referred to in paragraph 1 shall be undertaken on a sub-consolidated basis for each subsidiary referred to in Article 81(1).

An institution may choose not to undertake this calculation for a subsidiary referred to in Article 81(1). Where an institution takes such a decision, the minority interest of that subsidiary may not be included in consolidated Common Equity Tier 1 capital.

3 Where **[**[F341]the PRA**]** derogates from the application of prudential requirements on an individual basis, as laid down in Article 7, minority **[**[F342]interests**]** within the subsidiaries to which the waiver is applied shall not be recognised in own funds at the sub-consolidated or at the consolidated level, as applicable.

3A. **[**[F343]Where Part 9C rules provide that, in relation to any subsidiaries which are FCA investment firms, the calculation referred to in paragraph 1 is to be undertaken on a consolidated basis so as to include those subsidiaries, minority interests within those subsidiaries shall not be recognised in own funds at the sub-consolidated or consolidated level, as applicable.**]**

4 **[**[F344]The **[**[F345]PRA may**]** make technical standards**]** to specify the sub-consolidation calculation required in accordance with paragraph 2 of this Article, Articles 85 and 87.

F346 ...

5 Competent authorities may grant a waiver from the application of this Article to a parent financial holding company that satisfies all the following conditions:

- a its principal activity is to acquire holdings;
- b it is subject to prudential supervision on a consolidated basis;
- c it consolidates a subsidiary institution in which it has only a minority holding **[**[F347]and which is a subsidiary because of section 1162 of the Companies Act 2006**]**;
- d more than 90 % of the consolidated required Common Equity Tier 1 capital arises from the subsidiary institution referred to in point c) calculated on a sub-consolidated basis.

Where, after 28 June 2013 , a parent financial holding company that meets the conditions laid down in the first subparagraph becomes a parent mixed financial holding company, competent authorities may grant the waiver referred to in the first subparagraph to that parent mixed financial holding company provided that it meets the conditions laid down in that subparagraph.

F348 6 . . . .

Textual Amendments

F338 Art. 84(1)(a)(i) substituted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 13(2)**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F339 Words in Art. 84(1)(a)(ii) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **98(2)(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F340 Words in Art. 84(1)(a)(ii) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **98(2)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F341 Words in Art. 84(3) substituted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 13(3)(a)**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F342 Word in Art. 84(3) substituted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 13(3)(b)**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F343 Art. 84(3A) inserted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 13(4)**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F344 Words in Art. 84(4) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **222(1)(a)(2)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F345 Words in Art. 84(4) substituted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 47**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F346 Words in Art. 84(4) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **222(1)(b)** (with savings in S.I. 2019/680, **reg. 11**); 2020 c. 1, **Sch. 5 para. 1(1)**

F347 Words in Art. 84(5)(c) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **98(3)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F348 Art. 84(6) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **98(4)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 85

Qualifying Tier 1 instruments included in consolidated Tier 1 capital

1 Institutions shall determine the amount of qualifying Tier 1 capital of a subsidiary that is included in consolidated own funds by subtracting from the qualifying Tier 1 capital of that undertaking the result of multiplying the amount referred to in point (a) by the percentage referred to in point (b):

a the Tier 1 capital of the subsidiary minus the lower of the following:

(i) **[**[F349]the amount of Tier 1 capital of the subsidiary required to meet the following:

A the sum of the requirement laid down in point (b) of Article 92(1), the requirements referred to in Articles 458, 459 and 500, the specific own funds requirements referred to in regulation 34 of the Capital Requirements Regulations 2013, the combined buffer requirement defined in regulation 2 of the Capital Requirements (Capital Buffers and Macro-prudential Measures) Regulations 2014, and any additional local supervisory regulations in third countries insofar as those requirements are to be met by Tier 1 Capital, or

B where the subsidiary is an FCA investment firm, the sum of the own funds requirements set out in Part 9C rules which apply to the subsidiary and any requirements set out in additional local supervisory regulations in third countries insofar as those requirements are to be met by Tier 1 capital;**]**

(ii) the amount of consolidated Tier 1 capital that relates to the subsidiary that is required on a consolidated basis to meet the sum of the requirement laid down in point (b) of Article 92(1), the requirements referred to in Articles 458 and 459, the specific own funds requirements referred to in **[**[F350]regulation 34 of the Capital Requirements Regulations 2013**]**, the combined buffer requirement defined in **[**[F351]regulation 2 of the Capital Requirements (Capital Buffers and Macro-prudential Measures) Regulations 2014**]**, the requirements referred to in Article 500 and any additional local supervisory regulations in third countries insofar as those requirements are to be met by Tier 1 Capital;

b the qualifying Tier 1 capital of the subsidiary expressed as a percentage of all Tier 1 instruments of that undertaking plus the related share premium accounts, retained earnings and other reserves.

2 The calculation referred to in paragraph 1 shall be undertaken on a sub-consolidated basis for each subsidiary referred to in Article 81(1).

An institution may choose not to undertake this calculation for a subsidiary referred to in Article 81(1). Where an institution takes such a decision, the qualifying Tier 1 capital of that subsidiary may not be included in consolidated Tier 1 capital.

3 Where [F352the PRA] derogates from the application of prudential requirements on an individual basis, as laid down in Article 7, Tier 1 instruments within the subsidiaries to which the waiver is applied shall not be recognised as own funds at the sub-consolidated or at the consolidated level, as applicable.

3A. [F353Where Part 9C rules provide that, in relation to any subsidiaries which are FCA investment firms, the calculation referred to in paragraph 1 is to be undertaken on a consolidated basis so as to include those subsidiaries, Tier 1 instruments within those subsidiaries shall not be recognised in own funds at the sub-consolidated or consolidated level, as applicable.]

Textual Amendments

F349 Art. 85(1)(a)(i) substituted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 14(2)**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F350 Words in Art. 85(1)(a)(ii) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **99(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F351 Words in Art. 85(1)(a)(ii) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **99(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F352 Words in Art. 85(3) substituted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 14(3)**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F353 Art. 85(3A) inserted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 14(4)**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

Article 86

Qualifying Tier 1 capital included in consolidated Additional Tier 1 capital

Without prejudice to Article 84 (5) or (6), institutions shall determine the amount of qualifying Tier 1 capital of a subsidiary that is included in consolidated Additional Tier 1 capital by subtracting from the qualifying Tier 1 capital of that undertaking included in consolidated Tier 1 capital the minority interests of that undertaking that are included in consolidated Common Equity Tier 1 capital.

Article 87

Qualifying own funds included in consolidated own funds

1 Institutions shall determine the amount of qualifying own funds of a subsidiary that is included in consolidated own funds by subtracting from the qualifying own funds of that

undertaking the result of multiplying the amount referred to in point (a) by the percentage referred to in point (b):

a the own funds of the subsidiary minus the lower of the following:

(i) [F354the amount of own funds of the subsidiary required to meet the following—

A the sum of the requirement laid down in point (c) of Article 92(1), the requirements referred to in Articles 458, 459 and 500, the specific own funds requirements referred to in regulation 34 of the Capital Requirements Regulations 2013, the combined buffer requirement defined in regulation 2 of the Capital Requirements (Capital Buffers and Macro-prudential Measures) Regulations 2014, and any additional local supervisory regulations in third countries, or

B where the subsidiary is an FCA investment firm, the sum of the own funds requirements set out in Part 9C rules which apply to the subsidiary and any requirements set out in additional local supervisory regulations in third countries;]

(ii) the amount of own funds that relates to the subsidiary that is required on a consolidated basis to meet the sum of the requirement laid down in point (c) of Article 92(1), the requirements referred to in Articles 458 and 459, the specific own funds requirements referred to in [F355regulation 34 of the Capital Requirements Regulations 2013], the combined buffer requirement defined in [F356regulation 2 of the Capital Requirements (Capital Buffers and Macro-prudential Measures) Regulations 2014], the requirements referred to in Article 500 and any additional local supervisory own funds requirement in third countries;

b the qualifying own funds of the undertaking, expressed as a percentage of all own funds instruments of the subsidiary that are included in Common Equity Tier 1, Additional Tier 1 and Tier 2 items and the related share premium accounts, the retained earnings and other reserves.

2 The calculation referred to in paragraph 1 shall be undertaken on a sub-consolidated basis for each subsidiary referred to in Article 81(1).

An institution may choose not to undertake this calculation for a subsidiary referred to in Article 81(1). Where an institution takes such a decision, the qualifying own funds of that subsidiary may not be included in consolidated own funds.

3 Where [F357the PRA] derogates from the application of prudential requirements on an individual basis, as laid down in Article 7, own funds instruments within the subsidiaries to which the waiver is applied shall not be recognised as own funds at the sub-consolidated or at the consolidated level, as applicable.

3A. [F358Where Part 9C rules provide that, in relation to any subsidiaries which are FCA investment firms, the calculation referred to in paragraph 1 is to be undertaken on a consolidated basis so as to include those subsidiaries, own funds instruments within those subsidiaries shall not be recognised in own funds at the sub-consolidated or consolidated level, as applicable.]

Textual Amendments

F354 Art. 87(1)(a)(i) substituted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 15(2)**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F355 Words in Art. 87(1)(a)(ii) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **100(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F356 Words in Art. 87(1)(a)(ii) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **100(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F357 Words in Art. 87(3) substituted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 15(3)**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F358 Art. 87(3A) inserted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 15(4)**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

Article 88

Qualifying own funds instruments included in consolidated Tier 2 capital

Without prejudice to Article 84(5) or (6), institutions shall determine the amount of qualifying own funds of a subsidiary that is included in consolidated Tier 2 capital by subtracting from the qualifying own funds of that undertaking that are included in consolidated own funds the qualifying Tier 1 capital of that undertaking that is included in consolidated Tier 1 capital.

TITLE III

QUALIFYING HOLDINGS OUTSIDE THE FINANCIAL SECTOR

Article 89

Risk weighting and prohibition of qualifying holdings outside the financial sector

1 A qualifying holding, the amount of which exceeds 15 % of the eligible capital of the institution, in an undertaking which is not one of the following shall be subject to the provisions laid down in paragraph 3:

a a financial sector entity;

b an undertaking, that is not a financial sector entity, carrying on activities which the competent authority considers to be any of the following:

(i) a direct extension of banking;

(ii) ancillary to banking;

(iii) leasing, factoring, the management of unit trusts, the management of data processing services or any other similar activity.

2 The total amount of the qualifying holdings of an institution in undertakings other than those referred to in points (a) and (b) of paragraph 1 that exceeds 60 % of its eligible capital shall be subject to the provisions laid down in paragraph 3.

3 Competent authorities shall apply the requirements laid down in point (a) or (b) to qualifying holdings of institutions referred to in paragraphs 1 and 2:

a for the purpose of calculating the capital requirement in accordance with Part Three **[**[F359]and Articles 132a to 132c of Chapter 3 of the Standardised Approach and Internal Ratings Based Approach to Credit Risk (CRR) Part of the PRA Rulebook**]**, institutions shall apply a risk weight of 1 250 % to the greater of the following:

(i) the amount of qualifying holdings referred to in paragraph 1 in excess of 15 % of eligible capital;

(ii) the total amount of qualifying holdings referred to in paragraph 2 that exceed 60 % of the eligible capital of the institution;

b the competent authorities shall prohibit institutions from having qualifying holdings referred to in paragraphs 1 and 2 the amount of which exceeds the percentages of eligible capital laid down in those paragraphs.

Competent authorities shall publish their choice of (a) or (b).

[F360]4 . . . .

Textual Amendments

F359 Words in Art. 89(3)(a) inserted (1.1.2022) by The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/1376), regs. 1(3), **25(13)**

F360 Art. 89(4) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **101** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 90

Alternative to 1 250 % risk weight

As an alternative to applying a 1 250 % risk weight to the amounts in excess of the limits specified in Article 89(1) and (2), institutions may deduct those amounts from Common Equity Tier 1 items in accordance with point (k) of Article 36(1).

Article 91

Exceptions

1 Shares of undertakings not referred to in points (a) and (b) of Article 89(1) shall not be included in calculating the eligible capital limits specified in that Article where any of the following conditions is met:

a those shares are held temporarily during a financial assistance operation as referred to in Article 79;

b the holding of those shares is an underwriting position held for five working days or fewer;

c those shares are held in the own name of the institution and on behalf of others.

2 Shares which are not [F361participating interests, shares in affiliated undertakings or securities intended for use on a continuing basis in the normal course of an undertaking's activities] shall not be included in the calculation specified in Article 89.

Textual Amendments

F361 Words in Art. 91(2) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **102** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

PART THREE

CAPITAL REQUIREMENTS

TITLE I

GENERAL REQUIREMENTS, VALUATION AND REPORTING

CHAPTER 1

Required level of own funds

Section 1

Own funds requirements for institutions

Article 92

Own funds requirements

1 Subject to Articles 93 and 94, institutions shall at all times satisfy the following own funds requirements:

- a a Common Equity Tier 1 capital ratio of 4,5 %;
- b a Tier 1 capital ratio of 6 %;
- c a total capital ratio of 8 %.

2 Institutions shall calculate their capital ratios as follows:

- a the Common Equity Tier 1 capital ratio is the Common Equity Tier 1 capital of the institution expressed as a percentage of the total risk exposure amount;
- b the Tier 1 capital ratio is the Tier 1 capital of the institution expressed as a percentage of the total risk exposure amount;
- c the total capital ratio is the own funds of the institution expressed as a percentage of the total risk exposure amount.

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 **[**[F362]Title II and Article 379 of this Regulation and Articles 132a to 132c of Chapter 3 of the Standardised Approach and Internal Ratings Based Approach to Credit Risk (CRR) Part of the PRA Rulebook**]**, in respect of all the business activities of an institution, excluding risk-weighted exposure amounts from the trading book business of the institution;

b **[**[F363]the own funds requirements for the trading-book business of an institution for the following—

(i) market risk as determined in accordance with Title IV of this Part[F364]...;

(ii) large exposures exceeding the limits specified in Articles 395 to 401, to the extent that an institution is permitted to exceed those limits, as determined in accordance with **[**[F365]the Large Exposures (CRR) Part of the PRA Rulebook**]**;

c the own funds requirements for market risk as determined in accordance with Title IV of this Part[F366]... for all business activities that are subject to foreign exchange risk or commodity risk;

ca the own funds requirements for settlement risk calculated in accordance with Title V of this Part, with the exception of Article 379;**]**

d the own funds requirements calculated in accordance with Title VI for credit valuation adjustment risk of OTC derivative instruments other than credit derivatives recognised to reduce risk-weighted exposure amounts for credit risk;

e the own funds requirements determined in accordance with Title III for operational risk;

f the risk-weighted exposure amounts determined in accordance with Title II **[**[F367]and Chapter 3 of the Counterparty Credit Risk (CRR) Part of the PRA Rulebook**]** for counterparty risk arising from the trading book business of the institution for the following types of transactions and agreements:

(i) contracts listed in Annex II and credit derivatives;

(ii) repurchase transactions, securities or commodities lending or borrowing transactions based on securities or commodities;

(iii) margin lending transactions based on securities or commodities;

(iv) long settlement transactions.

4 The following provisions shall apply in the calculation of the total risk exposure amount referred to in paragraph 3:

a the own funds requirements referred to in points (c), (d) and (e) of that paragraph shall include those arising from all the business activities of an institution;

b institutions shall multiply the own funds requirements set out in points (b) to (e) of that paragraph by 12,5.

Textual Amendments

F362 Words in Art. 92(3)(a) substituted (1.1.2022) by The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/1376), regs. 1(3), **25(14)(a)**

F363 Art. 92(3)(b)-(ca) substituted for Art. 92(3)(b)(c) (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 4 para. 3**; S.I. 2021/671, reg. 5(1)(c) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F364 Words in Art. 92(3)(b)(i) omitted (1.1.2022) by virtue of The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/1376), regs. 1(3), **25(14)(b)**
F365 Words in Art. 92(3)(b)(ii) substituted (1.1.2022) by The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/1376), regs. 1(3), **25(14)(c)**
F366 Words in Art. 92(3)(c) omitted (1.1.2022) by virtue of The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/1376), regs. 1(3), **25(14)(d)**
F367 Words in Art. 92(3)(f) inserted (1.1.2022) by The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/1376), regs. 1(3), **25(14)(e)**

[F64 Article 92a

Requirements for own funds and eligible liabilities for G-SIIs

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

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

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

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

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

b within the two years following the date on which the resolution authority has applied the bail-in tool in accordance with **[**F368section 48B of the Banking Act 2009**]**;

c within the two years following the date on which the resolution entity has put in place an alternative private sector measure F369... by which capital instruments and other liabilities have been written down or converted into Common Equity Tier 1 items in order to recapitalise the resolution entity without the application of resolution tools.

F370 3 . . . .

Textual Amendments

F64 Inserted by Regulation (EU) 2019/876 of the European Parliament and of the Council of 20 May 2019 amending Regulation (EU) No 575/2013 as regards the leverage ratio, the net stable funding ratio, requirements for own funds and eligible liabilities, counterparty credit risk, market risk, exposures to central counterparties, exposures to collective investment undertakings, large exposures, reporting and disclosure requirements, and Regulation (EU) No 648/2012 (Text with EEA relevance).
F368 Words in Art. 92a(2)(b) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **32(2)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
F369 Words in Art. 92a(2)(c) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **32(2)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

F370 Art. 92a(3) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **32(3)**; 2020 c. 1, Sch. 5 para. 1(1)

Article 92b

Requirement for own funds and eligible liabilities for [F371non-UK] G-SIIs

1 Institutions that are material subsidiaries of [F372non-UK] G-SIIs and that are not resolution entities shall at all times satisfy requirements for own funds and eligible liabilities equal to 90 % of the requirements for own funds and eligible liabilities laid down in Article 92a.

2 For the purpose of complying with paragraph 1, Additional Tier 1, Tier 2 and eligible liabilities instruments shall only be taken into account where those instruments are owned by the ultimate parent undertaking of the [F372non-UK] G-SII and have been issued directly or indirectly through other entities within the same group, provided that all such entities are established in the same third country as that ultimate parent undertaking or [F373in the United Kingdom].

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

a in the event of normal insolvency proceedings [F374as defined in section 3(1) of the Banking Act 2009], the claim resulting from the liability ranks below claims resulting from liabilities that do not fulfil the conditions set out in paragraph 2 of this Article and that do not qualify as own funds;

b it is subject to the write-down or conversion powers [F375under sections 6A or 81AA of the Banking Act 2009].]

Textual Amendments

F64 Inserted by Regulation (EU) 2019/876 of the European Parliament and of the Council of 20 May 2019 amending Regulation (EU) No 575/2013 as regards the leverage ratio, the net stable funding ratio, requirements for own funds and eligible liabilities, counterparty credit risk, market risk, exposures to central counterparties, exposures to collective investment undertakings, large exposures, reporting and disclosure requirements, and Regulation (EU) No 648/2012 (Text with EEA relevance).

F371 Word in Art. 92b heading substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **33(2)**; 2020 c. 1, Sch. 5 para. 1(1)

F372 Word in Art. 92b substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **33(3)**; 2020 c. 1, Sch. 5 para. 1(1)

F373 Words in Art. 92b(2) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **33(4)**; 2020 c. 1, Sch. 5 para. 1(1)

F374 Words in Art. 92b(3)(a) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **33(5)(a)**; 2020 c. 1, Sch. 5 para. 1(1)

F375 Words in Art. 92b(3)(b) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **33(5)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

Article 93

Initial capital requirement on going concern

1 The own funds of an institution may not fall below the amount of initial capital required at the time of its authorisation.

2 Credit institutions that were already in existence on 1 January 1993 , the amount of own funds of which do not attain the amount of initial capital required may continue to carry out their activities. In that event, the amount of own funds of those institutions may not fall below the highest level reached with effect from 22 December 1989.

[F376] 3 . . . .

4 Where control of an institution falling within the category referred to in paragraph 2 [F377]... is taken by a natural or legal person other than the person who controlled the institution previously, the amount of own funds of that institution shall attain the amount of initial capital required.

5 Where there is a merger of two or more institutions falling within the category referred to in paragraph 2 [F378]..., the amount of own funds of the institution resulting from the merger shall not fall below the total own funds of the merged institutions at the time of the merger, as long as the amount of initial capital required has not been attained.

6 Where competent authorities consider it necessary to ensure the solvency of an institution that the requirement laid down in paragraph 1 is met, the provisions laid down in paragraphs **[**[F379]2, 4 and 5**]** shall not apply.

Textual Amendments

F376 Art. 93(3) omitted (1.1.2022) by virtue of Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 16(a)**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F377 Words in Art. 93(4) omitted (1.1.2022) by virtue of Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 16(b)**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F378 Words in Art. 93(5) omitted (1.1.2022) by virtue of Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 16(b)**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F379 Words in Art. 93(6) substituted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 16(c)**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

[F380] *Article 94*

Derogation for small trading book business

Textual Amendments

F380 Art. 94 omitted (1.1.2022) by virtue of The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **6(2)(a)**

Section 2

Own funds requirements for investment firms with limited authorisation to provide investment services

F381 *Article 95*

Own funds requirements for investment firms with limited authorisation to provide investment services

Textual Amendments

F381 Art. 95 omitted (1.1.2022) by virtue of Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 17**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F383 *Article 96*

[F382 Own funds requirements for IFPRU 730K firms]

Textual Amendments

F382 Art. 96 heading substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **104(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F383 Art. 96 omitted (1.1.2022) by virtue of Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 18**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F384 *Article 97*

Own Funds based on Fixed Overheads

Textual Amendments

F384 Art. 97 omitted (1.1.2022) by virtue of Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 19**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F385 *Article 98*

Own funds for investment firms on a consolidated basis

Textual Amendments

F385 Art. 98 omitted (1.1.2022) by virtue of Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 20**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F386CHAPTER 2

Calculation and reporting requirements

Article 99

Reporting on own funds requirements and financial information

. . . .

Article 100

Additional reporting requirements

. . . .

Article 101

Specific reporting obligations

. . . .

Textual Amendments

F386 Pt. 3 Title 1 Ch. 2 omitted (1.1.2022) by virtue of The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **6(2)(b)**

F387CHAPTER 3

Trading book

Article 102

Requirements for the trading book

. . . .

Article 103

Management of the trading book

. . . .

Article 104

Inclusion in the trading book

. . . .

Article 104b

Requirements for trading desk

. . . .

Article 105

Requirements for prudent valuation

. . . .

Article 106

Internal Hedges

. . . .

Textual Amendments

F387 Pt. 3 Title 1 Ch. 3 omitted (1.1.2022) by virtue of The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **6(2)(c)**

TITLE II

CAPITAL REQUIREMENTS FOR CREDIT RISK

CHAPTER 1

General principles

Article 107

Approaches to credit risk

1 Institutions shall apply either the Standardised Approach provided for in Chapter 2 or, if permitted by the competent authorities in accordance with Article 143, the Internal Ratings Based Approach provided for in Chapter 3 to calculate their risk-weighted exposure amounts for the purposes of points (a) and (f) of Article 92(3).

2 For trade exposures and for default fund contributions to a central counterparty, institutions shall apply the treatment set out in Chapter 6, Section 9 to calculate their risk-weighted exposure amounts for the purposes of points (a) and (f) of Article 92(3). For all other types of exposures to a central counterparty, institutions shall treat those exposures as follows:

a as exposures to an institution for other types of exposures to a qualifying CCP;

b as exposures to a corporate for other types of exposures to a non-qualifying CCP.

3 For the purposes of this Regulation, exposures to **[**[F388]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 **[**[F389]United Kingdom**]**.

4 For the purposes of paragraph 3, **[**[F390]the Treasury may by regulations determine whether**]** a third country applies prudential supervisory and regulatory requirements at least equivalent to those applied in the **[**[F391]United Kingdom**]**. [F392]...

Textual Amendments

F388 Words in Art. 107(3) substituted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 4 para. 4**; S.I. 2021/671, reg. 5(1)(c) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F389 Words in Art. 107(3) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **110** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F390 Words in Art. 107(4) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **220(1)(a)** (with savings in S.I. 2019/680, **reg. 11**); 2020 c. 1, **Sch. 5 para. 1(1)**

F391 Words in Art. 107(4) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **220(1)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F392 Words in Art. 107(4) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **220(1)(c)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 108

Use of credit risk mitigation technique under the Standardised Approach and the IRB Approach

1 For an exposure to which an institution applies the Standardised Approach under Chapter 2 or applies the IRB Approach under Chapter 3 but without using its own estimates of loss given default (LGD) and conversion factors under Article 151, the institution may use credit risk mitigation in accordance with Chapter 4 in the calculation of risk-weighted exposure amounts for the purposes of points (a) and (f) of Article 92(3) or, as relevant, expected loss amounts for the purposes of the calculation referred to in point (d) of Article 36(1) and point (c) of Article 62.

2 For an exposure to which an institution applies the IRB Approach by using their own estimates of LGD and conversion factors under Article 151, the institution may use credit risk mitigation in accordance with Chapter 3.

[[F74]*Article 109*

Treatment of securitisation positions

Institutions shall calculate the risk-weighted exposure amount for a position they hold in a securitisation in accordance with Chapter 5.**]**

Textual Amendments

F74 Substituted by Regulation (EU) 2017/2401 of the European Parliament and of the Council of 12 December 2017 amending Regulation (EU) No 575/2013 on prudential requirements for credit institutions and investment firms.

Article 110

Treatment of credit risk adjustment

1 Institutions applying the Standardised Approach shall treat general credit risk adjustments in accordance with Article 62(c).

2 Institutions applying the IRB Approach shall treat general credit risk adjustments in accordance with Article 159, Article 62(d) and Article 36(1)(d).

For the purposes of this Article and Chapters 2 and 3, general and specific credit risk adjustments shall exclude funds for general banking risk.

3 Institutions using the IRB Approach that apply the Standardised Approach for a part of their exposures on consolidated or individual basis, in accordance with Articles 148 and 150 shall determine the part of general credit risk adjustment that shall be assigned to the treatment of general credit risk adjustment under the Standardised Approach and to the treatment of general credit risk adjustment under the IRB Approach as follows:

- a where applicable, when an institution included in the consolidation exclusively applies the IRB Approach, general credit risk adjustments of this institution shall be assigned to the treatment set out in paragraph 2;
- b where applicable, when an institution included in the consolidation exclusively applies the Standardised Approach, general credit risk adjustment of this institution shall be assigned to the treatment set out in paragraph 1;
- c the remainder of credit risk adjustment shall be assigned on a pro rata basis according to the proportion of risk weighted exposure amounts subject to the Standardised Approach and subject to the IRB Approach.

4 [F393The [F394PRA may] make technical standards] to specify the calculation of specific credit risk adjustments and general credit risk adjustments under the applicable accounting framework for the following:

- a exposure value under the Standardised Approach referred to in Article 111;
- b exposure value under the IRB Approach referred to in Articles 166 to 168;
- c treatment of expected loss amounts referred to in Article 159;
- d exposure value for the calculation of the risk-weighted exposure amounts for securitisation position referred to in Articles 246 and 266;
- e the determination of default under Article 178.

F395 ...

Textual Amendments

F393 Words in Art. 110(4) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **222(1)(a)(2)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F394 Words in Art. 110(4) substituted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 47**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)
F395 Words in Art. 110(4) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **222(1)(b)** (with savings in S.I. 2019/680, **reg. 11**); 2020 c. 1, **Sch. 5 para. 1(1)**

CHAPTER 2

Standardised approach

Section 1

General principles

Article 111

Exposure value

[[F396]1 The exposure value of an asset item shall be its accounting value remaining after specific credit risk adjustments in accordance with Article 110, additional value adjustments in accordance with Articles 34 and 105, amounts deducted in accordance with point (m) Article 36(1) and other own funds reductions related to the asset item have been applied. The exposure value of an off-balance sheet item listed in Annex I shall be the following percentage of its nominal value after reduction of specific credit risk adjustments and amounts deducted in accordance with point (m) Article 36(1):**]**

a 100 % if it is a full-risk item;
b 50 % if it is a medium-risk item;
c 20 % if it is a medium/low-risk item;
d 0 % if it is a low-risk item.

The off-balance sheet items referred to in the second sentence of the first subparagraph shall be assigned to risk categories as indicated in Annex I.

When an institution is using the Financial Collateral Comprehensive Method under Article 223, the exposure value of securities or commodities sold, posted or lent under a repurchase transaction or under a securities or commodities lending or borrowing transaction, and margin lending transactions shall be increased by the volatility adjustment appropriate to such securities or commodities as prescribed in Articles 223 to 225.

2 The exposure value of a derivative instrument listed in Annex II shall be determined in accordance with Chapter 6 **[**[F397]of this Regulation and Sections 3 to 5 of Chapter 3 of the Counterparty Credit Risk (CRR) Part of the PRA Rulebook**]** with the effects of contracts of novation and other netting agreements taken into account for the purposes of those methods in accordance with Chapter 6 **[**[F397]of this Regulation and Sections 3 to 5 of Chapter 3 of the Counterparty Credit Risk (CRR) Part of the PRA Rulebook**]**. The exposure value of repurchase transaction, securities or commodities lending or borrowing transactions, long settlement transactions and margin lending transactions may be determined either in accordance with Chapter 6 **[**[F397]of this Regulation and Sections 3 to 5 of Chapter 3 of the Counterparty Credit Risk (CRR) Part of the PRA Rulebook**]** or Chapter 4.

3 Where an exposure is subject to funded credit protection, the exposure value applicable to that item may be amended in accordance with Chapter 4.

Textual Amendments

F396 Substituted by Regulation (EU) 2019/630 of the European Parliament and of the Council of 17 April 2019 amending Regulation (EU) No 575/2013 as regards minimum loss coverage for non-performing exposures (Text with EEA relevance).

F397 Words in Art. 111(2) inserted (1.1.2022) by The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/1376), regs. 1(3), **25(15)**

Article 112

Exposure classes

Each exposure shall be assigned to one of the following exposure classes:

(a) exposures to central governments or central banks;

(b) exposures to regional governments or local authorities;

(c) exposures to public sector entities;

(d) exposures to multilateral development banks;

(e) exposures to international organisations;

(f) exposures to institutions;

(g) exposures to corporates;

(h) retail exposures;

(i) exposures secured by mortgages on immovable property;

(j) exposures in default;

(k) exposures associated with particularly high risk;

(l) exposures in the form of covered bonds;

(m) items representing securitisation positions;

(n) exposures to institutions and corporates with a short-term credit assessment;

(o) exposures in the form of units or shares in collective investment undertakings (‘CIUs’);

(p) equity exposures;

(q) other items.

Article 113

Calculation of risk-weighted exposure amounts

1 To calculate risk-weighted exposure amounts, risk weights shall be applied to all exposures, unless deducted from own funds, in accordance with the provisions of Section 2. The application of risk weights shall be based on the exposure class to which the exposure is assigned and, to the extent specified in Section 2, its credit quality. Credit quality may be determined by reference to the credit assessments of ECAIs or the credit assessments of export credit agencies in accordance with Section 3.

2 For the purposes of applying a risk weight, as referred to in paragraph 1, the exposure value shall be multiplied by the risk weight specified or determined in accordance with Section 2.

3 Where an exposure is subject to credit protection the risk weight applicable to that item may be amended in accordance with Chapter 4.

4 Risk-weighted exposure amounts for securitised exposures shall be calculated in accordance with Chapter 5.

5 Exposures for which no calculation is provided in Section 2 shall be assigned a risk-weight of 100 %.

6 With the exception of exposures giving rise to Common Equity Tier 1, Additional Tier 1 or Tier 2 items, an institution may, subject to the prior approval of the competent authorities, decide not to apply the requirements of paragraph 1 of this Article to the exposures of that institution to a counterparty which is its parent undertaking, its subsidiary, a subsidiary of its parent undertaking or an undertaking linked by a **[**[F398]common management relationship**]**. Competent authorities are empowered to grant approval if the following conditions are fulfilled:

- a the counterparty is an institution, a financial institution or an ancillary services undertaking subject to appropriate prudential requirements;
- b the counterparty is included in the same consolidation as the institution on a full basis;
- c the counterparty is subject to the same risk evaluation, measurement and control procedures as the institution;
- d the counterparty is established in the **[**[F399]United Kingdom**]**;
- e there is no current or foreseen material practical or legal impediment to the prompt transfer of own funds or repayment of liabilities from the counterparty to the institution.

Where the institution, in accordance with this paragraph, is authorised not to apply the requirements of paragraph 1, it may assign a risk weight of 0 %.

[F400] 7 . . . .

Textual Amendments

F398 Words in Art. 113(6) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **111(2)(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F399 Words in Art. 113(6) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **111(2)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F400 Art. 113(7) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **111(3)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Section 2

Risk weights

Article 114

Exposures to central governments or central banks

1 Exposures to central governments and central banks shall be assigned a 100 % risk weight, unless the treatments set out in paragraphs 2 to 7 apply.

2 Exposures to central governments and central banks for which a credit assessment by a nominated ECAI is available shall be assigned a risk weight in accordance with Table 1 which corresponds to the credit assessment of the ECAI in accordance with Article 136.

TABLE 1

Credit quality step	1	2	3	4	5	6
Risk weight	0 %	20 %	50 %	100 %	100 %	150 %

3 Exposures to the ECB shall be assigned a 0 % risk weight.

4 Exposures to [F401the central government of the United Kingdom and the Bank denominated and funded in sterling] shall be assigned a risk weight of 0 %.

F4026 . . . .

7 When the competent authorities of a third country which apply supervisory and regulatory arrangements at least equivalent to those applied in the [F403United Kingdom] assign a risk weight which is lower than that indicated in paragraphs 1 and 2 to exposures to their central government and central bank denominated and funded in the domestic currency, institutions may risk weight such exposures in the same manner.

For the purposes of this paragraph, [F404the Treasury may by regulations determine whether] a third country applies supervisory and regulatory arrangements at least equivalent to those applied in the [F405United Kingdom]. F406... .

Textual Amendments

F401 Words in Art. 114(4) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **112(2)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F402 Deleted by Regulation (EU) 2020/873 of the European Parliament and of the Council of 24 June 2020 amending Regulations (EU) No 575/2013 and (EU) 2019/876 as regards certain adjustments in response to the COVID-19 pandemic (Text with EEA relevance).

F403 Words in Art. 114(7) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **112(3)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F404 Words in Art. 114(7) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **220(1)(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F405 Words in Art. 114(7) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **220(1)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F406 Words in Art. 114(7) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **220(1)(c)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 115

Exposures to regional governments or local authorities

1 Exposures to regional governments or local authorities shall be risk-weighted as exposures to institutions unless they are treated as exposures to central governments under paragraphs 2 or 4 or receive a risk weight as specified in paragraph 5. The preferential treatment for short-term exposures specified in Article 119(2) and Article 120(2) shall not be applied.

2 Exposures to regional governments or local authorities shall be treated as exposures to the central government in whose jurisdiction they are established where there is no difference in risk between such exposures because of the specific revenue-raising powers of the former, and the existence of specific institutional arrangements the effect of which is to reduce their risk of default.

[[F407]The PRA [F408]... must maintain a publicly available database of all regional governments and local authorities within the United Kingdom which the competent authority treats as exposures to the central government of the United Kingdom.**]**

3 Exposures to churches or religious communities constituted in the form of a legal person under public law shall, in so far as they raise taxes in accordance with legislation conferring on them the right to do so, be treated as exposures to regional governments and local authorities. In this case, paragraph 2 shall not apply and, for the purposes of Article 150(1)(a), permission to apply the Standardised Approach shall not be excluded.

4 When competent authorities of a third country jurisdiction which applies supervisory and regulatory arrangements at least equivalent to those applied in the **[**[F409]United Kingdom**]** treat exposures to regional governments or local authorities as exposures to their central government and there is no difference in risk between such exposures because of the specific revenue-raising powers of regional government or local authorities and to specific institutional arrangements to reduce the risk of default, institutions may risk weight exposures to such regional governments and local authorities in the same manner.

For the purposes of this paragraph, **[**[F410]the Treasury may by regulations determine whether**]** a third country applies supervisory and regulatory arrangements at least equivalent to those applied in the **[**[F411]United Kingdom**]** . [F412]... .

5 Exposures to regional governments or local authorities of the **[**[F413]United Kingdom**]** that are not referred to in paragraphs 2 to 4 and are denominated and funded in **[**[F414]pounds sterling**]** shall be assigned a risk weight of 20 %.

Textual Amendments

F407 Words in Art. 115(2) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **113(2)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F408 Words in Art. 115(2) omitted (1.1.2022) by virtue of Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 22**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F409 Words in Art. 115(4) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **113(3)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F410 Words in Art. 115(4) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **220(1)(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F411 Words in Art. 115(4) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **220(1)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F412 Words in Art. 115(4) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **220(1)(c)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F413 Words in Art. 115(5) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **113(4)(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F414 Words in Art. 115(5) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **113(4)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 116

Exposures to public sector entities

1 Exposures to public sector entities for which a credit assessment by a nominated ECAI is not available shall be assigned a risk weight in accordance with the credit quality step to which exposures to the central government of the jurisdiction in which the public sector entity is incorporated are assigned in accordance with the following Table 2:

TABLE 2

Credit quality step to which central government is assigned	1	2	3	4	5	6
Risk weight	20 %	50 %	100 %	100 %	100 %	150 %

For exposures to public sector entities incorporated in countries where the central government is unrated, the risk weight shall be 100 %.

2 Exposures to public sector entities for which a credit assessment by a nominated ECAI is available shall be treated in accordance with Article 120. The preferential treatment for short-term exposures specified in Articles 119(2) and 120(2), shall not be applied to those entities.

3 For exposures to public sector entities with an original maturity of three months or less, the risk weight shall be 20 %.

4 In exceptional circumstances, exposures to public-sector entities may be treated as exposures to the central government, regional government or local authority **[**[F415]of the United Kingdom**]** where in the opinion of the competent authorities **[**[F416]of the United Kingdom**]** there is no difference in risk between such exposures because of the existence of an appropriate guarantee by the central government, regional government or local authority.

5 When competent authorities of a third country jurisdiction, which apply supervisory and regulatory arrangements at least equivalent to those applied in the **[**[F417]United Kingdom**]**, treat exposures to public sector entities in accordance with paragraph 1 or 2, institutions may risk weight exposures to such public sector entities in the same manner. Otherwise the institutions shall apply a risk weight of 100 %.

For the purposes of this paragraph, **[**[F418]the Treasury may by regulations determine whether**]** a third country applies supervisory and regulatory arrangements at least equivalent to those applied in the **[**[F419]United Kingdom**]**. [F420]...

Textual Amendments

F415 Words in Art. 116(4) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **114(a)(i)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F416 Words in Art. 116(4) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **114(a)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F417 Words in Art. 116(5) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **114(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F418 Words in Art. 116(5) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **220(1)(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F419 Words in Art. 116(5) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **220(1)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F420 Words in Art. 116(5) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **220(1)(c)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 117

Exposures to multilateral development banks

1 Exposures to multilateral development banks that are not referred to in paragraph 2 shall be treated in the same manner as exposures to institutions. The preferential treatment for short-term exposures as specified in Articles 119(2), 120(2) and 121(3) shall not be applied.

The Inter-American Investment Corporation, the Black Sea Trade and Development Bank, the Central American Bank for Economic Integration and the CAF-Development Bank of Latin America shall be considered multilateral development banks.

2 Exposures to the following multilateral development banks shall be assigned a 0 % risk weight:

a the International Bank for Reconstruction and Development;
b the International Finance Corporation;
c the Inter-American Development Bank;
d the Asian Development Bank;
e the African Development Bank;
f the Council of Europe Development Bank;
g the Nordic Investment Bank;
h the Caribbean Development Bank;
i the European Bank for Reconstruction and Development;
j the European Investment Bank;
k the European Investment Fund;
l the Multilateral Investment Guarantee Agency;
m the International Finance Facility for Immunisation;
n the Islamic Development Bank [F1;]
[F64o the International Development Association;
p the Asian Infrastructure Investment Bank.]

[F421The Treasury may by regulations, in accordance with international standards, amend the list of multilateral development banks referred to in the first subparagraph.]

F422 3 . . . .

Textual Amendments

F1 Substituted by Regulation (EU) 2019/876 of the European Parliament and of the Council of 20 May 2019 amending Regulation (EU) No 575/2013 as regards the leverage ratio, the net stable funding ratio, requirements for own funds and eligible liabilities, counterparty credit risk, market risk, exposures to central counterparties, exposures to collective investment undertakings, large exposures, reporting and disclosure requirements, and Regulation (EU) No 648/2012 (Text with EEA relevance).

F64 Inserted by Regulation (EU) 2019/876 of the European Parliament and of the Council of 20 May 2019 amending Regulation (EU) No 575/2013 as regards the leverage ratio, the net stable funding ratio, requirements for own funds and eligible liabilities, counterparty credit risk, market risk, exposures to central counterparties, exposures to collective investment undertakings, large exposures, reporting and disclosure requirements, and Regulation (EU) No 648/2012 (Text with EEA relevance).

F421 Words in Art. 117(2) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **34**; 2020 c. 1, Sch. 5 para. 1(1)

F422 Art. 117(3) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **115** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 118

Exposures to international organisations

Exposures to the following international organisations shall be assigned a 0 % risk weight:

(a) [F1the European Union F423...;]

(b) the International Monetary Fund;

(c) the Bank for International Settlements;

(d) the European Financial Stability Facility;

(e) the European Stability Mechanism;

(f) F424...

Textual Amendments

F1 Substituted by Regulation (EU) 2019/876 of the European Parliament and of the Council of 20 May 2019 amending Regulation (EU) No 575/2013 as regards the leverage ratio, the net stable funding ratio, requirements for own funds and eligible liabilities, counterparty credit risk, market risk, exposures to central counterparties, exposures to collective investment undertakings, large exposures, reporting and disclosure requirements, and Regulation (EU) No 648/2012 (Text with EEA relevance).

F423 Words in Art. 118(a) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **35**; 2020 c. 1, Sch. 5 para. 1(1)

F424 Art. 118(f) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **116** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 119

Exposures to institutions

1 Exposures to institutions for which a credit assessment by a nominated ECAI is available shall be risk-weighted in accordance with Article 120. Exposures to institutions for which a credit assessment by a nominated ECAI is not available shall be risk-weighted in accordance with Article 121.

2 Exposures to institutions of a residual maturity of three months or less denominated and funded in the national currency of the borrower shall be assigned a risk weight that is one category less favourable than the preferential risk weight, as described in Article 114(4) to (7), assigned to exposures to the central government in which the institution is incorporated.

3 No exposures with a residual maturity of three months or less denominated and funded in the national currency of the borrower shall be assigned a risk weight less than 20 %.

4 Exposure to an institution in the form of minimum reserves required by [F425the Bank] to be held by an institution may be risk-weighted as exposures to [F426the Bank] provided:

[F427a the reserves are held in accordance with national requirements which are, in all material respects, equivalent to those in Regulation (EC) No 1745/2003 of the European Central Bank of 12 September 2003;]

b in the event of the bankruptcy or insolvency of the institution where the reserves are held, the reserves are fully repaid to the institution in a timely manner and are not made available to meet other liabilities of the institution.

5 Exposures to financial institutions authorised and supervised by the competent authorities and subject to prudential requirements comparable to those applied to institutions in terms of robustness shall be treated as exposures to institutions.

[F4286. For the purposes of paragraph 5, the requirements laid down in Part 9C rules are to be treated as being comparable to those applied to institutions in terms of robustness.]

Textual Amendments

F425 Words in Art. 119(4) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **117(a)(i)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F426 Words in Art. 119(4) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **117(a)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F427 Art. 119(4)(a) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **117(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F428 Art. 119(6) inserted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 23**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

Article 120

Exposures to rated institutions

1 Exposures to institutions with a residual maturity of more than three months for which a credit assessment by a nominated ECAI is available shall be assigned a risk weight in accordance with Table 3 which corresponds to the credit assessment of the ECAI in accordance with Article 136.

TABLE 3

Credit quality step	1	2	3	4	5	6
Risk weight	20 %	50 %	50 %	100 %	100 %	150 %

2 Exposures to an institution of up to three months residual maturity for which a credit assessment by a nominated ECAI is available shall be assigned a risk-weight in accordance with Table 4 which corresponds to the credit assessment of the ECAI in accordance with Article 136:

TABLE 4

Credit quality step	1	2	3	4	5	6
Risk weight	20 %	20 %	20 %	50 %	50 %	150 %

3 The interaction between the treatment of short term credit assessment under Article 131 and the general preferential treatment for short term exposures set out in paragraph 2 shall be as follows:

a If there is no short-term exposure assessment, the general preferential treatment for short-term exposures as specified in paragraph 2 shall apply to all exposures to institutions of up to three months residual maturity;

b If there is a short-term assessment and such an assessment determines the application of a more favourable or identical risk weight than the use of the general preferential treatment for short-term exposures, as specified in paragraph 2, then the short-term assessment shall be used for that specific exposure only. Other short-term exposures shall follow the general preferential treatment for short-term exposures, as specified in paragraph 2;

c If there is a short-term assessment and such an assessment determines a less favourable risk weight than the use of the general preferential treatment for short-term exposures, as specified in paragraph 2, then the general preferential treatment for short-term exposures shall not be used and all unrated short-term claims shall be assigned the same risk weight as that applied by the specific short-term assessment.

Article 121

Exposures to unrated institutions

1 Exposures to institutions for which a credit assessment by a nominated ECAI is not available shall be assigned a risk weight in accordance with the credit quality step to which exposures to the central government of the jurisdiction in which the institution is incorporated are assigned in accordance with Table 5.

TABLE 5

Credit quality step to which central government is assigned	1	2	3	4	5	6
Risk weight of exposure	20 %	50 %	100 %	100 %	100 %	150 %

2 For exposures to unrated institutions incorporated in countries where the central government is unrated, the risk weight shall be 100 %.

3 For exposures to unrated institutions with an original effective maturity of three months or less, the risk weight shall be 20 %.

4 Notwithstanding paragraphs 2 and 3, for trade finance exposures referred to in point (b) of the second subparagraph of Article 162(3) to unrated institutions, the risk weight shall be 50 % and where the residual maturity of these trade finance exposures to unrated institutions is three months or less, the risk weight shall be 20 %.

Article 122

Exposures to corporates

1 Exposures for which a credit assessment by a nominated ECAI is available shall be assigned a risk weight in accordance with Table 6 which corresponds to the credit assessment of the ECAI in accordance with Article 136.

TABLE 6

Credit quality step	1	2	3	4	5	6
Risk weight	20 %	50 %	100 %	100 %	150 %	150 %

2 Exposures for which such a credit assessment is not available shall be assigned a 100 % risk weight or the risk weight of exposures to the central government of the jurisdiction in which the corporate is incorporated, whichever is the higher.

Article 123

Retail exposures

Exposures that comply with the following criteria shall be assigned a risk weight of 75 %:

(a) the exposure shall be either to a natural person or persons, or to a [[F429]SME];

(b) the exposure shall be one of a significant number of exposures with similar characteristics such that the risks associated with such lending are substantially reduced;

(c) 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 exposures fully and completely secured on residential property collateral that have been assigned to the exposure class laid down in point (i) of Article 112, shall not, to the knowledge of the institution, exceed EUR 1 million. The institution shall take reasonable steps to acquire this knowledge.

Securities shall not be eligible for the retail exposure class.

Exposures that do not comply with the criteria referred to in points (a) to (c) of the first subparagraph shall not be eligible for the retail exposures class.

The present value of retail minimum lease payments is eligible for the retail exposure class.

[F64Exposures due to loans granted by a credit institution to pensioners or employees with a permanent contract against the unconditional transfer of part of the borrower's pension or salary to that credit institution shall be assigned a risk weight of 35 %, provided that all the following conditions are met:

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

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

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

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

Textual Amendments

F64 Inserted by Regulation (EU) 2019/876 of the European Parliament and of the Council of 20 May 2019 amending Regulation (EU) No 575/2013 as regards the leverage ratio, the net stable funding ratio, requirements for own funds and eligible liabilities, counterparty credit risk, market risk, exposures to central counterparties, exposures to collective investment undertakings, large exposures, reporting and disclosure requirements, and Regulation (EU) No 648/2012 (Text with EEA relevance).

F429 Word in Art. 123(a) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **118** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

[F1 Article 124

Exposures secured by mortgages on immovable property

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

The part of an exposure that is treated as fully secured by immovable property shall not be greater than the pledged amount of the market value or **[**F430, if rigorous criteria are in force at the time in the United Kingdom for the assessment of the mortgage lending value**]**, the mortgage lending value of the immovable property in question.

1a F431...

[F432The PRA shall ensure that the Financial Policy Committee is duly informed of the PRA’s intention to make use of this Article, and is appropriately involved in the assessment of financial stability concerns in the United Kingdom in accordance with paragraph 2.**]**

F433 ...

2 Based on the data collected under Article 430a [F434of Chapter 4 of the Reporting (CRR) Part of the PRA Rulebook] and on any other relevant indicators, the [F435PRA] shall periodically, and at least annually, assess whether the risk weight of 35 % for exposures to one or more property segments secured by mortgages on residential property referred to in Article 125 located in [F436the United Kingdom] and the risk weight of 50 % for exposures secured by mortgages on commercial immovable property referred to in Article 126 located in [F436the United Kingdom] are appropriately based on:

a the loss experience of exposures secured by immovable property;

b forward-looking immovable property markets developments.

Where, on the basis of the assessment referred to in the first subparagraph of this paragraph, the [F435PRA] concludes that the risk weights set out in Article 125(2) or 126(2) do not adequately reflect the actual risks related to exposures to one or more property segments fully secured by mortgages on residential property or on commercial immovable property located in [F436the United Kingdom], and if it considers that the inadequacy of the risk weights could adversely affect current or future financial stability in [F437the United Kingdom], it may increase the risk weights applicable to those exposures within the ranges determined in the fourth subparagraph of this paragraph or impose stricter criteria than those set out in Article 125(2) or 126(2).

F438 ...

For the purposes of the second subparagraph of this paragraph, the [F439PRA] may set the risk weights within the following ranges:

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

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

3 Where the [F440PRA] sets higher risk weights or stricter criteria pursuant to the second subparagraph of paragraph 2, institutions shall have a six-month transitional period to apply them.]

[F14 [F441The [F442PRA may] make] technical standards to specify the rigorous criteria for the assessment of the mortgage lending value referred to in paragraph 1 and the types of factors to be considered for the assessment of the appropriateness of the risk weights referred in the first subparagraph of paragraph 2.

F443 ...]

F4445 . . . .

F4456 . . . .

Textual Amendments

F1 Substituted by Regulation (EU) 2019/876 of the European Parliament and of the Council of 20 May 2019 amending Regulation (EU) No 575/2013 as regards the leverage ratio, the net stable funding ratio, requirements for own funds and eligible liabilities, counterparty credit risk, market risk, exposures to central counterparties, exposures to collective investment undertakings, large exposures, reporting and disclosure requirements, and Regulation (EU) No 648/2012 (Text with EEA relevance).

F430 Words in Art. 124(1) substituted (31.12.2020) by The Securities Financing Transactions, Securitisation and Miscellaneous Amendments (EU Exit) Regulations 2020 (S.I. 2020/1385), regs. 1(3), **74(4)(a)**

F431 Words in Art. 124(1a) omitted (31.12.2020) by virtue of The Securities Financing Transactions, Securitisation and Miscellaneous Amendments (EU Exit) Regulations 2020 (S.I. 2020/1385), regs. 1(3), **74(4)(b)(i)**

F432 Words in Art. 124(1a) substituted (31.12.2020) by The Securities Financing Transactions, Securitisation and Miscellaneous Amendments (EU Exit) Regulations 2020 (S.I. 2020/1385), regs. 1(3), **74(4)(b)(ii)**

F433 Words in Art. 124(1a) omitted (31.12.2020) by virtue of The Securities Financing Transactions, Securitisation and Miscellaneous Amendments (EU Exit) Regulations 2020 (S.I. 2020/1385), regs. 1(3), **74(4)(b)(iii)**

F434 Words in Art. 124(2) inserted (1.1.2022) by The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/1376), regs. 1(3), **25(16)(a)**

F435 Word in Art. 124(2) substituted (31.12.2020) by The Securities Financing Transactions, Securitisation and Miscellaneous Amendments (EU Exit) Regulations 2020 (S.I. 2020/1385), regs. 1(3), **74(4)(c)(i)(aa)**

F436 Words in Art. 124(2) substituted (31.12.2020) by The Securities Financing Transactions, Securitisation and Miscellaneous Amendments (EU Exit) Regulations 2020 (S.I. 2020/1385), regs. 1(3), **74(4)(c)(i)(bb)**

F437 Words in Art. 124(2) substituted (31.12.2020) by The Securities Financing Transactions, Securitisation and Miscellaneous Amendments (EU Exit) Regulations 2020 (S.I. 2020/1385), regs. 1(3), **74(4)(c)(ii)**

F438 Words in Art. 124(2) omitted (31.12.2020) by virtue of The Securities Financing Transactions, Securitisation and Miscellaneous Amendments (EU Exit) Regulations 2020 (S.I. 2020/1385), regs. 1(3), **74(4)(c)(iii)**

F439 Word in Art. 124(2) substituted (31.12.2020) by The Securities Financing Transactions, Securitisation and Miscellaneous Amendments (EU Exit) Regulations 2020 (S.I. 2020/1385), regs. 1(3), **74(4)(c)(iv)**

F440 Word in Art. 124(3) substituted (31.12.2020) by The Securities Financing Transactions, Securitisation and Miscellaneous Amendments (EU Exit) Regulations 2020 (S.I. 2020/1385), regs. 1(3), **74(4)(d)**

F441 Words in Art. 124(4) substituted (31.12.2020) by The Securities Financing Transactions, Securitisation and Miscellaneous Amendments (EU Exit) Regulations 2020 (S.I. 2020/1385), regs. 1(3), **74(4)(e)(i)**

F442 Words in Art. 124(4) substituted (1.1.2022) by The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/1376), regs. 1(3), **25(16)(b)** (with reg. 34)

F443 Words in Art. 124(4) omitted (31.12.2020) by virtue of The Securities Financing Transactions, Securitisation and Miscellaneous Amendments (EU Exit) Regulations 2020 (S.I. 2020/1385), regs. 1(3), **74(4)(e)(ii)**

F444 Art. 124(5) omitted (31.12.2020) by virtue of The Securities Financing Transactions, Securitisation and Miscellaneous Amendments (EU Exit) Regulations 2020 (S.I. 2020/1385), regs. 1(3), **74(4)(f)**

F445 Art. 124(6) omitted (31.12.2020) by virtue of The Securities Financing Transactions, Securitisation and Miscellaneous Amendments (EU Exit) Regulations 2020 (S.I. 2020/1385), regs. 1(3), **74(4)(f)**

Article 125

Exposures fully and completely secured by mortgages on residential property

1 Unless otherwise decided by the competent authorities in accordance with Article 124(2), exposures fully and completely secured by mortgages on residential property shall be treated as follows:

a exposures or any part of an exposure fully and completely secured by mortgages on residential property which is or shall be occupied or let by the owner, or the beneficial owner in the case of personal investment companies, shall be assigned a risk weight of 35 %;

b exposures to a tenant under a property leasing transaction concerning residential property under which the institution is the lessor and the tenant has an option to purchase, shall be assigned a risk weight of 35 % provided that the exposure of the institution is fully and completely secured by its ownership of the property.

2 Institutions shall consider an exposure or any part of an exposure as fully and completely secured for the purposes of paragraph 1 only if the following conditions are met:

a the value of the property shall not materially depend upon the credit quality of the borrower. Institutions may exclude situations where purely macro-economic factors affect both the value of the property and the performance of the borrower from their determination of the materiality of such dependence;

b the risk of the borrower shall not materially depend upon the performance of the underlying property or project, but on the underlying capacity of the borrower to repay the debt from other sources, and as a consequence, the repayment of the facility shall not materially depend on any cash flow generated by the underlying property serving as collateral. For those other sources, institutions shall determine maximum loan-to-income ratios as part of their lending policy and obtain suitable evidence of the relevant income when granting the loan;

c the requirements set out in Article 208 and the valuation rules set out in Article 229(1) are met;

d unless otherwise determined under Article 124(2), the part of the loan to which the 35 % risk weight is assigned does not exceed 80 % of the market value of the property in question or 80 % of the mortgage lending value of the property in question **[**[F446]if rigorous criteria are in force at the time in the United Kingdom for the assessment of the mortgage lending value**]**.

3 Institutions may derogate from point (b) of paragraph 2 for exposures fully and completely secured by mortgages on residential property which is situated within the territory of **[**[F447]the United Kingdom**]**, where the competent authority **[**[F448]has determined that loss rates**]** do not exceed the following limits:

a losses stemming from lending collateralised by residential property up to 80 % of the market value or 80 % of the mortgage lending value, unless otherwise decided under Article 124(2), do not exceed 0,3 % of the outstanding loans collateralised by residential property in any given year;

b overall losses stemming from lending collateralised by residential property do not exceed 0,5 % of the outstanding loans collateralised by residential property in any given year.

4 Where either of the limits referred to in paragraph 3 is not satisfied in a given year, the eligibility to use paragraph 3 shall cease and the condition contained in point (b) of paragraph 2 shall apply until the conditions in paragraph 3 are satisfied in a subsequent year.

Textual Amendments

F446 Words in Art. 125(2)(d) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **120(2)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F447 Words in Art. 125(3) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **120(3)(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F448 Words in Art. 125(3) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **120(3)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 126

Exposures fully and completely secured by mortgages on commercial immovable property

1 Unless otherwise decided by the competent authorities in accordance with Article 124(2), exposures fully and completely secured by mortgages on commercial immovable property shall be treated as follows:

- a exposures or any part of an exposure fully and completely secured by mortgages on offices or other commercial premises may be assigned a risk weight of 50 %;
- b exposures related to property leasing transactions concerning offices or other commercial premises under which the institution is the lessor and the tenant has an option to purchase may be assigned a risk weight of 50 % provided that the exposure of the institution is fully and completely secured by its ownership of the property.

2 Institutions shall consider an exposure or any part of an exposure as fully and completely secured for the purposes of paragraph 1 only if the following conditions are met:

- a the value of the property shall not materially depend upon the credit quality of the borrower. Institutions may exclude situations where purely macro-economic factors affect both the value of the property and the performance of the borrower from their determination of the materiality of such dependence;
- b the risk of the borrower shall not materially depend upon the performance of the underlying property or project, but on the underlying capacity of the borrower to repay the debt from other sources, and as a consequence, the repayment of the facility shall not materially depend on any cash flow generated by the underlying property serving as collateral;
- c the requirements set out in Article 208 and the valuation rules set out in Article 229(1) are met;
- d the 50 % risk weight unless otherwise provided under Article 124(2) shall be assigned to the part of the loan that does not exceed 50 % of the market value of the property or 60 % of the mortgage lending value unless otherwise provided under Article 124(2) of the property in question **[**[F449]if rigorous criteria are in force at the time in the United Kingdom for the assessment of the mortgage lending value**]**.

3 Institutions may derogate from point (b) of paragraph 2 for exposures fully and completely secured by mortgages on commercial immovable property which is situated within the territory of **[**[F450]the United Kingdom**]**, where the competent authority **[**[F451]has determined that loss rates**]** do not exceed the following limits:

- a losses stemming from lending collateralised by commercial immovable property up to 50 % of the market value or 60 % of the mortgage lending value, unless otherwise determined under Article 124(2), do not exceed 0,3 % of the outstanding loans collateralised by commercial immovable property;
- b overall losses stemming from lending collateralised by commercial immovable property do not exceed 0,5 % of the outstanding loans collateralised by commercial immovable property.

4 Where either of the limits referred to in paragraph 3 is not satisfied in a given year, the eligibility to use paragraph 3 shall cease and the condition contained in point (b) of paragraph 2 shall apply until the conditions in paragraph 3 are satisfied in a subsequent year.

Textual Amendments

F449 Words in Art. 126(2)(d) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **121(2)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F450 Words in Art. 126(3) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **121(3)(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F451 Words in Art. 126(3) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **121(3)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 127

Exposures in default

[[F396]1 The unsecured part of any item where the obligor has defaulted in accordance with Article 178, or in the case of retail exposures, the unsecured part of any credit facility which has defaulted in accordance with Article 178 shall be assigned a risk weight of:

a 150 %, where the sum of specific credit risk adjustments and of the amounts deducted in accordance with point (m) Article 36(1) is less than 20 % of the unsecured part of the exposure value if those specific credit risk adjustments and deductions were not applied;

b 100 %, where the sum of the specific credit risk adjustments and of the amounts deducted in accordance with point (m) Article 36(1) is no less than 20 % of the unsecured part of the exposure value if those specific credit risk adjustments and deductions were not applied.**]**

2 For the purpose of determining the secured part of the past due item, eligible collateral and guarantees shall be those eligible for credit risk mitigation purposes under Chapter 4.

3 The exposure value remaining after specific credit risk adjustments of exposures fully and completely secured by mortgages on residential property in accordance with Article 125 shall be assigned a risk weight of 100 % if a default has occurred in accordance with Article 178.

4 The exposure value remaining after specific credit risk adjustments of exposures fully and completely secured by mortgages on commercial immovable property in accordance with Article 126 shall be assigned a risk weight of 100 % if a default has occurred in accordance with Article 178.

Textual Amendments

F396 Substituted by Regulation (EU) 2019/630 of the European Parliament and of the Council of 17 April 2019 amending Regulation (EU) No 575/2013 as regards minimum loss coverage for non-performing exposures (Text with EEA relevance).

F452 *Article 128*

Items associated with particular high risk

Textual Amendments

F452 Art. 128 omitted (1.1.2022) by virtue of The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **6(3)(a)**

Article 129

Exposures in the form of covered bonds

1 To be eligible for the preferential treatment set out in paragraphs 4 and 5, **[**F453CRR covered bonds**]** shall meet the requirements set out in paragraph 7 and shall be collateralised by any of the following eligible assets:

[F454 a exposures to or guaranteed by—

i the central government of the United Kingdom;

ii the Bank;

iii a regional government of the United Kingdom; or

iv a public sector entity or local authority in the United Kingdom;**]**

b exposures to or guaranteed by third country central governments, third-country central banks, multilateral development banks, international organisations that qualify for the credit quality step 1 as set out in this Chapter, and exposures to or guaranteed by third-country public sector entities, third-country regional governments or third-country local authorities that are risk weighted as exposures to institutions or central governments and central banks in accordance with Article 115(1) or (2), or Article 116(1), (2) or (4) respectively and that qualify for the credit quality step 1 as set out in this Chapter, and exposures within the meaning of this point that qualify as a minimum for the credit quality step 2 as set out in this Chapter, provided that they do not exceed 20 % of the nominal amount of outstanding covered bonds of the issuing institutions;

c exposures to institutions that qualify for the credit quality step 1 as set out in this Chapter. The total exposure of this kind shall not exceed 15 % of the nominal amount of outstanding covered bonds of the issuing institution. Exposures to institutions in the **[**F455United Kingdom**]** with a maturity not exceeding 100 days shall not be comprised by the step 1 requirement but those institutions shall as a minimum qualify for credit quality step 2 as set out in this Chapter;

d loans secured by:

(i) residential property up to the lesser of the principal amount of the liens that are combined with any prior liens and 80 % of the value of the pledged properties; F456...

(ii) F456. . . . .

F457 e . . . .

f loans secured by:

(i) commercial immovable property up to the lesser of the principal amount of the liens that are combined with any prior liens and 60 % of the value of the pledged properties; [F458]...

(ii) [F458]. . . . .

Loans secured by commercial immovable property are eligible where the loan to value ratio of 60 % is exceeded up to a maximum level of 70 % if the value of the total assets pledged as collateral for the covered bonds exceed the nominal amount outstanding on the covered bond by at least 10 %, and the bondholders' claim meets the legal certainty requirements set out in Chapter 4. The bondholders' claim shall take priority over all other claims on the collateral;

g loans secured by maritime liens on ships up to the difference between 60 % of the value of the pledged ship and the value of any prior maritime liens.

For the purposes of [[F459]point (c)] of the first subparagraph, exposures caused by transmission and management of payments of the obligors of, or liquidation proceeds in respect of, loans secured by pledged properties of the senior units or debt securities shall not be comprised in calculating the limits referred to in those points.

The competent authorities may [F460]... partly waive the application of point (c) of the first subparagraph and allow credit quality step 2 for up to 10 % of the total exposure of the nominal amount of outstanding covered bonds of the issuing institution, provided that significant potential concentration problems in the [[F461]United Kingdom] can be documented due to the application of the credit quality step 1 requirement referred to in that point.

2 The situations referred to in points (a) to (f) of paragraph 1 shall also include collateral that is exclusively restricted by legislation to the protection of the bond-holders against losses.

3 Institutions shall for immovable property collateralising [[F462]CRR covered bonds] meet the requirements set out in Article 208 and the valuation rules set out in Article 229(1).

4 [[F462]CRR covered bonds] for which a credit assessment by a nominated ECAI is available shall be assigned a risk weight in accordance with Table 6a which corresponds to the credit assessment of the ECAI in accordance with Article 136.

TABLE 6A

Credit quality step	1	2	3	4	5	6
Risk weight	10 %	20 %	20 %	50 %	50 %	100 %

5 [[F462]CRR covered bonds] for which a credit assessment by a nominated ECAI is not available shall be assigned a risk weight on the basis of the risk weight assigned to senior unsecured exposures to the institution which issues them. The following correspondence between risk weights shall apply:

a if the exposures to the institution are assigned a risk weight of 20 %, the [[F463]CRR covered bonds] shall be assigned a risk weight of 10 %;

b if the exposures to the institution are assigned a risk weight of 50 %, the [[F463]CRR covered bonds] shall be assigned a risk weight of 20 %;

c if the exposures to the institution are assigned a risk weight of 100 %, the [F463CRR covered bonds] shall be assigned a risk weight of 50 %;

d if the exposures to the institution are assigned a risk weight of 150 %, the [F463CRR covered bonds] shall be assigned a risk weight of 100 %.

6 [F462CRR covered bonds] issued before 31 December 2007 are not subject to the requirements of paragraphs 1 and 3. They are eligible for the preferential treatment under paragraphs 4 and 5 until their maturity.

7 Exposures in the form of [F462CRR covered bonds] are eligible for preferential treatment, provided that the institution investing in the [F462CRR covered bonds] can demonstrate to the competent authorities that:

a it receives portfolio information at least on:

(i) the value of the cover pool and outstanding [F462CRR covered bonds];

(ii) the geographical distribution and type of cover assets, loan size, interest rate and currency risks;

(iii) the maturity structure of cover assets and [F462CRR covered bonds]; and

(iv) the percentage of loans more than 90 days past due;

b the issuer makes the information referred to in point (a) available to the institution at least semi-annually.

Textual Amendments

F453 Words in Art. 129(1) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **123(2)(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F454 Art. 129(1)(a) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **123(2)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F455 Words in Art. 129(1)(c) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **123(2)(c)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F456 Art. 129(1)(d)(ii) and word omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **123(2)(d)** (with savings in S.I. 2019/680, **reg. 11**); 2020 c. 1, **Sch. 5 para. 1(1)**

F457 Art. 129(1)(e) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **123(2)(e)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F458 Art. 129(1)(f)(ii) and word omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **123(2)(f)** (with savings in S.I. 2019/680, **reg. 11**); 2020 c. 1, **Sch. 5 para. 1(1)**

F459 Words in Art. 129(1) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **123(2)(g)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F460 Words in Art. 129(1) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **123(2)(h)(i)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F461 Words in Art. 129(1) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **123(2)(h)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F462 Words in Art. 129(3)-(7) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **123(3)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F463 Words in Art. 129(5) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **123(4)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 130

Items representing securitisation positions

Risk-weighted exposure amounts for securitisation positions shall be determined in accordance with Chapter 5.

Article 131

Exposures to institutions and corporates with a short-term credit assessment

Exposures to institutions and exposures to corporates for which a short-term credit assessment by a nominated ECAI is available shall be assigned a risk weight in accordance with Table 7 which corresponds to the credit assessment of the ECAI in accordance with Article 136.

TABLE 7

Credit Quality Step	1	2	3	4	5	6
Risk weight	20 %	50 %	100 %	150 %	150 %	150 %

F464 Article 132

Exposures in the form of units or shares in CIUs

Textual Amendments

F464 Art. 132 omitted (1.1.2022) by virtue of The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **6(3)(b)**

[F465] *Article 132a*

Approaches for calculating risk-weighted exposure amounts of CIUs

Textual Amendments

F465 Art. 132a omitted (1.1.2022) by virtue of The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **6(3)(c)**

Article 133

Equity exposures

1 The following exposures shall be considered equity exposures:

a non-debt exposures conveying a subordinated, residual claim on the assets or income of the issuer;

b debt exposures and other securities, partnerships, derivatives, or other vehicles, the economic substance of which is similar to the exposures specified in point (a).

2 Equity exposures shall be assigned a risk weight of 100 %, unless they are required to be deducted in accordance with Part Two, assigned a 250 % risk weight in accordance with Article 48(4), assigned a 1 250 % risk weight in accordance with Article 89(3) or treated as high risk items in accordance with Article 128.

3 Investments in equity or regulatory capital instruments issued by institutions shall be classified as equity claims, unless deducted from own funds or attracting a 250 % risk weight under Article 48(4) or treated as high risk items in accordance with Article 128.

Article 134

Other items

1 Tangible assets within the meaning of item 10 under the heading 'Assets' in Article 4 of Directive 86/635/EEC shall be assigned a risk weight of 100 %.

2 Prepayments and accrued income for which an institution is unable to determine the counterparty in accordance with **[**[F466]Directive 86/635/EEC UK law**]**, shall be assigned a risk weight of 100 %.

3 Cash items in the process of collection shall be assigned a 20 % risk weight. Cash in hand and equivalent cash items shall be assigned a 0 % risk weight.

4 Gold bullion held in own vaults or on an allocated basis to the extent backed by bullion liabilities shall be assigned a 0 % risk weight.

5 In the case of asset sale and repurchase agreements and outright forward purchases, the risk weight shall be that assigned to the assets in question and not to the counterparties to the transactions.

[[F74]6 Where an institution provides credit protection for a number of exposures subject to the condition that the nth default among the exposures shall trigger payment and that this credit event shall terminate the contract, the risk weights of the exposures included in the basket will be aggregated, excluding n-1 exposures, up to a maximum of 1 250 % and multiplied by the nominal amount of the protection provided by the credit derivative to obtain the risk-weighted exposure amount. The n-1 exposures to be excluded from the aggregation shall be determined on the basis that they shall include those exposures each of which produces a lower risk-weighted exposure amount than the risk-weighted exposure amount of any of the exposures included in the aggregation.**]**

7 The exposure value for leases shall be the discounted minimum lease payments. Minimum lease payments are the payments over the lease term that the lessee is or can be required to make and any bargain option the exercise of which is reasonably certain. A party other than the lessee may be required to make a payment related to the residual value of a leased property and that payment obligation fulfils the set of conditions in Article 201 regarding the eligibility of protection providers as well as the requirements for recognising other types of guarantees provided in Articles 213 to 215, that payment obligation may be taken into account as unfunded credit protection under Chapter 4. These exposures shall be assigned to the relevant exposure class in accordance with Article 112. When the exposure is a residual value of leased assets, the risk-weighted exposure amounts shall be calculated as follows: 1/t * 100 % * residual value, where t is the greater of 1 and the nearest number of whole years of the lease remaining.

Textual Amendments

F74 Substituted by Regulation (EU) 2017/2401 of the European Parliament and of the Council of 12 December 2017 amending Regulation (EU) No 575/2013 on prudential requirements for credit institutions and investment firms.

F466 Words in Art. 134(2) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **125** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Section 3

Recognition and mapping of credit risk assessment

Sub-Section 1

Recognition of ECAIs

Article 135

Use of credit assessments by ECAIs

1 An external credit assessment may be used to determine the risk weight of an exposure under this Chapter only if it has been issued by an ECAI or has been endorsed by an ECAI in accordance with Regulation (EC) No 1060/2009.

2 **[**[F467]The competent authorities must each publish a list**]** of ECAIs [F468]... on its website.

Textual Amendments

F467 Words in Art. 135(2) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **126(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F468 Words in Art. 135(2) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **126(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Sub-Section 2

Mapping of ECAI's credit assessments

Article 136

Mapping of ECAI's credit assessments

1 **[**[F469]**[**[F470]The PRA may**]** make technical standards**]** to specify for all ECAIs, with which of the credit quality steps set out in Section 2 the relevant credit assessments of the ECAI correspond (' mapping '). Those determinations shall be objective and consistent.

[F471] ...

2 When determining the mapping of credit assessments, **[**[F472]the PRA**]** shall comply with the following requirements:

- a in order to differentiate between the relative degrees of risk expressed by each credit assessment, **[**[F472]the PRA**]** shall consider quantitative factors such as the long-term default rate associated with all items assigned the same credit assessment. For recently established ECAIs and for those that have compiled only a short record of default data, **[**[F472]the PRA**]** shall ask the ECAI what it believes to be the long-term default rate associated with all items assigned the same credit assessment;
- b in order to differentiate between the relative degrees of risk expressed by each credit assessment, **[**[F472]the PRA**]** shall consider qualitative factors such as the pool of issuers that the ECAI covers, the range of credit assessments that the ECAI assigns, each credit assessment meaning and the ECAI's definition of default;
- c **[**[F472]the PRA**]** shall compare default rates experienced for each credit assessment of a particular ECAI and compare them with a benchmark built on the basis of default rates experienced by other ECAIs on a population of issuers that present an equivalent level of credit risk;
- d where the default rates experienced for the credit assessment of a particular ECAI are materially and systematically higher then the benchmark, **[**[F472]the PRA**]** shall assign a higher credit quality step in the credit quality assessment scale to the ECAI credit assessment;
- e where **[**[F472]the PRA**][**[F473]has**]** increased the associated risk weight for a specific credit assessment of a particular ECAI, and where default rates experienced for that ECAI's credit assessment are no longer materially and systematically higher than the benchmark, **[**[F472]the PRA**]** may restore the original credit quality step in the credit quality assessment scale for the ECAI credit assessment.

3 [F474[F475The PRA may] make technical standards] to specify the quantitative factors referred to in point (a), the qualitative factors referred to in point (b) and the benchmark referred to in point (c) of paragraph 2.

F476 ...

Textual Amendments

F469 Words in Art. 136(1) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **224(5)(a)(i)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F470 Words in Art. 136(1) substituted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 24(2)**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F471 Words in Art. 136(1) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **224(5)(a)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F472 Words in Art. 136(2) substituted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 24(3)(a)**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F473 Word in Art. 136(2)(e) substituted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 24(3)(b)**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F474 Words in Art. 136(3) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **224(5)(c)(i)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F475 Words in Art. 136(3) substituted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 24(4)**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F476 Words in Art. 136(3) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **224(5)(c)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Sub-Section 3

Use of credit assessments by Export Credit Agencies

Article 137

Use of credit assessments by export credit agencies

1 For the purpose of Article 114, institutions may use credit assessments of an Export Credit Agency that the institution has nominated, if either of the following conditions is met:

a it is a consensus risk score from export credit agencies participating in the OECD ‘Arrangement on Guidelines for Officially Supported Export Credits’;

b the Export Credit Agency publishes its credit assessments, and the Export Credit Agency subscribes to the OECD agreed methodology, and the credit assessment is associated with one of the eight minimum export insurance premiums that the OECD agreed methodology establishes. An institution may revoke its nomination of an Export Credit Agency. An institution shall substantiate the revocation if there are concrete indications that the intention underlying the revocation is to reduce the capital adequacy requirements.

2 Exposures for which a credit assessment by an Export Credit Agency is recognised for risk weighting purposes shall be assigned a risk weight in accordance with Table 9.

TABLE 9

MEIP	0	1	2	3	4	5	6	7
Risk weight	0 %	0 %	20 %	50 %	100 %	100 %	100 %	150 %

Section 4

Use of the ECAI credit assessments for the determination of risk weights

Article 138

General requirements

An institution may nominate one or more ECAIs to be used for the determination of risk weights to be assigned to assets and off-balance sheet items. An institution may revoke its nomination of an ECAI. An institution shall substantiate the revocation if there are concrete indications that the intention underlying the revocation is to reduce the capital adequacy requirements. Credit assessments shall not be used selectively. An institution shall use solicited credit assessments. However it may use unsolicited credit assessments [F477if the competent authority has] confirmed that unsolicited credit assessments of an ECAI do not differ in quality from solicited credit assessments of this ECAI. [F478The competent authority must] refuse or revoke this confirmation in particular if the ECAI has used an unsolicited credit assessment to put pressure on the rated entity to place an order for a credit assessment or other services. In using credit assessment, institutions shall comply with the following requirements:

(a) an institution which decides to use the credit assessments produced by an ECAI for a certain class of items shall use those credit assessments consistently for all exposures belonging to that class;

(b) an institution which decides to use the credit assessments produced by an ECAI shall use them in a continuous and consistent way over time;

(c) an institution shall only use ECAIs credit assessments that take into account all amounts both in principal and in interest owed to it;

(d) where only one credit assessment is available from a nominated ECAI for a rated item, that credit assessment shall be used to determine the risk weight for that item;

(e) where two credit assessments are available from nominated ECAIs and the two correspond to different risk weights for a rated item, the higher risk weight shall be assigned;

(f) where more than two credit assessments are available from nominated ECAIs for a rated item, the two assessments generating the two lowest risk weights shall be referred to. If the two lowest risk weights are different, the higher risk weight shall be assigned. If the two lowest risk weights are the same, that risk weight shall be assigned.

Textual Amendments

F477 Words in Art. 138 substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **127(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F478 Words in Art. 138 substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **127(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 139

Issuer and issue credit assessment

1 Where a credit assessment exists for a specific issuing programme or facility to which the item constituting the exposure belongs, this credit assessment shall be used to determine the risk weight to be assigned to that item.

2 Where no directly applicable credit assessment exists for a certain item, but a credit assessment exists for a specific issuing programme or facility to which the item constituting the exposure does not belong or a general credit assessment exists for the issuer, then that credit assessment shall be used in either of the following cases:

a it produces a higher risk weight than would otherwise be the case and the exposure in question ranks pari passu or junior in all respects to the specific issuing program or facility or to senior unsecured exposures of that issuer, as relevant;

b it produces a lower risk weight and the exposure in question ranks pari passu or senior in all respects to the specific issuing programme or facility or to senior unsecured exposures of that issuer, as relevant.

In all other cases, the exposure shall be treated as unrated.

3 Paragraphs 1 and 2 are not to prevent the application of Article 129.

4 Credit assessments for issuers within a corporate group cannot be used as credit assessment of another issuer within the same corporate group.

Article 140

Long-term and short-term credit assessments

1 Short-term credit assessments may only be used for short-term asset and off-balance sheet items constituting exposures to institutions and corporates.

2 Any short-term credit assessment shall only apply to the item the short-term credit assessment refers to, and it shall not be used to derive risk weights for any other item, except in the following cases:

a if a short-term rated facility is assigned a 150 % risk weight, then all unrated unsecured exposures on that obligor whether short-term or long-term shall also be assigned a 150 % risk weight;

b if a short-term rated facility is assigned a 50 % risk-weight, no unrated short-term exposure shall be assigned a risk weight lower than 100 %.

Article 141

Domestic and foreign currency items

A credit assessment that refers to an item denominated in the obligor's domestic currency cannot be used to derive a risk weight for another exposure on that same obligor that is denominated in a foreign currency.

When an exposure arises through an institution's participation in a loan that has been extended by a multilateral development bank whose preferred creditor status is recognised in the market, the credit assessment on the obligors' domestic currency item may be used for risk weighting purposes.

CHAPTER 3

Internal Ratings Based Approach

Section 1

Permission by competent authorities to use the IRB approach

Article 142

Definitions

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

(1) ' rating system ' means all of the methods, processes, controls, data collection and IT systems that support the assessment of credit risk, the assignment of exposures to rating grades or pools, and the quantification of default and loss estimates that have been developed for a certain type of exposures;

(2) ' type of exposures ' means a group of homogeneously managed exposures which are formed by a certain type of facilities and which may be limited to a single entity or a single sub-set of entities within a group provided that the same type of exposures is managed differently in other entities of the group;

(3) ' business unit ' means any separate organisational or legal entities, business lines, geographical locations;

(4) ' large financial sector entity ' means any financial sector entity which meets the following conditions:

(a) its total assets, calculated on an individual or consolidated basis, are greater than or equal to a EUR 70 billion threshold, using the most recent audited financial statement or consolidated financial statement in order to determine asset size; and

(b) it is, or one of its subsidiaries is, subject to prudential regulation in the [F479United Kingdom] or to the laws of a third country which applies prudential supervisory and regulatory requirements at least equivalent to those applied in the **[**F479United Kingdom**]**;

(5) ' unregulated financial sector entity ' means an entity that is not a regulated financial sector entity but that performs, as its main business, one or more **[**F480Annex 1 activities**]** or **[**F481the activities in Parts 1, 3 and 3A of Schedule 2 to the Regulated Activities Order**]**;

(6) ' obligor grade ' means a risk category within the obligor rating scale of a rating system, to which obligors are assigned on the basis of a specified and distinct set of rating criteria, from which estimates of probability of default (PD) are derived;

(7) 'facility grade' means a risk category within a rating system's facility scale, to which exposures are assigned on the basis of a specified and distinct set of rating criteria, from which own estimates of LGD are derived **[**F74.**]**

(8) F482...

2 For the purposes of point (4)(b) of paragraph 1 of this Article, **[**F483the Treasury may by regulations determine whether**]** a third country applies supervisory and regulatory arrangements at least equivalent to those applied in the **[**F484United Kingdom**]**. F485...

Textual Amendments

F74 Substituted by Regulation (EU) 2017/2401 of the European Parliament and of the Council of 12 December 2017 amending Regulation (EU) No 575/2013 on prudential requirements for credit institutions and investment firms.

F479 Words in Art. 142.1(4)(b) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **128(2)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F480 Words in Art. 142.1(5) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **128(3)(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F481 Words in Art. 142.1(5) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **128(3)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F482 Deleted by Regulation (EU) 2017/2401 of the European Parliament and of the Council of 12 December 2017 amending Regulation (EU) No 575/2013 on prudential requirements for credit institutions and investment firms.

F483 Words in Art. 142.2 substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **220(1)(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F484 Words in Art. 142.2 substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **220(1)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F485 Words in Art. 142.2 omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **220(1)(c)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 143

Permission to use the IRB Approach

1 Where the conditions set out in this Chapter are met, the competent authority shall permit institutions to calculate their risk-weighted exposure amounts using the Internal Ratings Based Approach (hereinafter referred to as ' IRB Approach ').

2 Prior permission to use the IRB Approach, including own estimates of LGD and conversion factors, shall be required for each exposure class and for each rating system and internal models approaches to equity exposures and for each approach to estimating LGDs and conversion factors used.

3 Institutions shall obtain the prior permission of the competent authorities for the following:

a material changes to the range of application of a rating system or an internal models approach to equity exposures that the institution has received permission to use;

b material changes to a rating system or an internal models approach to equity exposures that the institution has received permission to use.

The range of application of a rating system shall comprise all exposures of the relevant type of exposure for which that rating system was developed.

4 Institutions shall notify the competent authorities of all changes to rating systems and internal models approaches to equity exposures.

5 **[**[F486]The **[**[F487]PRA may**]** make technical standards**]** to specify the conditions for assessing the materiality of the use of an existing rating system for other additional exposures not already covered by that rating system and changes to rating systems or internal models approaches to equity exposures under the IRB Approach.

F488 ...

Textual Amendments

F486 Words in Art. 143(5) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **222(1)(a)(2)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F487 Words in Art. 143(5) substituted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 47**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F488 Words in Art. 143(5) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **222(1)(b)(2)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 144

Competent authorities' assessment of an application to use an IRB Approach

1 The competent authority shall grant permission pursuant to Article 143 for an institution to use the IRB Approach, including to use own estimates of LGD and conversion factors, only if the competent authority is satisfied that requirements laid down in this Chapter are met, in particular those laid down in Section 6, and that the systems of the institution for the

management and rating of credit risk exposures are sound and implemented with integrity and, in particular, that the institution has demonstrated to the satisfaction of the competent authority that the following standards are met:

a the institution's rating systems provide for a meaningful assessment of obligor and transaction characteristics, a meaningful differentiation of risk and accurate and consistent quantitative estimates of risk;

b internal ratings and default and loss estimates used in the calculation of own funds requirements and associated systems and processes play an essential role in the risk management and decision-making process, and in the credit approval, internal capital allocation and corporate governance functions of the institution;

c the institution has a credit risk control unit responsible for its rating systems that is appropriately independent and free from undue influence;

d the institution collects and stores all relevant data to provide effective support to its credit risk measurement and management process;

e the institution documents its rating systems and the rationale for their design and validates its rating systems;

f the institution has validated each rating system and each internal models approach for equity exposures during an appropriate time period prior to the permission to use this rating system or internal models approach to equity exposures, has assessed during this time period whether the rating system or internal models approaches for equity exposures are suited to the range of application of the rating system or internal models approach for equity exposures, and has made necessary changes to these rating systems or internal models approaches for equity exposures following from its assessment;

g the institution has calculated under the IRB Approach the own funds requirements resulting from its risk parameters estimates and is able to submit the reporting as required by [F489Article 430][F490of Chapter 4 of the Reporting (CRR) Part of the PRA Rulebook];

h the institution has assigned and continues with assigning each exposure in the range of application of a rating system to a rating grade or pool of this rating system; the institution has assigned and continues with assigning each exposure in the range of application of an approach for equity exposures to this internal models approach.

The requirements to use an IRB Approach, including own estimates of LGD and conversion factors, apply also where an institution has implemented a rating system, or model used within a rating system, that it has purchased from a third-party vendor.

2 [F491The [F492PRA may] make technical standards] to specify the assessment methodology competent authorities shall follow in assessing the compliance of an institution with the requirements to use the IRB Approach.

F493 ...

Textual Amendments

F489 Words in Art. 144(1)(g) substituted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 4 para. 5**; S.I. 2021/671, reg. 5(1)(c) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F490 Words in Art. 144(1)(g) inserted (1.1.2022) by The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/1376), regs. 1(3), **25(17)**

F491 Words in Art. 144(2) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **222(1)(a)(2)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F492 Words in Art. 144(2) substituted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 47**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F493 Words in Art. 144(2) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **222(1)(b)** (with savings in S.I. 2019/680, **reg. 11**); 2020 c. 1, **Sch. 5 para. 1(1)**

Article 145

Prior experience of using IRB approaches

1 An institution applying to use the IRB Approach shall have been using for the IRB exposure classes in question rating systems that were broadly in line with the requirements set out in Section 6 for internal risk measurement and management purposes for at least three years prior to its qualification to use the IRB Approach.

2 An institution applying for the use of own estimates of LGDs and conversion factors shall demonstrate to the satisfaction of the competent authorities that it has been estimating and employing own estimates of LGDs and conversion factors in a manner that is broadly consistent with the requirements for use of own estimates of those parameters set out in Section 6 for at least three years prior to qualification to use own estimates of LGDs and conversion factors.

3 Where the institution extends the use of the IRB Approach subsequent to its initial permission, the experience of the institution shall be sufficient to satisfy the requirements of paragraphs 1 and 2 in respect of the additional exposures covered. If the use of rating systems is extended to exposures that are significantly different from the scope of the existing coverage, such that the existing experience cannot be reasonably assumed to be sufficient to meet the requirements of these provisions in respect of the additional exposures, then the requirements of paragraphs 1 and 2 shall apply separately for the additional exposures.

Article 146

Measures to be taken where the requirements of this Chapter cease to be met

Where an institution ceases to comply with the requirements laid down in this Chapter, it shall notify the competent authority and do one of the following:

(a) present to the satisfaction of the competent authority a plan for a timely return to compliance and realise this plan within a period agreed with the competent authority;

(b) demonstrate to the satisfaction of the competent authorities that the effect of non-compliance is immaterial.

Article 147

Methodology to assign exposures to exposure classes

1 The methodology used by the institution for assigning exposures to different exposure classes shall be appropriate and consistent over time.

2 Each exposure shall be assigned to one of the following exposure classes:

a exposures to central governments and central banks;

b exposures to institutions;

c exposures to corporates;
d retail exposures;
e equity exposures;
f items representing securitisation positions;
g other non credit-obligation assets.

3 The following exposures shall be assigned to the class laid down in point (a) of paragraph 2:
a exposures to regional governments, local authorities or public sector entities which are treated as exposures to central governments under Articles 115 and 116;
b exposures to multilateral development banks referred to in Article 117(2);
c exposures to International Organisations which attract a risk weight of 0 % under Article 118.

4 The following exposures shall be assigned to the class laid down in point (b) of paragraph 2:
a exposures to regional governments and local authorities which are not treated as exposures to central governments in accordance with Article 115(2) and (4);
b exposures to public sector entities which are not treated as exposures to central governments in accordance with Article 116(4);
c exposures to multilateral development banks which are not assigned a 0 % risk weight under Article 117; and
d exposures to financial institutions which are treated as exposures to institutions in accordance with Article 119(5).

5 To be eligible for the retail exposure class laid down in point (d) of paragraph 2, exposures shall meet the following criteria:
a they shall be one of the following:

(i) exposures to one or more natural persons;

(ii) exposures to an SME, provided in that case that the total amount owed to the institution and parent undertakings and its subsidiaries, including any past due exposure, by the obligor client or group of connected clients, but excluding exposures secured on residential property collateral, shall not, to the knowledge of the institution, which shall have taken reasonable steps to confirm the situation, exceed EUR 1 million;

b they are treated by the institution in its risk management consistently over time and in a similar manner;
c they are not managed just as individually as exposures in the corporate exposure class;
d they each represent one of a significant number of similarly managed exposures.

In addition to the exposures listed in the first subparagraph, the present value of retail minimum lease payments shall be included in the retail exposure class.

6 The following exposures shall be assigned to the equity exposure class laid down in point (e) of paragraph 2:
a non-debt exposures conveying a subordinated, residual claim on the assets or income of the issuer;
b debt exposures and other securities, partnerships, derivatives, or other vehicles, the economic substance of which is similar to the exposures specified in point (a).

7 Any credit obligation not assigned to the exposure classes laid down in points (a), (b), (d), (e) and (f) of paragraph 2 shall be assigned to the corporate exposure class referred to in point (c) of that paragraph.

8 Within the corporate exposure class laid down in point (c) of paragraph 2, institutions shall separately identify as specialised lending exposures, exposures which possess the following characteristics:

a the exposure is to an entity which was created specifically to finance or operate physical assets or is an economically comparable exposure;
b the contractual arrangements give the lender a substantial degree of control over the assets and the income that they generate;
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.

9 The residual value of leased properties shall be assigned to the exposure class laid down in point (g) of paragraph 2, except to the extent that residual value is already included in the lease exposure laid down in Article 166(4).

10 The exposure from providing protection under an nth-to-default basket credit derivative shall be assigned to the same class laid down in paragraph 2 to which the exposures in the basket would be assigned, except if the individual exposures in the basket would be assigned to various exposure classes in which case the exposure shall be assigned to the corporates exposure class laid down in point (c) of paragraph 2.

Article 148

Conditions for implementing the IRB Approach across different classes of exposure and business units

1 Institutions and any parent undertaking and its subsidiaries shall implement the IRB Approach for all exposures, unless they have received the permission of the competent authorities to permanently use the Standardised Approach in accordance with Article 150.

Subject to the prior permission of the competent authorities, implementation may be carried out sequentially across the different exposure classes referred to in Article 147 within the same business unit, across different business units in the same group or for the use of own estimates of LGDs or conversion factors for the calculation of risk weights for exposures to corporates, institutions, and central governments and central banks.

In the case of the retail exposure class referred to in Article 147(5), implementation may be carried out sequentially across the categories of exposures to which the different correlations in Article 154 correspond.

2 Competent authorities shall determine the time period over which an institution and any parent undertaking and its subsidiaries shall be required to implement the IRB Approach for all exposures. This time period shall be one that competent authorities consider to be appropriate on the basis of the nature and scale of the activities of the institutions, or any parent undertaking and its subsidiaries, and the number and nature of rating systems to be implemented.

3 Institutions shall carry out implementation of the IRB Approach in accordance with conditions determined by the competent authorities. The competent authority shall design those conditions such that they ensure that the flexibility under paragraph 1 is not used selectively for the purposes of achieving reduced own funds requirements in respect of those exposure classes

or business units that are yet to be included in the IRB Approach or in the use of own estimates of LGDs and conversion factors.

4 Institutions that have begun to use the IRB Approach only after 1 January 2013 or that have until that date been required by the competent authorities to be able to calculate their capital requirements using the Standardised Approach shall retain their ability to calculate capital requirements using the Standardised Approach for all their exposures during the implementation period until the competent authorities notify them that they are satisfied that the implementation of the IRB Approach will be completed with reasonable certainty.

5 An institution that is permitted to use the IRB Approach for any exposure class shall use the IRB Approach for the equity exposure class laid down in point (e) of Article 147(2), except where that institution is permitted to apply the Standardised Approach for equity exposures pursuant to Article 150 and for the other non credit-obligation assets exposure class laid down in point (g) of Article 147(2).

6 [F494The [F495PRA may] make technical standards] to specify the conditions according to which [F496it] shall determine the appropriate nature and timing of the sequential roll out of the IRB Approach across exposure classes referred to in paragraph 3.

F497 ...

Textual Amendments

F494 Words in Art. 148(6) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **222(1)(a)**(2) (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F495 Words in Art. 148(6) substituted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 47**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F496 Word in Art. 148(6) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **225(1)**(2)(3)(c) (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F497 Words in Art. 148(6) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **222(1)(b)(2)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 149

Conditions to revert to the use of less sophisticated approaches

1 An institution that uses the IRB Approach for a particular exposure class or type of exposure shall not stop using that approach and use instead the Standardised Approach for the calculation of risk-weighted exposure amounts unless the following conditions are met:

- a the institution has demonstrated to the satisfaction of the competent authority that the use of the Standardised Approach is not proposed in order to reduce the own funds requirement of the institution, is necessary on the basis of nature and complexity of the institution's total exposures of this type and would not have a material adverse impact on the solvency of the institution or its ability to manage risk effectively;
- b the institution has received the prior permission of the competent authority.

2 Institutions which have obtained permission under Article 151(9) to use own estimates of LGDs and conversion factors, shall not revert to the use of LGD values and conversion factors referred to in Article 151(8) unless the following conditions are met:

a the institution has demonstrated to the satisfaction of the competent authority that the use of LGDs and conversion factors laid down in Article 151(8) for a certain exposure class or type of exposure is not proposed in order to reduce the own funds requirement of the institution, is necessary on the basis of nature and complexity of the institution's total exposures of this type and would not have a material adverse impact on the solvency of the institution or its ability to manage risk effectively;

b the institution has received the prior permission of the competent authority.

3 The application of paragraphs 1 and 2 is subject to the conditions for rolling out the IRB Approach determined by the competent authorities in accordance with Article 148 and the permission for permanent partial use referred to in Article 150.

Article 150

Conditions for permanent partial use

1 Where institutions have received the prior permission of the competent authorities, institutions permitted to use the IRB Approach in the calculation of risk-weighted exposure amounts and expected loss amounts for one or more exposure classes may apply the Standardised Approach for the following exposures:

a the exposure class laid down in Article 147(2)(a), where the number of material counterparties is limited and it would be unduly burdensome for the institution to implement a rating system for these counterparties;

b the exposure class laid down in Article 147(2)(b), where the number of material counterparties is limited and it would be unduly burdensome for the institution to implement a rating system for these counterparties;

c exposures in non-significant business units as well as exposure classes or types of exposures that are immaterial in terms of size and perceived risk profile;

d **[**[F498]exposures to the central government of the United Kingdom, the Bank, a regional government of the United Kingdom, or a public sector entity or local authority in the United Kingdom, provided—**]**

(i) there is no difference in risk between the exposures to **[**[F499]the central government and Bank**]** and those other exposures because of specific public arrangements; and

(ii) **[**[F233]exposures to central governments and central banks are assigned a 0 % risk weight under Article 114(2) or (4);**]**

e exposures of an institution to a counterparty which is its parent undertaking, its subsidiary or a subsidiary of its parent undertaking provided that the counterparty is an institution or a financial holding company, mixed financial holding company, financial institution, asset management company or ancillary services undertaking subject to appropriate prudential requirements or an undertaking linked by a **[**[F500]common management relationship**]**;

f exposures between institutions which meet the requirements set out in Article 113(7);

g equity exposures to entities whose credit obligations are assigned a 0 % risk weight under Chapter 2 including those publicly sponsored entities where a 0 % risk weight can be applied;

h equity exposures incurred under legislative programmes to promote specified sectors of the economy that provide significant subsidies for the investment to the institution and involve some form of government oversight and restrictions on the equity investments where such exposures may in aggregate be excluded from the IRB Approach only up to a limit of 10 % of own funds;

i the exposures identified in Article 119(4) meeting the conditions specified therein;

j State and State-reinsured guarantees referred to in Article 215(2).

F501 ...

2 For the purposes of paragraph 1, the equity exposure class of an institution shall be material if their aggregate value, excluding equity exposures incurred under legislative programmes as referred to in point (h) of paragraph 1, exceeds on average over the preceding year 10 % of the own funds of the institution. Where the number of those equity exposures is less than 10 individual holdings, that threshold shall be 5 % of the own funds of the institution.

3 [F502The [F503PRA may] make technical standards] to determine the conditions of application of points (a), (b) and (c) of paragraph 1.

F504 ...

F505 4 . . . .

Textual Amendments

F233 Substituted by Regulation (EU) 2020/873 of the European Parliament and of the Council of 24 June 2020 amending Regulations (EU) No 575/2013 and (EU) 2019/876 as regards certain adjustments in response to the COVID-19 pandemic (Text with EEA relevance).

F498 Words in Art. 150(1)(d) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **129(2)(a)(i)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F499 Words in Art. 150(1)(d)(i) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **129(2)(a)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F500 Words in Art. 150(1)(e) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **129(2)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F501 Words in Art. 150(1) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **129(2)(c)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F502 Words in Art. 150(3) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **222(1)(a)(2)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F503 Words in Art. 150(3) substituted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 47**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F504 Words in Art. 150(3) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **222(1)(b)(2)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F505 Art. 150(4) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **129(3)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Section 2

Calculation of risk-weighted exposure amounts

Sub-Section 1

Treatment by type of exposure class

Article 151

Treatment by exposure class

1 The risk-weighted exposure amounts for credit risk for exposures belonging to one of the exposure classes referred to in points (a) to (e) and (g) of 147(2) shall, unless deducted from own funds, be calculated in accordance with Sub-section 2 except where those exposures are deducted from Common Equity Tier 1 items, Additional Tier 1 items or Tier 2 items.

2 The risk-weighted exposure amounts for dilution risk for purchased receivables shall be calculated in accordance with Article 157. Where an institution has full recourse to the seller of purchased receivables for default risk and for dilution risk, the provisions of this Article and Article 152 and Article 158(1) to (4) in relation to purchased receivables shall not apply and the exposure shall be treated as a collateralised exposure.

3 The calculation of risk-weighted exposure amounts for credit risk and dilution risk shall be based on the relevant parameters associated with the exposure in question. These shall include PD, LGD, maturity (hereinafter referred to as 'M') and exposure value of the exposure. PD and LGD may be considered separately or jointly, in accordance with Section 4.

4 Institutions shall calculate risk-weighted exposure amounts for credit risk for all exposures belonging to the exposure class 'equity' referred to in point (e) of Article 147(2) in accordance with Article 155. Institutions may use the approaches set out in Article 155(3) and (4) where they have received the prior permission of the competent authorities. Competent authorities shall grant permission for an institution to use the internal models approach set out in Article 155(4) provided that the institution meets the requirements set out in Sub-section 4 of Section 6.

5 The calculation of risk weighted exposure amounts for credit risk for specialised lending exposures may be calculated in accordance with Article 153(5).

6 For exposures belonging to the exposure classes referred to in points (a) to (d) of Article 147(2), institutions shall provide their own estimates of PDs in accordance with Article 143 and Section 6.

7 For exposures belonging to the exposure class referred to in point (d) of Article 147(2), institutions shall provide own estimates of LGDs and conversion factors in accordance with Article 143 and Section 6.

8 For exposures belonging to the exposure classes referred to in points (a) to (c) of Article 147(2), institutions shall apply the LGD values set out in Article 161(1), and the conversion factors set out in Article 166(8)(a) to (d), unless it has been permitted to use its own estimates of LGDs and conversion factors for those exposure classes in accordance with paragraph 9.

9 For all exposures belonging to the exposure classes referred to in points (a) to (c) of Article 147(2), the competent authority shall permit institutions to use own estimates of LGDs and conversion factors in accordance with Article 143 and Section 6.

10 The risk-weighted exposure amounts for securitised exposures and for exposures belonging to the exposure class referred to in point (f) of Article 147(2) shall be calculated in accordance with Chapter 5.

F506 Article 152

Treatment of exposures in the form of units or shares in CIUs

Textual Amendments

F506 Art. 152 omitted (1.1.2022) by virtue of The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **6(3)(d)**

Sub-Section 2

Calculation of risk-weighted exposure amounts for credit risk

Article 153

Risk-weighted exposure amounts for exposures to corporates, institutions and central governments and central banks

1 Subject to the application of the specific treatments laid down in paragraphs 2, 3 and 4, the risk-weighted exposure amounts for exposures to corporates, institutions and central governments and central banks shall be calculated according to the following formulae:

$$Risk - weighted\ exposure\ amount = RW \cdot exposure\ value$$

where the risk weight RW is defined as

(i) if PD = 0, RW shall be 0;

(ii) if PD = 1, i.e., for defaulted exposures:

— where institutions apply the LGD values set out in Article 161(1), RW shall be 0;

— where institutions use own estimates of LGDs, RW shall be

$$RW = \max\{0;12.5 \times (LGD - EL_{BE})\}$$

;

where the expected loss best estimate (hereinafter referred to as ‘EL_{BE}’) shall be the institution's best estimate of expected loss for the defaulted exposure in accordance with Article 181(1)(h);

(iii) if 0 < PD < 1

$$RW = \left(LGD \times N\left(\frac{1}{\sqrt{1-R}} \times G(PD) + \sqrt{\frac{R}{1-R}} \times G(0.999)\right) - LGD \times PD\right) \times \frac{1+(M-2{,}5)\times b}{1-1{,}5\times b} \times 12{,}5 \times 1{,}06$$

where:

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);
G(Z)	=	denotes the inverse cumulative distribution function for a standard normal random variable (i.e. the value x such that N(x) = z)
R	=	denotes the coefficient of correlation, is defined as $R = 0.12 \times \frac{1-e^{-50 \times PD}}{1-e^{-50}} + 0.24 \times \left(1 - \frac{1-e^{-50 \times PD}}{1-e^{-50}}\right)$
b	=	the maturity adjustment factor, which is defined as $b = (0.11852 - 0.05478 \times \ln(PD))^2$.

2 For all exposures to large financial sector entities, the co-efficient of correlation of paragraph 1(iii) is multiplied by 1,25. For all exposures to unregulated financial sector entities, the coefficients of correlation set out in paragraph 1(iii) and paragraph 4, as relevant, are multiplied by 1,25.

3 The risk-weighted exposure amount for each exposure which meets the requirements set out in Articles 202 and 217 may be adjusted in accordance with the following formula:

$$Risk-weighted\ exposure\ amount = RW \cdot exposure\ value\ \cdot (0.15 + 160 \cdot PD_{pp})$$

where:

PD_{pp} = PD of the protection provider.

RW shall be calculated using the relevant risk weight formula set out in point 1 for the exposure, the PD of the obligor and the LGD of a comparable direct exposure to the protection provider. The maturity factor (b) shall be calculated using the lower of the PD of the protection provider and the PD of the obligor.

4 For exposures to companies where the total annual sales for the consolidated group of which the firm is a part is less than EUR 50 million, institutions may use the following correlation formula in paragraph 1 (iii) for the calculation of risk weights for corporate exposures. In this formula S is expressed as total annual sales in millions of euro with EUR 5 million ≤ S ≤ EUR 50 million. Reported sales of less than EUR 5 million shall be treated as if they were equivalent to EUR 5 million. For purchased receivables the total annual sales shall be the weighted average by individual exposures of the pool.

$$R = 0.12 \times \frac{1-e^{-50 \times PD}}{1-e^{-50}} + 0.24 \times \left(1 - \frac{1-e^{-50 \times PD}}{1-e^{-50}}\right) - 0.04 \times \left(1 - \frac{\min\{\max\{5,S\},50\}-5}{45}\right)$$

Institutions shall substitute total assets of the consolidated group for total annual sales when total annual sales are not a meaningful indicator of firm size and total assets are a more meaningful indicator than total annual sales.

5 For specialised lending exposures in respect of which an institution is not able to estimate PDs or the institutions' PD estimates do not meet the requirements set out in Section

6, the institution shall assign risk weights to these exposures in accordance with Table 1, as follows:

TABLE 1

Remaining Maturity	Category 1	Category 2	Category 3	Category 4	Category 5
Less than 2,5 years	50 %	70 %	115 %	250 %	0 %
Equal or more than 2,5 years	70 %	90 %	115 %	250 %	0 %

In assigning risk weights to specialised lending exposures institutions shall take into account the following factors: financial strength, political and legal environment, transaction and/or asset characteristics, strength of the sponsor and developer, including any public private partnership income stream, and security package.

6 For their purchased corporate receivables institutions shall comply with the requirements set out in Article 184. For purchased corporate receivables that comply in addition with the conditions set out in Article 154(5), and where it would be unduly burdensome for an institution to use the risk quantification standards for corporate exposures as set out in Section 6 for these receivables, the risk quantification standards for retail exposures as set out in Section 6 may be used.

[F74 7 For purchased corporate receivables, refundable purchase price discounts, collaterals or partial guarantees that provide first loss protection for default losses, dilution losses, or both, may be treated as a first loss protection by the purchaser of the receivables or by the beneficiary of the collateral or of the partial guarantee in accordance with Subsections 2 and 3 of Section 3 of Chapter 5. The seller providing the refundable purchase price discount and the provider of a collateral or a partial guarantee shall treat those as an exposure to a first loss position in accordance with Subsections 2 and 3 of Section 3 of Chapter 5.

8 Where an institution provides credit protection for a number of exposures subject to the condition that the nth default among the exposures shall trigger payment and that this credit event shall terminate the contract, the risk weights of the exposures included in the basket will be aggregated, excluding n-1 exposures, where the sum of the expected loss amount multiplied by 12,5 and the risk-weighted exposure amount shall not exceed the nominal amount of the protection provided by the credit derivative multiplied by 12,5. The n-1 exposures to be excluded from the aggregation shall be determined on the basis that they shall include those exposures each of which produces a lower risk-weighted exposure amount than the risk-weighted exposure amount of any of the exposures included in the aggregation. A 1 250 % risk weight shall apply to positions in a basket for which an institution cannot determine the risk-weight under the IRB Approach.]

9 [F507 The [F508 PRA may] make technical standards] to specify how institutions shall take into account the factors referred to in the second subparagraph of paragraph 5 when assigning risk weights to specialised lending exposures.

F509 ...

Textual Amendments

F74 Substituted by Regulation (EU) 2017/2401 of the European Parliament and of the Council of 12 December 2017 amending Regulation (EU) No 575/2013 on prudential requirements for credit institutions and investment firms.

F507 Words in Art. 153(9) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **222(1)(a)(2)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F508 Words in Art. 153(9) substituted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 47**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F509 Words in Art. 153(9) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **222(1)(b)** (with savings in S.I. 2019/680, **reg. 11**); 2020 c. 1, **Sch. 5 para. 1(1)**

Article 154

Risk-weighted exposure amounts for retail exposures

1 The risk-weighted exposure amounts for retail exposures shall be calculated in accordance with the following formulae:

$$Risk - weighted\ exposure\ amount = RW \cdot exposure\ value$$

where the risk weight RW is defined as follows:

(i) if PD = 1, i.e., for defaulted exposures, RW shall be

$$RW = \max\{0; 12.5 \times (LGD - EL_{BE})\}$$

;

where EL_{BE} shall be the institution's best estimate of expected loss for the defaulted exposure in accordance with Article 181(1)(h);

(ii) if 0 < PD < 1, i.e., for any possible value for PD other than under (i)

$$RW = \left(LGD \times N\left(\frac{1}{\sqrt{1-R}} \times G(PD) + \sqrt{\frac{R}{1-R}} \times G(0.999) \right) - LGD \times PD \right) \times 12{,}5 \times 1{,}06$$

where:

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);
G(Z)	=	the inverse cumulative distribution function for a standard normal random variable (i.e. the value x such that N(x) = z);
R	=	the coefficient of correlation defined as

$$R = 0.03 \times \frac{1 - e^{-35 \times PD}}{1 - e^{-35}} + 0.16 \times \left(1 - \frac{1 - e^{-35 \times PD}}{1 - e^{-35}} \right)$$

2 The risk-weighted exposure amount for each exposure to an SME as referred to in Article 147(5) which meets the requirements set out in Articles 202 and 217 may be calculated in accordance with Article 153(3).

3 For retail exposures secured by immovable property collateral a coefficient of correlation R of 0,15 shall replace the figure produced by the correlation formula in paragraph 1.

4 For qualifying revolving retail exposures in accordance with points (a) to (e), a coefficient of correlation R of 0,04 shall replace the figure produced by the correlation formula in paragraph 1.

Exposures shall qualify as qualifying revolving retail exposures if they meet the following conditions:

a the exposures are to individuals;
b the exposures are revolving, unsecured, and to the extent they are not drawn immediately and unconditionally, cancellable by the institution. In this context revolving exposures are defined as those where customers' outstanding balances are permitted to fluctuate based on their decisions to borrow and repay, up to a limit established by the institution. Undrawn commitments may be considered as unconditionally cancellable if the terms permit the institution to cancel them to the full extent allowable under consumer protection and related legislation;
c the maximum exposure to a single individual in the sub-portfolio is EUR 100 000 or less;
d the use of the correlation of this paragraph is limited to portfolios that have exhibited low volatility of loss rates, relative to their average level of loss rates, especially within the low PD bands;
e the treatment as a qualifying revolving retail exposure shall be consistent with the underlying risk characteristics of the sub-portfolio.

By way of derogation from point (b), the requirement to be unsecured does not apply in respect of collateralised credit facilities linked to a wage account. In this case amounts recovered from the collateral shall not be taken into account in the LGD estimate.

Competent authorities shall review the relative volatility of loss rates across the qualifying revolving retail sub-portfolios, as well the aggregate qualifying revolving retail portfolio [F510]... .

5 To be eligible for the retail treatment, purchased receivables shall comply with the requirements set out in Article 184 and the following conditions:

a the institution has purchased the receivables from unrelated third party sellers, and its exposure to the obligor of the receivable does not include any exposures that are directly or indirectly originated by the institution itself;
b the purchased receivables shall be generated on an arm's-length basis between the seller and the obligor. As such, inter-company accounts receivables and receivables subject to contra-accounts between firms that buy and sell to each other are ineligible;
c the purchasing institution has a claim on all proceeds from the purchased receivables or a pro-rata interest in the proceeds; and
d the portfolio of purchased receivables is sufficiently diversified.

[[F74]6 For purchased retail receivables, refundable purchase price discounts, collaterals or partial guarantees that provide first loss protection for default losses, dilution losses, or both, may be treated as a first loss protection by the purchaser of the receivables or by the beneficiary of the collateral or of the partial guarantee in accordance with Subsections 2 and 3 of Section 3 of Chapter 5. The seller providing the refundable purchase price discount and the provider of a collateral or a partial guarantee shall treat those as an exposure to a first loss position in accordance with Subsections 2 and 3 of Section 3 of Chapter 5.**]**

7 For hybrid pools of purchased retail receivables where purchasing institutions cannot separate exposures secured by immovable property collateral and qualifying revolving retail exposures from other retail exposures, the retail risk weight function producing the highest capital requirements for those exposures shall apply.

Textual Amendments

F74 Substituted by Regulation (EU) 2017/2401 of the European Parliament and of the Council of 12 December 2017 amending Regulation (EU) No 575/2013 on prudential requirements for credit institutions and investment firms.

F510 Words in Art. 154(4) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **130** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 155

Risk-weighted exposure amounts for equity exposures

1 Institutions shall determine their risk-weighted exposure amounts for equity exposures, excluding those deducted in accordance with Part Two or subject to a 250 % risk weight in accordance with Article 48, in accordance with the approaches set out in paragraphs 2, 3 and 4 of this Article. An institution may apply different approaches to different equity portfolios where the institution itself uses different approaches for internal risk management purposes. Where an institution uses different approaches, the choice of the PD/LGD approach or the internal models approach shall be made consistently, including over time and with the approach used for the internal risk management of the relevant equity exposure, and shall not be determined by regulatory arbitrage considerations.

Institutions may treat equity exposures to ancillary services undertakings in accordance with the treatment of other non credit- obligation assets.

2 Under the simple risk weight approach, the risk-weighted exposure amount shall be calculated in accordance with the formula:

$$Risk - weighted\ exposure\ amount = RW * exposure\ value,$$

where:

Risk weight (RW)	=	190 % for private equity exposures in sufficiently diversified portfolios.
Risk weight (RW)	=	290 % for exchange traded equity exposures.
Risk weight (RW)	=	370 % for all other equity exposures.

Short cash positions and derivative instruments held in the non-trading book are permitted to offset long positions in the same individual stocks provided that these instruments have been explicitly designated as hedges of specific equity exposures and that they provide a hedge for at least another year. Other short positions are to be treated as if they are long positions with the relevant risk weight assigned to the absolute value of each position. In the context of maturity mismatched positions, the method is that for corporate exposures as set out in Article 162(5).

Institutions may recognise unfunded credit protection obtained on an equity exposure in accordance with the methods set out in Chapter 4.

3 Under the PD/LGD approach, risk-weighted exposure amounts shall be calculated according to the formulas in Article 153(1). If institutions do not have sufficient information to use the definition of default set out in Article 178, a scaling factor of 1,5 shall be assigned to the risk weights.

At the individual exposure level the sum of the expected loss amount multiplied by 12,5 and the risk-weighted exposure amount shall not exceed the exposure value multiplied by 12,5.

Institutions may recognise unfunded credit protection obtained on an equity exposure in accordance with the methods set out in Chapter 4. This shall be subject to an LGD of 90 % on the exposure to the provider of the hedge. For private equity exposures in sufficiently diversified portfolios an LGD of 65 % may be used. For these purposes M shall be five years.

4 Under the internal models approach, the risk-weighted exposure amount shall be the potential loss on the institution's equity exposures as derived using internal value-at-risk models subject to the 99th percentile, one-tailed confidence interval of the difference between quarterly returns and an appropriate risk-free rate computed over a long-term sample period, multiplied by 12,5. The risk-weighted exposure amounts at the equity portfolio level shall not be less than the total of the sums of the following:

- a the risk-weighted exposure amounts required under the PD/LGD Approach; and
- b the corresponding expected loss amounts multiplied by 12,5.

The amounts referred to in point (a) and (b) shall be calculated on the basis of the PD values set out in Article 165(1) and the corresponding LGD values set out in Article 165(2).

Institutions may recognise unfunded credit protection obtained on an equity position.

Article 156

Risk-weighted exposure amounts for other non credit-obligation assets

The risk-weighted exposure amounts for other non credit-obligation assets shall be calculated in accordance with the following formula:

$$Risk - weighted\ exposure\ amount = 100\ \% \cdot exposure\ value,$$

except for:

(a) cash in hand and equivalent cash items as well as gold bullion held in own vault or on an allocated basis to the extent backed by bullion liabilities, in which case a 0 % risk-weight shall be assigned;

(b) when the exposure is a residual value of leased assets in which case it shall be calculated as follows:

$$\frac{1}{t} \times 100\ \% \times \text{exposure value}$$

where t is the greater of 1 and the nearest number of whole years of the lease remaining.

Sub-Section 3

Calculation of risk-weighted exposure amounts for dilution risk of purchased receivables

Article 157

Risk-weighted exposure amounts for dilution risk of purchased receivables

1 Institutions shall calculate the risk-weighted exposure amounts for dilution risk of purchased corporate and retail receivables in accordance with the formula set out in Article 153(1).

2 Institutions shall determine the input parameters PD and LGD in accordance with Section 4.

3 Institutions shall determine the exposure value in accordance with Section 5.

4 For the purposes of this Article, the value of M is 1 year.

5 The competent authorities shall exempt an institution from calculating and recognising risk-weighted exposure amounts for dilution risk of a type of exposures caused by purchased corporate or retail receivables where the institution has demonstrated to the satisfaction of the competent authority that dilution risk for that institution is immaterial for this type of exposures.

Section 3

Expected loss amounts

F511 Article 158

Treatment by exposure type

Textual Amendments

F511 Art. 158 omitted (1.1.2022) by virtue of The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **6(3)(e)**

[F396 Article 159

Treatment of expected loss amounts

Institutions shall subtract the expected loss amounts calculated in accordance with Article 158(5), (6) and (10) from the general and specific credit risk adjustments in accordance with Article 110, additional value adjustments in accordance with Articles 34 and 105 and other own funds reductions related to those exposures except for the deductions made in accordance with point (m) Article 36(1). Discounts on balance sheet exposures purchased when in default in accordance with Article 166(1) shall be treated in the same manner as specific credit risk adjustments. Specific credit risk adjustments on exposures in default shall not be used to cover expected loss amounts on other exposures. Expected loss amounts for securitised exposures and general and specific credit risk adjustments related to those exposures shall not be included in that calculation.]

Textual Amendments

F396 Substituted by Regulation (EU) 2019/630 of the European Parliament and of the Council of 17 April 2019 amending Regulation (EU) No 575/2013 as regards minimum loss coverage for non-performing exposures (Text with EEA relevance).

Section 4

PD, LGD and maturity

Sub-Section 1

Exposures to corporates, institutions and central governments and central banks

Article 160

Probability of default (PD)

1 The PD of an exposure to a corporate or an institution shall be at least 0,03 %.

2 For purchased corporate receivables in respect of which an institution is not able to estimate PDs or an institution's PD estimates do not meet the requirements set out in Section 6, the PDs for these exposures shall be determined in accordance with the following methods:

a for senior claims on purchased corporate receivables PD shall be the institutions estimate of EL divided by LGD for these receivables;

b for subordinated claims on purchased corporate receivables PD shall be the institution's estimate of EL;

c an institution that has received the permission of the competent authority to use own LGD estimates for corporate exposures pursuant to Article 143 and that can decompose its EL estimates for purchased corporate receivables into PDs and LGDs in a manner that the competent authority considers to be reliable, may use the PD estimate that results from this decomposition.

3 The PD of obligors in default shall be 100 %.

4 Institutions may take into account unfunded credit protection in the PD in accordance with the provisions of Chapter 4. For dilution risk, in addition to the protection providers referred to in Article 201(1)(g) the seller of the purchased receivables is eligible if the following conditions are met:

a the corporate entity has a credit assessment by an ECAI which has been determined by [F512the competent authority] to be associated with credit quality step 3 or above under the rules for the risk weighting of exposures to corporates under Chapter 2;

b the corporate entity, in the case of institutions calculating risk-weighted exposure amounts and expected loss amounts under the IRB Approach, does not have a credit assessment by a recognised ECAI and is internally rated as having a PD equivalent to that associated with the credit assessments of ECAIs determined by [F512the competent authority**]** to be associated with credit quality step 3 or above under the rules for the risk weighting of exposures to corporates under Chapter 2.

5 Institutions using own LGD estimates may recognise unfunded credit protection by adjusting PDs subject to Article 161(3).

6 For dilution risk of purchased corporate receivables, PD shall be set equal to the EL estimate of the institution for dilution risk. An institution that has received permission from the competent authority pursuant to Article 143 to use own LGD estimates for corporate exposures that can decompose its EL estimates for dilution risk of purchased corporate receivables into PDs and LGDs in a manner that the competent authority considers to be reliable, may use the PD estimate that results from this decomposition. Institutions may recognise unfunded credit protection in the PD in accordance with the provisions of Chapter 4. For dilution risk, in addition to the protection providers referred to in Article 201(1)(g), the seller of the purchased receivables is eligible provided that the conditions set out in paragraph 4 are met.

7 By way of derogation from Article 201(1)(g), the corporate entities that meet the conditions set out in paragraph 4 are eligible.

An institution that has received the permission of the competent authority pursuant to Article 143 to use own LGD estimates for dilution risk of purchased corporate receivables, may recognise unfunded credit protection by adjusting PDs subject to Article 161(3).

Textual Amendments

F512 Words in Art. 160(4) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **131** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 161

Loss Given Default (LGD)

1 Institutions shall use the following LGD values:

- a senior exposures without eligible collateral: 45 %;
- b subordinated exposures without eligible collateral: 75 %;
- c institutions may recognise funded and unfunded credit protection in the LGD in accordance with Chapter 4;
- d covered bonds eligible for the treatment set out in Article 129(4) or (5) may be assigned an LGD value of 11,25 %;
- e for senior purchased corporate receivables exposures where an institution is not able to estimate PDs or the institution's PD estimates do not meet the requirements set out in Section 6: 45 %;
- f for subordinated purchased corporate receivables exposures where an institution is not able to estimate PDs or the institution's PD estimates do not meet the requirements set out in Section 6: 100 %;
- g for dilution risk of purchased corporate receivables: 75 %.

2 For dilution and default risk if an institution has received permission from the competent authority to use own LGD estimates for corporate exposures pursuant to Article 143 and it can decompose its EL estimates for purchased corporate receivables into PDs and LGDs

in a manner the competent authority considers to be reliable, the LGD estimate for purchased corporate receivables may be used.

3 If an institution has received the permission of the competent authority to use own LGD estimates for exposures to corporates, institutions, central governments and central banks pursuant to Article 143, unfunded credit protection may be recognised by adjusting PD or LGD subject to requirements as specified in Section 6 and permission of the competent authorities. An institution shall not assign guaranteed exposures an adjusted PD or LGD such that the adjusted risk weight would be lower than that of a comparable, direct exposure to the guarantor.

4 For the purposes of the undertakings referred to in Article 153(3), the LGD of a comparable direct exposure to the protection provider shall either be the LGD associated with an unhedged facility to the guarantor or the unhedged facility of the obligor, depending upon whether in the event both the guarantor and obligor default during the life of the hedged transaction, available evidence and the structure of the guarantee indicate that the amount recovered would depend on the financial condition of the guarantor or obligor, respectively.

Article 162

Maturity

1 Institutions that have not received permission to use own LGDs and own conversion factors for exposures to corporates, institutions or central governments and central banks shall assign to exposures arising from repurchase transactions or securities or commodities lending or borrowing transactions a maturity value (M) of 0,5 years and to all other exposures M of 2,5 years.

Alternatively, as part of the permission referred to in Article 143, the competent authorities shall decide on whether the institution shall use maturity (M) for each exposure as set out under paragraph 2.

2 Institutions that have received the permission of the competent authority to use own LGDs and own conversion factors for exposures to corporates, institutions or central governments and central banks pursuant to Article 143 shall calculate M for each of these exposures as set out in points (a) to (e) of this paragraph and subject to paragraphs 3 to 5 of this Article. M shall be no greater than five years except in the cases specified in Article 384(1) where M as specified there shall be used:

a for an instrument subject to a cash flow schedule, M shall be calculated in accordance with the following formula:

$$M = \max\left\{1, \min\left\{\frac{\sum_t t \times CF_t}{\sum_t CF_t}, 5\right\}\right\}$$

where CF_t denotes the cash flows (principal, interest payments and fees) contractually payable by the obligor in period t;

b for derivatives subject to a master netting agreement, M shall be the weighted average remaining maturity of the exposure, where M shall be at least 1 year, and the notional amount of each exposure shall be used for weighting the maturity;

c for exposures arising from fully or nearly-fully collateralised derivative instruments listed in Annex II and fully or nearly-fully collateralised margin lending transactions which are subject to a master netting agreement, M shall be the weighted average remaining maturity of the transactions where M shall be at least 10 days;

d for repurchase transactions or securities or commodities lending or borrowing transactions which are subject to a master netting agreement, M shall be the weighted average remaining maturity of the transactions where M shall be at least five days. The notional amount of each transaction shall be used for weighting the maturity;

e an institution that has received the permission of the competent authority pursuant to Article 143 to use own PD estimates for purchased corporate receivables, for drawn amounts M shall equal the purchased receivables exposure weighted average maturity, where M shall be at least 90 days. This same value of M shall also be used for undrawn amounts under a committed purchase facility provided that the facility contains effective covenants, early amortisation triggers, or other features that protect the purchasing institution against a significant deterioration in the quality of the future receivables it is required to purchase over the facility's term. Absent such effective protections, M for undrawn amounts shall be calculated as the sum of the longest-dated potential receivable under the purchase agreement and the remaining maturity of the purchase facility, where M shall be at least 90 days;

f for any instrument other than those referred to in this paragraph or when an institution is not in a position to calculate M as set out in point (a), M shall be the maximum remaining time (in years) that the obligor is permitted to take to fully discharge its contractual obligations, where M shall be at least one year;

g for institutions using the Internal Model Method set out in Section 6 of Chapter 6 to calculate the exposure values, M shall be calculated for exposures to which they apply this method and for which the maturity of the longest-dated contract contained in the netting set is greater than one year in accordance with the following formula:

$$M = \min\left\{\frac{\sum_k \text{Effective EE}_{t_k} \times \Delta t_k \times \text{df}_{t_k} \times s_{t_k} + \sum_k \text{EE}_{t_k} \times \Delta t_k \times \text{df}_{t_k} \times \left(1 - s_{t_k}\right)}{\sum_k \text{Effective EE}_{t_k} \times \Delta t_k \times \text{df}_{t_k} \times s_{t_k}}, 5\right\}$$

where:

s_{t_k}	=	a dummy variable whose value at future period t_k is equal to 0 if $t_k > 1$ year and to 1 if $t_k \leq 1$;
EE_{t_k}	=	the expected exposure at the future period t_k ;
$\text{Effective EE}_{t_k}$	=	the effective expected exposure at the future period t_k ;
df_{t_k}	=	the risk-free discount factor for future time period t_k ;

$$\Delta t_k = t_k - t_{k-1}$$

;

h an institution that uses an internal model to calculate a one-sided credit valuation adjustment (CVA) may use, subject to the permission of the competent authorities, the effective credit duration estimated by the internal model as M.

Subject to paragraph 2, for netting sets in which all contracts have an original maturity of less than one year the formula in point (a) shall apply;

i for institutions using the Internal Model Method set out in Section 6 of Chapter 6, to calculate the exposure values and having an internal model permission for specific risk associated with traded debt positions in accordance with Part Three, Title IV, Chapter 5, M shall be set to 1 in the formula laid out in Article 153(1), provided that an institution can demonstrate to the competent authorities that its internal model for Specific risk associated with traded debt positions applied in Article 383 contains effects of rating migrations;

j for the purposes of Article 153(3), M shall be the effective maturity of the credit protection but at least 1 year.

3 Where the documentation requires daily re-margining and daily revaluation and includes provisions that allow for the prompt liquidation or set off of collateral in the event of default or failure to remargin, M shall be at least one-day for:

a fully or nearly-fully collateralised derivative instruments listed in Annex II;

b fully or nearly-fully collateralised margin lending transactions;

c repurchase transactions, securities or commodities lending or borrowing transactions.

In addition, for qualifying short-term exposures which are not part of the institution's ongoing financing of the obligor, M shall be at least one-day. Qualifying short term exposures shall include the following:

a exposures to institutions [F513 or investment firms] arising from settlement of foreign exchange obligations;

b self-liquidating short-term trade finance transactions connected to the exchange of goods or services with a residual maturity of up to one year as referred to in point (80) of Article 4(1);

c exposures arising from settlement of securities purchases and sales within the usual delivery period or two business days;

d exposures arising from cash settlements by wire transfer and settlements of electronic payment transactions and prepaid cost, including overdrafts arising from failed transactions that do not exceed a short, fixed agreed number of business days.

4 For exposures to corporates situated in the [F514 United Kingdom] and having consolidated sales and consolidated assets of less than EUR 500 million, institutions may choose to consistently set M as set out in paragraph 1 instead of applying paragraph 2. Institutions may replace EUR 500 million total assets with EUR 1 000 million total assets for corporates which primarily own and let non-speculative residential property.

5 Maturity mismatches shall be treated as specified in Chapter 4.

Textual Amendments

F513 Words in Art. 162(3)(a) inserted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 25**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F514 Words in Art. 162(4) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **132** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Sub-Section 2

Retail exposures

Article 163

Probability of default (PD)

1 The PD of an exposure shall be at least 0,03 %.

2 The PD of obligors or, where an obligation approach is used, of exposures in default shall be 100 %.

3 For dilution risk of purchased receivables PD shall be set equal to EL estimates for dilution risk. If an institution can decompose its EL estimates for dilution risk of purchased receivables into PDs and LGDs in a manner the competent authorities consider to be reliable, the PD estimate may be used.

4 Unfunded credit protection may be taken into account by adjusting PDs subject to Article 164(2). For dilution risk, in addition to the protection providers referred to in Article 201(1)(g), the seller of the purchased receivables is eligible if the conditions set out in Article 160(4) are met.

[F1 *Article 164*

Loss Given Default (LGD)

1 Institutions shall provide own estimates of LGDs subject to the requirements specified in Section 6 of this Chapter and permission of the competent authorities granted in accordance with Article 143. For dilution risk of purchased receivables, an LGD value of 75 % shall be used. If an institution can decompose its EL estimates for dilution risk of purchased receivables into PDs and LGDs in a reliable manner, the institution may use its own LGD estimate.

2 Unfunded credit protection may be recognised as eligible by adjusting PD or LGD estimates subject to requirements as specified in Article 183(1), (2) and (3) and the permission of the competent authorities either in support of an individual exposure or a pool of exposures. An institution shall not assign guaranteed exposures an adjusted PD or LGD such that the adjusted risk weight would be lower than that of a comparable, direct exposure to the guarantor.

3 For the purposes of Article 154(2), the LGD of a comparable direct exposure to the protection provider referred to in Article 153(3) shall either be the LGD associated with an unhedged facility to the guarantor or the unhedged facility of the obligor, depending upon whether, in the event both the guarantor and obligor default during the life of the hedged transaction, available evidence and the structure of the guarantee indicate that the amount recovered would depend on the financial condition of the guarantor or obligor, respectively.

4 The exposure-weighted average LGD for all retail exposures secured by residential property and not benefiting from guarantees from central governments shall not be lower than 10 %.

The exposure-weighted average LGD for all retail exposures secured by commercial immovable property and not benefiting from guarantees from central governments shall not be lower than 15 %.

5 F515...

[F516The PRA shall ensure that the Financial Policy Committee is duly informed of the PRA's intention to make use of this Article, and is appropriately involved in the assessment of financial stability concerns in the United Kingdom in accordance with paragraph 6.]

F517...

6 Based on the data collected under Article 430a [F518of Chapter 4 of the Reporting (CRR) Part of the PRA Rulebook] and on any other relevant indicators, and taking into account forward-looking immovable property market developments the [F519PRA] shall periodically, and at least annually, assess whether the minimum LGD values referred to in paragraph 4 of this Article, are appropriate for exposures secured by mortgages on residential property or commercial immovable property located in [F520the United Kingdom].

Where, on the basis of the assessment referred to in the first subparagraph of this paragraph, the [F521PRA] concludes that the minimum LGD values referred to in paragraph 4 are not adequate, and if it considers that the inadequacy of LGD values could adversely affect current or future financial stability in [F522the United Kingdom], it may set higher minimum LGD values for those exposures located in [F523the United Kingdom]. Those higher minimum values may also be applied at the level of one or more property segments of such exposures.

F524...

7 Where the [F525PRA] sets higher minimum LGD values pursuant to paragraph 6, institutions shall have a six-month transitional period to apply them.

8 [F526The [F527PRA may] make] technical standards to specify the conditions that the [F528PRA] shall take into account when assessing the appropriateness of LGD values as part of the assessment referred to in paragraph 6.

F529...

F5309 . . . .

F53110 . . . .]

Textual Amendments

F1 Substituted by Regulation (EU) 2019/876 of the European Parliament and of the Council of 20 May 2019 amending Regulation (EU) No 575/2013 as regards the leverage ratio, the net stable funding ratio, requirements for own funds and eligible liabilities, counterparty credit risk, market risk, exposures to central counterparties, exposures to collective investment undertakings, large exposures, reporting and disclosure requirements, and Regulation (EU) No 648/2012 (Text with EEA relevance).

F515 Words in Art. 164(5) omitted (31.12.2020) by virtue of The Securities Financing Transactions, Securitisation and Miscellaneous Amendments (EU Exit) Regulations 2020 (S.I. 2020/1385), regs. 1(3), **74(5)(a)(i)**

F516 Words in Art. 164(5) substituted (31.12.2020) by The Securities Financing Transactions, Securitisation and Miscellaneous Amendments (EU Exit) Regulations 2020 (S.I. 2020/1385), regs. 1(3), **74(5)(a)(ii)**

F517 Words in Art. 164(5) omitted (31.12.2020) by virtue of The Securities Financing Transactions, Securitisation and Miscellaneous Amendments (EU Exit) Regulations 2020 (S.I. 2020/1385), regs. 1(3), **74(5)(a)(iii)**

F518 Words in Art. 164(6) inserted (1.1.2022) by The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/1376), regs. 1(3), **25(18)**

F519 Word in Art. 164(6) substituted (31.12.2020) by The Securities Financing Transactions, Securitisation and Miscellaneous Amendments (EU Exit) Regulations 2020 (S.I. 2020/1385), regs. 1(3), **74(5)(b)(i)(aa)**

F520 Words in Art. 164(6) substituted (31.12.2020) by The Securities Financing Transactions, Securitisation and Miscellaneous Amendments (EU Exit) Regulations 2020 (S.I. 2020/1385), regs. 1(3), **74(5)(b)(i)(bb)**

F521 Word in Art. 164(6) substituted (31.12.2020) by The Securities Financing Transactions, Securitisation and Miscellaneous Amendments (EU Exit) Regulations 2020 (S.I. 2020/1385), regs. 1(3), **74(5)(b)(ii)(aa)**

F522 Words in Art. 164(6) substituted (31.12.2020) by The Securities Financing Transactions, Securitisation and Miscellaneous Amendments (EU Exit) Regulations 2020 (S.I. 2020/1385), regs. 1(3), **74(5)(b)(ii)(bb)**

F523 Words in Art. 164(6) substituted (31.12.2020) by The Securities Financing Transactions, Securitisation and Miscellaneous Amendments (EU Exit) Regulations 2020 (S.I. 2020/1385), regs. 1(3), **74(5)(b)(ii)(cc)**

F524 Words in Art. 164(6) omitted (31.12.2020) by virtue of The Securities Financing Transactions, Securitisation and Miscellaneous Amendments (EU Exit) Regulations 2020 (S.I. 2020/1385), regs. 1(3), **74(5)(b)(iii)**

F525 Word in Art. 164(7) substituted (31.12.2020) by The Securities Financing Transactions, Securitisation and Miscellaneous Amendments (EU Exit) Regulations 2020 (S.I. 2020/1385), regs. 1(3), **74(5)(c)**

F526 Words in Art. 164(8) substituted (31.12.2020) by The Securities Financing Transactions, Securitisation and Miscellaneous Amendments (EU Exit) Regulations 2020 (S.I. 2020/1385), regs. 1(3), **74(5)(d)(i)(aa)**

F527 Words in Art. 164(8) substituted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 47**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F528 Word in Art. 164(8) substituted (31.12.2020) by The Securities Financing Transactions, Securitisation and Miscellaneous Amendments (EU Exit) Regulations 2020 (S.I. 2020/1385), regs. 1(3), **74(5)(d)(i)(bb)**

F529 Words in Art. 164(8) omitted (31.12.2020) by virtue of The Securities Financing Transactions, Securitisation and Miscellaneous Amendments (EU Exit) Regulations 2020 (S.I. 2020/1385), regs. 1(3), **74(5)(d)(ii)**

F530 Art. 164(9) omitted (31.12.2020) by virtue of The Securities Financing Transactions, Securitisation and Miscellaneous Amendments (EU Exit) Regulations 2020 (S.I. 2020/1385), regs. 1(3), **74(5)(e)**

F531 Art. 164(10) omitted (31.12.2020) by virtue of The Securities Financing Transactions, Securitisation and Miscellaneous Amendments (EU Exit) Regulations 2020 (S.I. 2020/1385), regs. 1(3), **74(5)(e)**

Sub-Section 3

Equity exposures subject to PD/LGD method

Article 165

Equity exposures subject to the PD/LGD method

1 PDs shall be determined in accordance with the methods for corporate exposures.

The following minimum PDs shall apply:

a 0,09 % for exchange traded equity exposures where the investment is part of a long-term customer relationship;
b 0,09 % for non-exchange traded equity exposures where the returns on the investment are based on regular and periodic cash flows not derived from capital gains;
c 0,40 % for exchange traded equity exposures including other short positions as set out in Article 155(2);
d 1,25 % for all other equity exposures including other short positions as set out in Article 155(2).

2 Private equity exposures in sufficiently diversified portfolios may be assigned an LGD of 65 %. All other such exposures shall be assigned an LGD of 90 %.

3 M assigned to all exposures shall be five years.

Section 5

Exposure value

Article 166

Exposures to corporates, institutions, central governments and central banks and retail exposures

1 Unless noted otherwise, the exposure value of on-balance sheet exposures shall be the accounting value measured without taking into account any credit risk adjustments made.

This rule also applies to assets purchased at a price different than the amount owed.

For purchased assets, the difference between the amount owed and the accounting value remaining after specific credit risk adjustments have been applied that has been recorded on the balance-sheet of the institutions when purchasing the asset is denoted discount if the amount owed is larger, and premium if it is smaller.

2 Where institutions use master netting agreements in relation to repurchase transactions or securities or commodities lending or borrowing transactions, the exposure value shall be calculated in accordance with Chapter 4 or 6.

3 In order to calculate the exposure value for on-balance sheet netting of loans and deposits, institutions shall apply the methods set out in Chapter 4.

4 The exposure value for leases shall be the discounted minimum lease payments. Minimum lease payments shall comprise the payments over the lease term that the lessee is or can be required to make and any bargain option (i.e. option the exercise of which is reasonably certain). If a party other than the lessee may be required to make a payment related to the residual value of a leased asset and this payment obligation fulfils the set of conditions in Article 201 regarding the eligibility of protection providers as well as the requirements for recognising other types of guarantees provided in Article 213, the payment obligation may be taken into account as unfunded credit protection in accordance with Chapter 4.

5 In the case of any contract listed in Annex II, the exposure value shall be determined by the methods set out in Chapter 6 **[**[F532]of this Regulation and Sections 3 to 5 of Chapter 3 of the Counterparty Credit Risk (CRR) Part of the PRA Rulebook**]** and shall not take into account any credit risk adjustment made.

6 The exposure value for the calculation of risk-weighted exposure amounts of purchased receivables shall be the value determined in accordance with paragraph 1 minus the own funds requirements for dilution risk prior to credit risk mitigation.

7 Where an exposure takes the form of securities or commodities sold, posted or lent under repurchase transactions or securities or commodities lending or borrowing transactions, long settlement transactions and margin lending transactions, the exposure value shall be the value of the securities or commodities determined in accordance with Article 24. Where the Financial Collateral Comprehensive Method as set out under Article 223 is used, the exposure value shall be increased by the volatility adjustment appropriate to such securities or commodities, as set out therein. The exposure value of repurchase transactions, securities or commodities lending or borrowing transactions, long settlement transactions and margin lending transactions may be determined either in accordance with Chapter 6 [F533 of this Regulation and Sections 3 to 5 of Chapter 3 of the Counterparty Credit Risk (CRR) Part of the PRA Rulebook] or Article 220(2).

8 The exposure value for the following items shall be calculated as the committed but undrawn amount multiplied by a conversion factor. Institutions shall use the following conversion factors in accordance with Article 151(8) for exposures to corporates, institutions, central governments and central banks:

a for credit lines that are unconditionally cancellable at any time by the institution without prior notice, or that effectively provide for automatic cancellation due to deterioration in a borrower's creditworthiness, a conversion factor of 0 % shall apply. To apply a conversion factor of 0 %, institutions shall actively monitor the financial condition of the obligor, and their internal control systems shall enable them to immediately detect deterioration in the credit quality of the obligor. Undrawn credit lines may be considered as unconditionally cancellable if the terms permit the institution to cancel them to the full extent allowable under consumer protection and related legislation;
b for short-term letters of credit arising from the movement of goods, a conversion factor of 20 % shall apply for both the issuing and confirming institutions;
c for undrawn purchase commitments for revolving purchased receivables that are able to be unconditionally cancelled or that effectively provide for automatic cancellation at any time by the institution without prior notice, a conversion factor of 0 % shall apply. To apply a conversion factor of 0 %, institutions shall actively monitor the financial condition of the obligor, and their internal control systems shall enable them to immediately detect a deterioration in the credit quality of the obligor;
d for other credit lines, note issuance facilities (NIFs), and revolving underwriting facilities (RUFs), a conversion factor of 75 % shall apply.

Institutions which meet the requirements for the use of own estimates of conversion factors as specified in Section 6 may use their own estimates of conversion factors across different product types as mentioned in points (a) to (d), subject to permission of the competent authorities.

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.

10 For all off-balance sheet items other than those mentioned in paragraphs 1 to 8, the exposure value shall be the following percentage of its value:

a 100 % if it is a full risk item;
b 50 % if it is a medium-risk item;
c 20 % if it is a medium/low-risk item;
d 0 % if it is a low-risk item.

For the purposes of this paragraph the off-balance sheet items shall be assigned to risk categories as indicated in Annex I.

Textual Amendments

F532 Words in Art. 166(5) inserted (1.1.2022) by The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/1376), regs. 1(3), **25(19)**

F533 Words in Art. 166(7) inserted (1.1.2022) by The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/1376), regs. 1(3), **25(19)**

Article 167

Equity exposures

1 The exposure value of equity exposures shall be the accounting value remaining after specific credit risk adjustment have been applied.

2 The exposure value of off-balance sheet equity exposures shall be its nominal value after reducing its nominal value by specific credit risk adjustments for this exposure.

Article 168

Other non credit-obligation assets

The exposure value of other non credit-obligation assets shall be the accounting value remaining after specific credit risk adjustment have been applied

Section 6

Requirements for the IRB approach

Sub-Section 1

Rating systems

Article 169

General principles

1 Where an institution uses multiple rating systems, the rationale for assigning an obligor or a transaction to a rating system shall be documented and applied in a manner that appropriately reflects the level of risk.

2 Assignment criteria and processes shall be periodically reviewed to determine whether they remain appropriate for the current portfolio and external conditions.

3 Where an institution uses direct estimates of risk parameters for individual obligors or exposures these may be seen as estimates assigned to grades on a continuous rating scale.

Article 170

Structure of rating systems

1 The structure of rating systems for exposures to corporates, institutions and central governments and central banks shall comply with the following requirements:

- a a rating system shall take into account obligor and transaction risk characteristics;
- b a rating system shall have an obligor rating scale which reflects exclusively quantification of the risk of obligor default. The obligor rating scale shall have a minimum of 7 grades for non-defaulted obligors and one for defaulted obligors;
- c an institution shall document the relationship between obligor grades in terms of the level of default risk each grade implies and the criteria used to distinguish that level of default risk;
- d institutions with portfolios concentrated in a particular market segment and range of default risk shall have enough obligor grades within that range to avoid undue concentrations of obligors in a particular grade. Significant concentrations within a single grade shall be supported by convincing empirical evidence that the obligor grade covers a reasonably narrow PD band and that the default risk posed by all obligors in the grade falls within that band;
- e to be permitted by the competent authority to use own estimates of LGDs for own funds requirement calculation, a rating system shall incorporate a distinct facility rating scale which exclusively reflects LGD related transaction characteristics. The facility grade definition shall include both a description of how exposures are assigned to the grade and of the criteria used to distinguish the level of risk across grades;
- f significant concentrations within a single facility grade shall be supported by convincing empirical evidence that the facility grade covers a reasonably narrow LGD band, respectively, and that the risk posed by all exposures in the grade falls within that band.

2 Institutions using the methods set out in Article 153(5) for assigning risk weights for specialised lending exposures are exempt from the requirement to have an obligor rating scale which reflects exclusively quantification of the risk of obligor default for these exposures. These institutions shall have for these exposures at least four grades for non-defaulted obligors and at least one grade for defaulted obligors.

3 The structure of rating systems for retail exposures shall comply with the following requirements:

- a rating systems shall reflect both obligor and transaction risk, and shall capture all relevant obligor and transaction characteristics;
- b the level of risk differentiation shall ensure that the number of exposures in a given grade or pool is sufficient to allow for meaningful quantification and validation of the loss characteristics at the grade or pool level. The distribution of exposures and obligors across grades or pools shall be such as to avoid excessive concentrations;
- c the process of assigning exposures to grades or pools shall provide for a meaningful differentiation of risk, for a grouping of sufficiently homogenous exposures, and shall allow for accurate and consistent estimation of loss characteristics at grade or pool level. For purchased receivables the grouping shall reflect the seller's underwriting practices and the heterogeneity of its customers.

4 Institutions shall consider the following risk drivers when assigning exposures to grades or pools:

a obligor risk characteristics;

b transaction risk characteristics, including product or collateral types or both. Institutions shall explicitly address cases where several exposures benefit from the same collateral;

c delinquency, except where an institution demonstrates to the satisfaction of its competent authority that delinquency is not a material driver of risk for the exposure.

Article 171

Assignment to grades or pools

1 An institution shall have specific definitions, processes and criteria for assigning exposures to grades or pools within a rating system that comply with the following requirements:

a the grade or pool definitions and criteria shall be sufficiently detailed to allow those charged with assigning ratings to consistently assign obligors or facilities posing similar risk to the same grade or pool. This consistency shall exist across lines of business, departments and geographic locations;

b the documentation of the rating process shall allow third parties to understand the assignments of exposures to grades or pools, to replicate grade and pool assignments and to evaluate the appropriateness of the assignments to a grade or a pool;

c the criteria shall also be consistent with the institution's internal lending standards and its policies for handling troubled obligors and facilities.

2 An institution shall take all relevant information into account in assigning obligors and facilities to grades or pools. Information shall be current and shall enable the institution to forecast the future performance of the exposure. The less information an institution has, the more conservative shall be its assignments of exposures to obligor and facility grades or pools. If an institution uses an external rating as a primary factor determining an internal rating assignment, the institution shall ensure that it considers other relevant information.

Article 172

Assignment of exposures

1 For exposures to corporates, institutions and central governments and central banks, and for equity exposures where an institution uses the PD/LGD approach set out in Article 155(3), assignment of exposures shall be carried out in accordance with the following criteria:

a each obligor shall be assigned to an obligor grade as part of the credit approval process;

b for those exposures for which an institution has received the permission of the competent authority to use own estimates of LGDs and conversion factors pursuant to Article 143, each exposure shall also be assigned to a facility grade as part of the credit approval process;

c institutions using the methods set out in Article 153(5) for assigning risk weights for specialised lending exposures shall assign each of these exposures to a grade in accordance with Article 170(2);

d each separate legal entity to which the institution is exposed shall be separately rated. An institution shall have appropriate policies regarding the treatment of individual obligor clients and groups of connected clients;

e separate exposures to the same obligor shall be assigned to the same obligor grade, irrespective of any differences in the nature of each specific transaction. However, where separate exposures are allowed to result in multiple grades for the same obligor, the following shall apply:

(i) country transfer risk, this being dependent on whether the exposures are denominated in local or foreign currency;

(ii) the treatment of associated guarantees to an exposure may be reflected in an adjusted assignment to an obligor grade;

(iii) consumer protection, bank secrecy or other legislation prohibit the exchange of client data.

2 For retail exposures, each exposure shall be assigned to a grade or a pool as part of the credit approval process.

3 For grade and pool assignments institutions shall document the situations in which human judgement may override the inputs or outputs of the assignment process and the personnel responsible for approving these overrides. Institutions shall document these overrides and note down the personnel responsible. Institutions shall analyse the performance of the exposures whose assignments have been overridden. This analysis shall include an assessment of the performance of exposures whose rating has been overridden by a particular person, accounting for all the responsible personnel.

Article 173

Integrity of assignment process

1 For exposures to corporates, institutions and central governments and central banks, and for equity exposures where an institution uses the PD/LGD approach set out in Article 155(3), the assignment process shall meet the following requirements of integrity:

a Assignments and periodic reviews of assignments shall be completed or approved by an independent party that does not directly benefit from decisions to extend the credit;
b Institutions shall review assignments at least annually and adjust the assignment where the result of the review does not justify carrying forward the current assignment. High risk obligors and problem exposures shall be subject to more frequent review. Institutions shall undertake a new assignment if material information on the obligor or exposure becomes available;
c An institution shall have an effective process to obtain and update relevant information on obligor characteristics that affect PDs, and on transaction characteristics that affect LGDs or conversion factors.

2 For retail exposures, an institution shall at least annually review obligor and facility assignments and adjust the assignment where the result of the review does not justify carrying forward the current assignment, or review the loss characteristics and delinquency status of each identified risk pool, whichever applicable. An institution shall also at least annually review in a representative sample the status of individual exposures within each pool as a means of ensuring that exposures continue to be assigned to the correct pool, and adjust the assignment where the result of the review does not justify carrying forward the current assignment.

3 [F534The [F535PRA may] make technical standards] for the methodologies [F536it may use] to assess the integrity of the assignment process and the regular and independent assessment of risks.

F537 ...

Textual Amendments

F534 Words in Art. 173(3) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **222(1)(a)(2)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F535 Words in Art. 173(3) substituted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 47**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F536 Words in Art. 173(3) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **225(4)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F537 Words in Art. 173(3) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **222(1)(b)** (with savings in S.I. 2019/680, **reg. 11**); 2020 c. 1, **Sch. 5 para. 1(1)**

Article 174

Use of models

If an institution uses statistical models and other mechanical methods to assign exposures to obligors or facilities grades or pools, the following requirements shall be met:

(a) the model shall have good predictive power and capital requirements shall not be distorted as a result of its use. The input variables shall form a reasonable and effective basis for the resulting predictions. The model shall not have material biases;

(b) the institution shall have in place a process for vetting data inputs into the model, which includes an assessment of the accuracy, completeness and appropriateness of the data;

(c) the data used to build the model shall be representative of the population of the institution's actual obligors or exposures;

(d) the institution shall have a regular cycle of model validation that includes monitoring of model performance and stability; review of model specification; and testing of model outputs against outcomes;

(e) the institution shall complement the statistical model by human judgement and human oversight to review model-based assignments and to ensure that the models are used appropriately. Review procedures shall aim at finding and limiting errors associated with model weaknesses. Human judgements shall take into account all relevant information not considered by the model. The institution shall document how human judgement and model results are to be combined.

Article 175

Documentation of rating systems

1 The institutions shall document the design and operational details of its rating systems. The documentation shall provide evidence of compliance with the requirements in this Section, and address topics including portfolio differentiation, rating criteria, responsibilities of parties

that rate obligors and exposures, frequency of assignment reviews, and management oversight of the rating process.

2 The institution shall document the rationale for and analysis supporting its choice of rating criteria. An institution shall document all major changes in the risk rating process, and such documentation shall support identification of changes made to the risk rating process subsequent to the last review by the competent authorities. The organisation of rating assignment including the rating assignment process and the internal control structure shall also be documented.

3 The institutions shall document the specific definitions of default and loss used internally and ensure consistency with the definitions set out in this Regulation.

4 Where the institution employs statistical models in the rating process, the institution shall document their methodologies. This material shall:

- a provide a detailed outline of the theory, assumptions and mathematical and empirical basis of the assignment of estimates to grades, individual obligors, exposures, or pools, and the data source(s) used to estimate the model;
- b establish a rigorous statistical process including out-of-time and out-of-sample performance tests for validating the model;
- c indicate any circumstances under which the model does not work effectively.

5 An institution shall demonstrate to the satisfaction of the competent authority that the requirements of this Article are met, where an institution has obtained a rating system, or model used within a rating system, from a third-party vendor and that vendor refuses or restricts the access of the institution to information pertaining to the methodology of that rating system or model, or underlying data used to develop that methodology or model, on the basis that such information is proprietary.

Article 176

Data maintenance

1 Institutions shall collect and store data on aspects of their internal ratings as required under **[**[F538]the Disclosure (CRR) Part of the PRA Rulebook**]**.

2 For exposures to corporates, institutions and central governments and central banks, and for equity exposures where an institution uses the PD/LGD approach set out in Article 155(3), institutions shall collect and store:

- a complete rating histories on obligors and recognised guarantors;
- b the dates the ratings were assigned;
- c the key data and methodology used to derive the rating;
- d the person responsible for the rating assignment;
- e the identity of obligors and exposures that defaulted;
- f the date and circumstances of such defaults;
- g data on the PDs and realised default rates associated with rating grades and ratings migration.

3 Institutions not using own estimates of LGDs and conversion factors shall collect and store data on comparisons of realised LGDs to the values as set out in Article 161(1) and realised conversion factors to the values as set out in Article 166(8).

4 Institutions using own estimates of LGDs and conversion factors shall collect and store:

a complete histories of data on the facility ratings and LGD and conversion factor estimates associated with each rating scale;

b the dates on which the ratings were assigned and the estimates were made;

c the key data and methodology used to derive the facility ratings and LGD and conversion factor estimates;

d the person who assigned the facility rating and the person who provided LGD and conversion factor estimates;

e data on the estimated and realised LGDs and conversion factors associated with each defaulted exposure;

f data on the LGD of the exposure before and after evaluation of the effects of a guarantee/ or credit derivative, for those institutions that reflect the credit risk mitigating effects of guarantees or credit derivatives through LGD;

g data on the components of loss for each defaulted exposure.

5 For retail exposures, institutions shall collect and store:

a data used in the process of allocating exposures to grades or pools;

b data on the estimated PDs, LGDs and conversion factors associated with grades or pools of exposures;

c the identity of obligors and exposures that defaulted;

d for defaulted exposures, data on the grades or pools to which the exposure was assigned over the year prior to default and the realised outcomes on LGD and conversion factor;

e data on loss rates for qualifying revolving retail exposures.

Textual Amendments

F538 Words in Art. 176(1) substituted (1.1.2022) by The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/1376), regs. 1(3), **25(20)**

Article 177

Stress tests used in assessment of capital adequacy

1 An institution shall have in place sound stress testing processes for use in the assessment of its capital adequacy. Stress testing shall involve identifying possible events or future changes in economic conditions that could have unfavourable effects on an institution's credit exposures and assessment of the institution's ability to withstand such changes.

2 An institution shall regularly perform a credit risk stress test to assess the effect of certain specific conditions on its total capital requirements for credit risk. The test shall be one chosen by the institution, subject to supervisory review. The test to be employed shall be meaningful and consider the effects of severe, but plausible, recession scenarios. An institution shall assess migration in its ratings under the stress test scenarios. Stressed portfolios shall contain the vast majority of an institution's total exposure.

3 Institutions using the treatment set out in Article 153(3) shall consider as part of their stress testing framework the impact of a deterioration in the credit quality of protection providers, in particular the impact of protection providers falling outside the eligibility criteria.

Sub-Section 2

Risk quantification

Article 178

Default of an obligor

1 A default shall be considered to have occurred with regard to a particular obligor when either or both of the following have taken place:

a the institution considers that the obligor is unlikely to pay its credit obligations to the institution, the parent undertaking or any of its subsidiaries in full, without recourse by the institution to actions such as realising security;

[F396b the obligor is more than 90 days past due on any material credit obligation to the institution, the parent undertaking or any of its subsidiaries. Competent authorities may replace the 90 days with 180 days for exposures secured by residential property or SME commercial immovable property in the retail exposure class, as well as exposures to public sector entities. The 180 days shall not apply for the purposes of point (m) Article 36(1) or Article 127.]

In the case of retail exposures, institutions may apply the definition of default laid down in points (a) and (b) of the first subparagraph at the level of an individual credit facility rather than in relation to the total obligations of a borrower.

2 The following shall apply for the purposes of point (b) of paragraph 1:

a for overdrafts, days past due commence once an obligor has breached an advised limit, has been advised a limit smaller than current outstandings, or has drawn credit without authorisation and the underlying amount is material;

b for the purposes of point (a), an advised limit comprises any credit limit determined by the institution and about which the obligor has been informed by the institution;

c days past due for credit cards commence on the minimum payment due date;

d materiality of a credit obligation past due shall be assessed against a threshold, defined by the competent authorities. This threshold shall reflect a level of risk that the competent authority considers to be reasonable;

e institutions shall have documented policies in respect of the counting of days past due, in particular in respect of the re-ageing of the facilities and the granting of extensions, amendments or deferrals, renewals, and netting of existing accounts. These policies shall be applied consistently over time, and shall be in line with the internal risk management and decision processes of the institution.

3 For the purpose of point (a) of paragraph 1, elements to be taken as indications of unlikeliness to pay shall include the following:

a the institution puts the credit obligation on non-accrued status;

b the institution recognises a specific credit adjustment resulting from a significant perceived decline in credit quality subsequent to the institution taking on the exposure;

c the institution sells the credit obligation at a material credit-related economic loss;

d the institution consents to a distressed restructuring of the credit obligation where this is likely to result in a diminished financial obligation caused by the material forgiveness, or postponement, of principal, interest or, where relevant fees. This includes, in the case of equity exposures assessed under a PD/LGD Approach, distressed restructuring of the equity itself;

e the institution has filed for the obligor's bankruptcy or a similar order in respect of an obligor's credit obligation to the institution, the parent undertaking or any of its subsidiaries;

f the obligor has sought or has been placed in bankruptcy or similar protection where this would avoid or delay repayment of a credit obligation to the institution, the parent undertaking or any of its subsidiaries.

4 Institutions that use external data that is not itself consistent with the definition of default laid down in paragraph 1, shall make appropriate adjustments to achieve broad equivalence with the definition of default.

5 If the institution considers that a previously defaulted exposure is such that no trigger of default continues to apply, the institution shall rate the obligor or facility as they would for a non-defaulted exposure. Where the definition of default is subsequently triggered, another default would be deemed to have occurred.

6 [F539The [F540PRA may] make technical standards] to specify the conditions according to which a [F541it] shall set the threshold referred to in paragraph 2(d).

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Textual Amendments

F396 Substituted by Regulation (EU) 2019/630 of the European Parliament and of the Council of 17 April 2019 amending Regulation (EU) No 575/2013 as regards minimum loss coverage for non-performing exposures (Text with EEA relevance).

F539 Words in Art. 178(6) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **222(1)(a)(2)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F540 Words in Art. 178(6) substituted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 47**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F541 Word in Art. 178(6) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **225(1)(2)(3)(f)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F542 Words in Art. 178(6) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **222(1)(b)** (with savings in S.I. 2019/680, **reg. 11**); 2020 c. 1, **Sch. 5 para. 1(1)**

F543 Art. 178(7) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **134** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 179

Overall requirements for estimation

1 In quantifying the risk parameters to be associated with rating grades or pools, institutions shall apply the following requirements:

a an institution's own estimates of the risk parameters PD, LGD, conversion factor and EL shall incorporate all relevant data, information and methods. The estimates shall be derived using both historical experience and empirical evidence, and not based purely on judgemental considerations. The estimates shall be plausible and intuitive and shall be based on the material drivers of the respective risk parameters. The less data an institution has, the more conservative it shall be in its estimation;

b an institution shall be able to provide a breakdown of its loss experience in terms of default frequency, LGD, conversion factor, or loss where EL estimates are used, by the factors it sees as the drivers of the respective risk parameters. The institution's estimates shall be representative of long run experience;

c any changes in lending practice or the process for pursuing recoveries over the observation periods referred to in Article 180(1)(h) and (2)(e), Article 181(1)(j) and (2), and Article 182(2) and (3) shall be taken into account. An institution's estimates shall reflect the implications of technical advances and new data and other information, as it becomes available. Institutions shall review their estimates when new information comes to light but at least on an annual basis;

d the population of exposures represented in the data used for estimation, the lending standards used when the data was generated and other relevant characteristics shall be comparable with those of the institution's exposures and standards. The economic or market conditions that underlie the data shall be relevant to current and foreseeable conditions. The number of exposures in the sample and the data period used for quantification shall be sufficient to provide the institution with confidence in the accuracy and robustness of its estimates;

e for purchased receivables the estimates shall reflect all relevant information available to the purchasing institution regarding the quality of the underlying receivables, including data for similar pools provided by the seller, by the purchasing institution, or by external sources. The purchasing institution shall evaluate any data relied upon which is provided by the seller;

f an institution shall add to its estimates a margin of conservatism that is related to the expected range of estimation errors. Where methods and data are considered to be less satisfactory, the expected range of errors is larger, the margin of conservatism shall be larger.

Where institutions use different estimates for the calculation of risk weights and for internal purposes, it shall be documented and be reasonable. If institutions can demonstrate to their competent authorities that for data that have been collected prior to 1 January 2007 appropriate adjustments have been made to achieve broad equivalence with the definition of default laid down in Article 178 or with loss, competent authorities may permit the institutions some flexibility in the application of the required standards for data.

2 Where an institution uses data that is pooled across institutions it shall meet the following requirements:

a the rating systems and criteria of other institutions in the pool are similar to its own;

b the pool is representative of the portfolio for which the pooled data is used;

c the pooled data is used consistently over time by the institution for its estimates;

d the institution shall remain responsible for the integrity of its rating systems;

e the institution shall maintain sufficient in-house understanding of its rating systems, including the ability to effectively monitor and audit the rating process.

Article 180

Requirements specific to PD estimation

1 In quantifying the risk parameters to be associated with rating grades or pools, institutions shall apply the following requirements specific to PD estimation to exposures to corporates, institutions and central governments and central banks and for equity exposures where an institution uses the PD/LGD approach set out in Article 155(3):

a institutions shall estimate PDs by obligor grade from long run averages of one-year default rates. PD estimates for obligors that are highly leveraged or for obligors whose assets are predominantly traded assets shall reflect the performance of the underlying assets based on periods of stressed volatilities;

b for purchased corporate receivables institutions may estimate the EL by obligor grade from long run averages of one-year realised default rates;

c if an institution derives long run average estimates of PDs and LGDs for purchased corporate receivables from an estimate of EL, and an appropriate estimate of PD or LGD, the process for estimating total losses shall meet the overall standards for estimation of PD and LGD set out in this part, and the outcome shall be consistent with the concept of LGD as set out in Article 181(1)(a);

d institutions shall use PD estimation techniques only with supporting analysis. Institutions shall recognise the importance of judgmental considerations in combining results of techniques and in making adjustments for limitations of techniques and information;

e to the extent that an institution uses data on internal default experience for the estimation of PDs, the estimates shall be reflective of underwriting standards and of any differences in the rating system that generated the data and the current rating system. Where underwriting standards or rating systems have changed, the institution shall add a greater margin of conservatism in its estimate of PD;

f to the extent that an institution associates or maps its internal grades to the scale used by an ECAI or similar organisations and then attributes the default rate observed for the external organisation's grades to the institution's grades, mappings shall be based on a comparison of internal rating criteria to the criteria used by the external organisation and on a comparison of the internal and external ratings of any common obligors. Biases or inconsistencies in the mapping approach or underlying data shall be avoided. The criteria of the external organisation underlying the data used for quantification shall be oriented to default risk only and not reflect transaction characteristics. The analysis undertaken by the institution shall include a comparison of the default definitions used, subject to the requirements in Article 178. The institution shall document the basis for the mapping;

g to the extent that an institution uses statistical default prediction models it is allowed to estimate PDs as the simple average of default-probability estimates for individual obligors in a given grade. The institution's use of default probability models for this purpose shall meet the standards specified in Article 174;

h irrespective of whether an institution is using external, internal, or pooled data sources, or a combination of the three, for its PD estimation, the length of the underlying historical observation period used shall be at least five years for at least one source. If the available observation period spans a longer period for any source, and this data is relevant, this longer period shall be used. This point also applies to the PD/LGD Approach to equity. Subject to the permission of competent authorities, institutions which have not received the permission of the competent authority pursuant to Article

143 to use own estimates of LGDs or conversion factors may use, when they implement the IRB Approach, relevant data covering a period of two years. The period to be covered shall increase by one year each year until relevant data cover a period of five years.

2 For retail exposures, the following requirements shall apply:

a institutions shall estimate PDs by obligor grade or pool from long run averages of one-year default rates;

b PD estimates may also be derived from an estimate of total losses and appropriate estimates of LGDs;

c institutions shall regard internal data for assigning exposures to grades or pools as the primary source of information for estimating loss characteristics. Institutions may use external data (including pooled data) or statistical models for quantification provided that the following strong links both exist:

(i) between the institution's process of assigning exposures to grades or pools and the process used by the external data source; and

(ii) between the institution's internal risk profile and the composition of the external data;

d if an institution derives long run average estimates of PD and LGD for retail exposures from an estimate of total losses and an appropriate estimate of PD or LGD, the process for estimating total losses shall meet the overall standards for estimation of PD and LGD set out in this part, and the outcome shall be consistent with the concept of LGD as set out in point (a) of Article 181(1);

e irrespective of whether an institution is using external, internal or pooled data sources or a combination of the three, for their estimation of loss characteristics, the length of the underlying historical observation period used shall be at least five years for at least one source. If the available observation spans a longer period for any source, and these data are relevant, this longer period shall be used. An institution need not give equal importance to historic data if more recent data is a better predictor of loss rates. Subject to the permission of the competent authorities, institutions may use, when they implement the IRB Approach, relevant data covering a period of two years. The period to be covered shall increase by one year each year until relevant data cover a period of five years;

f institutions shall identify and analyse expected changes of risk parameters over the life of credit exposures (seasoning effects).

For purchased retail receivables, institutions may use external and internal reference data. Institutions shall use all relevant data sources as points of comparison.

3 [F544The [F545PRA may] make technical standards] to specify the following:

a the conditions according to which [F546it] may grant the permissions referred to in point (h) of paragraph 1 and point (e) of paragraph 2;

b the methodologies according to which [F546it] shall assess the methodology of an institution for estimating PD pursuant to Article 143.

F547 ...

Textual Amendments

F544 Words in Art. 180(3) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **222(1)(a)(2)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F545 Words in Art. 180(3) substituted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 47**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F546 Word in Art. 180(3)(a)(b) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **225(1)**(2)(3)(g) (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F547 Words in Art. 180(3) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **222(1)(b)** (with savings in S.I. 2019/680, **reg. 11**); 2020 c. 1, **Sch. 5 para. 1(1)**

Article 181

Requirements specific to own-LGD estimates

1 In quantifying the risk parameters to be associated with rating grades or pools, institutions shall apply the following requirements specific to own-LGD estimates:

a institutions shall estimate LGDs by facility grade or pool on the basis of the average realised LGDs by facility grade or pool using all observed defaults within the data sources (default weighted average);

b institutions shall use LGD estimates that are appropriate for an economic downturn if those are more conservative than the long-run average. To the extent a rating system is expected to deliver realised LGDs at a constant level by grade or pool over time, institutions shall make adjustments to their estimates of risk parameters by grade or pool to limit the capital impact of an economic downturn;

c an institution shall consider the extent of any dependence between the risk of the obligor and that of the collateral or collateral provider. Cases where there is a significant degree of dependence shall be addressed in a conservative manner;

d currency mismatches between the underlying obligation and the collateral shall be treated conservatively in the institution's assessment of LGD;

e to the extent that LGD estimates take into account the existence of collateral, these estimates shall not solely be based on the collateral's estimated market value. LGD estimates shall take into account the effect of the potential inability of institutions to expeditiously gain control of their collateral and liquidate it;

f to the extent that LGD estimates take into account the existence of collateral, institutions shall establish internal requirements for collateral management, legal certainty and risk management that are generally consistent with those set out in Chapter 4, Section 3;

g to the extent that an institution recognises collateral for determining the exposure value for counterparty credit risk in accordance with **[**[F548]Chapter 6, Section 6 of this Regulation or Section 5 of Chapter 3 of the Counterparty Credit Risk (CRR) Part of the PRA Rulebook**]**, any amount expected to be recovered from the collateral shall not be taken into account in the LGD estimates;

h for the specific case of exposures already in default, the institution shall use the sum of its best estimate of expected loss for each exposure given current economic circumstances and exposure status and its estimate of the increase of loss rate caused by possible additional unexpected losses during the recovery period, i.e. between date of default and final liquidation of the exposure;

i to the extent that unpaid late fees have been capitalised in the institution's income statement, they shall be added to the institution's measure of exposure and loss;

j for exposures to corporates, institutions and central governments and central banks, estimates of LGD shall be based on data over a minimum of five years, increasing by one year each year after implementation until a minimum of seven years is reached, for at least one data source. If the available observation period spans a longer period for any source, and the data is relevant, this longer period shall be used.

2 For retail exposures, institutions may do the following:

a derive LGD estimates from realised losses and appropriate estimates of PDs;

b reflect future drawings either in their conversion factors or in their LGD estimates;

c For purchased retail receivables use external and internal reference data to estimate LGDs.

For retail exposures, estimates of LGD shall be based on data over a minimum of five years. An institution need not give equal importance to historic data if more recent data is a better predictor of loss rates. Subject to the permission of the competent authorities, institutions may use, when they implement the IRB Approach, relevant data covering a period of two years. The period to be covered shall increase by one year each year until relevant data cover a period of five years.

3 [F549The [F550PRA may] make technical standards] to specify the following:

a the nature, severity and duration of an economic downturn referred to in paragraph 1;

b the conditions according to which a [F551it] may permit an institution pursuant to paragraph 2 to use relevant data covering a period of two years when the institution implements the IRB Approach.

F552 ...

Textual Amendments

F548 Words in Art. 181(1)(g) substituted (1.1.2022) by The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/1376), regs. 1(3), **25(21)**

F549 Words in Art. 181(3) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **222(1)(a)(2)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F550 Words in Art. 181(3) substituted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 47**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F551 Word in Art. 181(3)(b) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **225(1)**(2)(3)(h) (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F552 Words in Art. 181(3) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **222(1)(b)** (with savings in S.I. 2019/680, **reg. 11**); 2020 c. 1, **Sch. 5 para. 1(1)**

Article 182

Requirements specific to own-conversion factor estimates

1 In quantifying the risk parameters to be associated with rating grades or pools, institutions shall apply the following requirements specific to own-conversion factor estimates:

a institutions shall estimate conversion factors by facility grade or pool on the basis of the average realised conversion factors by facility grade or pool using the default weighted average resulting from all observed defaults within the data sources;

b institutions shall use conversion factor estimates that are appropriate for an economic downturn if those are more conservative than the long-run average. To the extent a rating system is expected to deliver realised conversion factors at a constant level by grade or pool over time, institutions shall make adjustments to their estimates of risk parameters by grade or pool to limit the capital impact of an economic downturn;

c institutions' estimates of conversion factors shall reflect the possibility of additional drawings by the obligor up to and after the time a default event is triggered. The conversion factor estimate shall incorporate a larger margin of conservatism where a stronger positive correlation can reasonably be expected between the default frequency and the magnitude of conversion factor;

d in arriving at estimates of conversion factors institutions shall consider their specific policies and strategies adopted in respect of account monitoring and payment processing. Institutions shall also consider their ability and willingness to prevent further drawings in circumstances short of payment default, such as covenant violations or other technical default events;

e institutions shall have adequate systems and procedures in place to monitor facility amounts, current outstandings against committed lines and changes in outstandings per obligor and per grade. The institution shall be able to monitor outstanding balances on a daily basis;

f if institutions use different estimates of conversion factors for the calculation of risk-weighted exposure amounts and internal purposes it shall be documented and be reasonable.

2 For exposures to corporates, institutions and central governments and central banks, estimates of conversion factors shall be based on data over a minimum of five years, increasing by one year each year after implementation until a minimum of seven years is reached, for at least one data source. If the available observation period spans a longer period for any source, and the data is relevant, this longer period shall be used.

3 For retail exposures, institutions may reflect future drawings either in their conversion factors or in their LGD estimates.

For retail exposures, estimates of conversion factors shall be based on data over a minimum of five years. By way of derogation from point (a) of paragraph 1, an institution need not give equal importance to historic data if more recent data is a better predictor of draw downs. Subject to the permission of competent authorities, institutions may use, when they implement the IRB Approach, relevant data covering a period of two years. The period to be covered shall increase by one year each year until relevant data cover a period of five years.

4 [F553The [F554PRA may] make technical standards] to specify the following:

a the nature, severity and duration of an economic downturn referred to in paragraph 1;

b conditions according to which a [F555it] may permit and institution to use relevant data covering a period of two years at the time an institution first implements the IRB Approach.

F556 ...

Textual Amendments

F553 Words in Art. 182(4) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **222(1)(a)(2)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F554 Words in Art. 182(4) substituted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 47**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F555 Word in Art. 182(4)(b) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **225(1)**(2)(3)(i) (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F556 Words in Art. 182(4) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **222(1)(b)** (with savings in S.I. 2019/680, **reg. 11**); 2020 c. 1, **Sch. 5 para. 1(1)**

Article 183

Requirements for assessing the effect of guarantees and credit derivatives for exposures to corporates, institutions and central governments and central banks where own estimates of LGD are used and for retail exposures

1 The following requirements shall apply in relation to eligible guarantors and guarantees:

- a institutions shall have clearly specified criteria for the types of guarantors they recognise for the calculation of risk-weighted exposure amounts;
- b for recognised guarantors the same rules as for obligors as set out in Articles 171, 172 and 173 shall apply;
- c the guarantee shall be evidenced in writing, non-cancellable on the part of the guarantor, in force until the obligation is satisfied in full (to the extent of the amount and tenor of the guarantee) and legally enforceable against the guarantor in a jurisdiction where the guarantor has assets to attach and enforce a judgement. Conditional guarantees prescribing conditions under which the guarantor may not be obliged to perform may be recognised subject to permission of the competent authorities. The assignment criteria shall adequately address any potential reduction in the risk mitigation effect.

2 An institution shall have clearly specified criteria for adjusting grades, pools or LGD estimates, and, in the case of retail and eligible purchased receivables, the process of allocating exposures to grades or pools, to reflect the impact of guarantees for the calculation of risk-weighted exposure amounts. These criteria shall comply with the requirements set out in Articles 171, 172 and 173.

The criteria shall be plausible and intuitive. They shall address the guarantor's ability and willingness to perform under the guarantee, the likely timing of any payments from the guarantor, the degree to which the guarantor's ability to perform under the guarantee is correlated with the obligor's ability to repay, and the extent to which residual risk to the obligor remains.

3 The requirements for guarantees in this Article shall apply also for single-name credit derivatives. In relation to a mismatch between the underlying obligation and the reference obligation of the credit derivative or the obligation used for determining whether a credit event has occurred, the requirements set out under Article 216(2) shall apply. For retail exposures and eligible purchased receivables, this paragraph applies to the process of allocating exposures to grades or pools.

The criteria shall address the payout structure of the credit derivative and conservatively assess the impact this has on the level and timing of recoveries. The institution shall consider the extent to which other forms of residual risk remain.

4 The requirements set out in paragraphs 1 to 3 shall not apply for guarantees provided by institutions, central governments and central banks, and corporate entities which meet the requirements laid down in Article 201(1)(g) if the institution has received permission to apply the Standardised Approach for exposures to such entities pursuant to Articles 148 and 150. In this case the requirements of Chapter 4 shall apply.

5 For retail guarantees, the requirements set out in paragraphs 1, 2 and 3 shall also apply to the assignment of exposures to grades or pools, and the estimation of PD.

6 [F557The [F558PRA may] make technical standards] to specify the conditions according to which [F559it] may permit conditional guarantees to be recognised.

F560 ...

Textual Amendments

F557 Words in Art. 183(6) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **222(1)(a)(2)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F558 Words in Art. 183(6) substituted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 47**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F559 Word in Art. 183(6) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **225(1)**(2)(3)(j) (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F560 Words in Art. 183(6) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **222(1)(b)** (with savings in S.I. 2019/680, **reg. 11**); 2020 c. 1, **Sch. 5 para. 1(1)**

Article 184

Requirements for purchased receivables

1 In quantifying the risk parameters to be associated with rating grades or pools for purchased receivables, institutions shall ensure the conditions laid down in paragraphs 2 to 6 are met.

2 The structure of the facility shall ensure that under all foreseeable circumstances the institution has effective ownership and control of all cash remittances from the receivables. When the obligor makes payments directly to a seller or servicer, the institution shall verify regularly that payments are forwarded completely and within the contractually agreed terms. Institutions shall have procedures to ensure that ownership over the receivables and cash receipts is protected against bankruptcy stays or legal challenges that could materially delay the lender's ability to liquidate or assign the receivables or retain control over cash receipts.

3 The institution shall monitor both the quality of the purchased receivables and the financial condition of the seller and servicer. The following shall apply:

a the institution shall assess the correlation among the quality of the purchased receivables and the financial condition of both the seller and servicer, and have in place internal policies and procedures that provide adequate safeguards to protect against any contingencies, including the assignment of an internal risk rating for each seller and servicer;

b the institution shall have clear and effective policies and procedures for determining seller and servicer eligibility. The institution or its agent shall conduct periodic reviews of sellers and servicers in order to verify the accuracy of reports from the seller or servicer, detect fraud or operational weaknesses, and verify the quality of the seller's credit policies and servicer's collection policies and procedures. The findings of these reviews shall be documented;

c the institution shall assess the characteristics of the purchased receivables pools, including over-advances; history of the seller's arrears, bad debts, and bad debt allowances; payment terms, and potential contra accounts;

d the institution shall have effective policies and procedures for monitoring on an aggregate basis single-obligor concentrations both within and across purchased receivables pools;

e the institution shall ensure that it receives from the servicer timely and sufficiently detailed reports of receivables ageings and dilutions to ensure compliance with the institution's eligibility criteria and advancing policies governing purchased receivables, and provide an effective means with which to monitor and confirm the seller's terms of sale and dilution.

4 The institution shall have systems and procedures for detecting deteriorations in the seller's financial condition and purchased receivables quality at an early stage, and for addressing emerging problems pro-actively. In particular, the institution shall have clear and effective policies, procedures, and information systems to monitor covenant violations, and clear and effective policies and procedures for initiating legal actions and dealing with problem purchased receivables.

5 The institution shall have clear and effective policies and procedures governing the control of purchased receivables, credit, and cash. In particular, written internal policies shall specify all material elements of the receivables purchase programme, including the advancing rates, eligible collateral, necessary documentation, concentration limits, and the way cash receipts are to be handled. These elements shall take appropriate account of all relevant and material factors, including the seller and servicer's financial condition, risk concentrations, and trends in the quality of the purchased receivables and the seller's customer base, and internal systems shall ensure that funds are advanced only against specified supporting collateral and documentation.

6 The institution shall have an effective internal process for assessing compliance with all internal policies and procedures. The process shall include regular audits of all critical phases of the institution's receivables purchase programme, verification of the separation of duties between firstly the assessment of the seller and servicer and the assessment of the obligor and secondly between the assessment of the seller and servicer and the field audit of the seller and servicer, and evaluations of back office operations, with particular focus on qualifications, experience, staffing levels, and supporting automation systems.

Sub-Section 3

Validation of internal estimates

Article 185

Validation of internal estimates

Institutions shall validate their internal estimates subject to the following requirements:

(a) institutions shall have robust systems in place to validate the accuracy and consistency of rating systems, processes, and the estimation of all relevant risk parameters. The internal validation process shall enable the institution to assess the performance of internal rating and risk estimation systems consistently and meaningfully;

(b) institutions shall regularly compare realised default rates with estimated PDs for each grade and, where realised default rates are outside the expected range for that grade, institutions shall specifically analyse the reasons for the deviation. Institutions using own estimates of LGDs and conversion factors shall also perform analogous analysis for these estimates. Such comparisons shall make use of historical data that cover as long a period as possible. The institution shall document the methods and data used in such comparisons. This analysis and documentation shall be updated at least annually;

(c) institutions shall also use other quantitative validation tools and comparisons with relevant external data sources. The analysis shall be based on data that are appropriate to the portfolio, are updated regularly, and cover a relevant observation period. Institutions' internal assessments of the performance of their rating systems shall be based on as long a period as possible;

(d) the methods and data used for quantitative validation shall be consistent through time. Changes in estimation and validation methods and data (both data sources and periods covered) shall be documented;

(e) institutions shall have sound internal standards for situations where deviations in realised PDs, LGDs, conversion factors and total losses, where EL is used, from expectations, become significant enough to call the validity of the estimates into question. These standards shall take account of business cycles and similar systematic variability in default experience. Where realised values continue to be higher than expected values, institutions shall revise estimates upward to reflect their default and loss experience;

Sub-Section 4

Requirements for equity exposures under the internal models approach

Article 186

Own funds requirement and risk quantification

For the purpose of calculating own funds requirements institutions shall meet the following standards:

(a) the estimate of potential loss shall be robust to adverse market movements relevant to the long-term risk profile of the institution's specific holdings. The data used to represent return distributions shall reflect the longest sample period for which data is available and meaningful in representing the risk profile of the institution's specific equity exposures. The data used shall be sufficient to provide conservative, statistically reliable and robust loss estimates that are not based purely on subjective or judgmental considerations. The shock employed shall provide a conservative estimate of potential losses over a relevant long-term market or business cycle. The institution shall combine empirical analysis of available data with adjustments based on a variety of factors in order to attain model outputs that achieve appropriate realism and conservatism. In constructing value at risk (VaR) models estimating potential quarterly losses, institutions may use quarterly data or convert shorter horizon period data to a quarterly equivalent using an analytically appropriate method supported by empirical evidence and through a well-developed and documented thought process and analysis. Such an approach shall be applied conservatively and consistently over time. Where only limited relevant data is available the institution shall add appropriate margins of conservatism;

(b) the models used shall capture adequately all of the material risks embodied in equity returns including both the general market risk and specific risk exposure of the institution's equity portfolio. The internal models shall adequately explain historical price variation, capture both the magnitude and changes in the composition of potential concentrations, and be robust to adverse market environments. The population of risk exposures represented in the data used for estimation shall be closely matched to or at least comparable with those of the institution's equity exposures;

(c) the internal model shall be appropriate for the risk profile and complexity of an institution's equity portfolio. Where an institution has material holdings with values that are highly non-linear in nature the internal models shall be designed to capture appropriately the risks associated with such instruments;

(d) mapping of individual positions to proxies, market indices, and risk factors shall be plausible, intuitive, and conceptually sound;

(e) institutions shall demonstrate through empirical analyses the appropriateness of risk factors, including their ability to cover both general and specific risk;

(f) the estimates of the return volatility of equity exposures shall incorporate relevant and available data, information, and methods. Independently reviewed internal data or data from external sources including pooled data shall be used;

(g) a rigorous and comprehensive stress-testing programme shall be in place.

Article 187

Risk management process and controls

With regard to the development and use of internal models for own funds requirement purposes, institutions shall establish policies, procedures, and controls to ensure the integrity of the model and modelling process. These policies, procedures, and controls shall include the following:

(a) full integration of the internal model into the overall management information systems of the institution and in the management of the non-trading book equity portfolio. Internal models shall be fully integrated into the institution's risk management infrastructure if they are particularly used in measuring and assessing equity portfolio performance including the risk-adjusted performance, allocating economic capital to equity exposures and evaluating overall capital adequacy and the investment management process;

(b) established management systems, procedures, and control functions for ensuring the periodic and independent review of all elements of the internal modelling process, including approval of model revisions, vetting of model inputs, and review of model results, such as direct verification of risk computations. These reviews shall assess the accuracy, completeness, and appropriateness of model inputs and results and focus on both finding and limiting potential errors associated with known weaknesses and identifying unknown model weaknesses. Such reviews may be conducted by an internal independent unit, or by an independent external third party;

(c) adequate systems and procedures for monitoring investment limits and the risk exposures of equity exposures;

(d) the units responsible for the design and application of the model shall be functionally independent from the units responsible for managing individual investments;

(e) parties responsible for any aspect of the modelling process shall be adequately qualified. Management shall allocate sufficient skilled and competent resources to the modelling function.

Article 188

Validation and documentation

Institutions shall have robust systems in place to validate the accuracy and consistency of their internal models and modelling processes. All material elements of the internal models and the modelling process and validation shall be documented.

The validation and documentation of institutions' internal models and modelling processes shall be subject to the following requirements:

(a) institutions shall use the internal validation process to assess the performance of its internal models and processes in a consistent and meaningful way;

(b) the methods and data used for quantitative validation shall be consistent over time. Changes in estimation and validation methods and changes to data sources and periods covered, shall be documented;

(c) institutions shall regularly compare actual equity returns computed using realised and unrealised gains and losses with modelled estimates. Such comparisons shall make use of historical data that cover as long a period as possible. The institution shall document the methods and data used in such comparisons. This analysis and documentation shall be updated at least annually;

(d) institutions shall make use of other quantitative validation tools and comparisons with external data sources. The analysis shall be based on data that are appropriate to the portfolio, are updated regularly, and cover a relevant observation period. Institutions' internal assessments of the performance of their models shall be based on as long a period as possible;

(e) institutions shall have sound internal standards for addressing situations where comparison of actual equity returns with the models estimates calls the validity of the estimates or of the models as such into question. These standards shall take account of business cycles and similar systematic variability in equity returns. All adjustments made to internal models in response to model reviews shall be documented and consistent with the institution's model review standards;

(f) the internal model and the modelling process shall be documented, including the responsibilities of parties involved in the modelling, and the model approval and model review processes.

Sub-Section 5

Internal governance and oversight

Article 189

Corporate Governance

1 All material aspects of the rating and estimation processes shall be approved by the institution's management body or a designated committee thereof and senior management. These parties shall possess a general understanding of the rating systems of the institution and detailed comprehension of its associated management reports.

2 Senior management shall be subject to the following requirements:

- a they shall provide notice to the management body or a designated committee thereof of material changes or exceptions from established policies that will materially impact the operations of the institution's rating systems;
- b they shall have a good understanding of the rating systems designs and operations;
- c they shall ensure, on an ongoing basis that the rating systems are operating properly.

Senior management shall be regularly informed by the credit risk control units about the performance of the rating process, areas needing improvement, and the status of efforts to improve previously identified deficiencies.

3 Internal ratings-based analysis of the institution's credit risk profile shall be an essential part of the management reporting to these parties. Reporting shall include at least risk profile by grade, migration across grades, estimation of the relevant parameters per grade, and comparison of realised default rates, and to the extent that own estimates are used of realised LGDs and realised conversion factors against expectations and stress-test results. Reporting frequencies shall depend on the significance and type of information and the level of the recipient.

Article 190

Credit risk control

1 The credit risk control unit shall be independent from the personnel and management functions responsible for originating or renewing exposures and report directly to senior management. The unit shall be responsible for the design or selection, implementation, oversight and performance of the rating systems. It shall regularly produce and analyse reports on the output of the rating systems.

2 The areas of responsibility for the credit risk control unit or units shall include:

a testing and monitoring grades and pools;
b production and analysis of summary reports of the institution's rating systems;
c implementing procedures to verify that grade and pool definitions are consistently applied across departments and geographic areas;
d reviewing and documenting any changes to the rating process, including the reasons for the changes;
e reviewing the rating criteria to evaluate if they remain predictive of risk. Changes to the rating process, criteria or individual rating parameters shall be documented and retained;
f active participation in the design or selection, implementation and validation of models used in the rating process;
g oversight and supervision of models used in the rating process;
h ongoing review and alterations to models used in the rating process.

3 Institutions using pooled data in accordance with Article 179(2) may outsource the following tasks:

a production of information relevant to testing and monitoring grades and pools;
b production of summary reports of the institution's rating systems;
c production of information relevant to a review of the rating criteria to evaluate if they remain predictive of risk;
d documentation of changes to the rating process, criteria or individual rating parameters;
e production of information relevant to ongoing review and alterations to models used in the rating process.

4 Institutions making use of paragraph 3 shall ensure that the competent authorities have access to all relevant information from the third party that is necessary for examining compliance with the requirements and that the competent authorities may perform on-site examinations to the same extent as within the institution.

Article 191

Internal Audit

Internal audit or another comparable independent auditing unit shall review at least annually the institution's rating systems and its operations, including the operations of the credit function and the estimation of PDs, LGDs, ELs and conversion factors. Areas of review shall include adherence to all applicable requirements.

CHAPTER 4

Credit risk mitigation

Section 1

Definitions and general requirements

Article 192

Definitions

[[F561]1.**]** For the purposes of this Chapter, the following definitions shall apply:

(1) ‘ lending institution ’ means the institution which has the exposure in question;

(2) ‘ secured lending transaction ’ means any transaction giving rise to an exposure secured by collateral which does not include a provision conferring upon the institution the right to receive margin at least daily;

(3) ‘ capital market-driven transaction ’ means any transaction giving rise to an exposure secured by collateral which includes a provision conferring upon the institution the right to receive margin at least daily;

(4) ‘ underlying CIU ’ means a CIU in the shares or units of which another CIU has invested.

[[F562]2. For the purposes of this Chapter, references to “institutions” as issuers or eligible credit providers shall also include undertakings established in third countries which would fall within the definition in Article 4 of this Regulation, if they were established in the United Kingdom.**]**

Textual Amendments

F561 Words in Art. 192 renumbered as Art. 192(1) (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **135(a)** (with savings in S.I. 2019/680, **reg. 11**); 2020 c. 1, **Sch. 5 para. 1(1)**

F562 Art. 192(2) inserted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **135(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 193

Principles for recognising the effect of credit risk mitigation techniques

1 No exposure in respect of which an institution obtains credit risk mitigation shall produce a higher risk-weighted exposure amount or expected loss amount than an otherwise identical exposure in respect of which an institution has no credit risk mitigation.

2 Where the risk-weighted exposure amount already takes account of credit protection under Chapter 2 or Chapter 3, as applicable, institutions shall not take into account that credit protection in the calculations under this Chapter.

3 Where the provisions in Sections 2 and 3 are met, institutions may amend the calculation of risk-weighted exposure amounts under the Standardised Approach and the calculation of risk-weighted exposure amounts and expected loss amounts under the IRB Approach in accordance with the provisions of Sections 4, 5 and 6.

4 Institutions shall treat cash, securities or commodities purchased, borrowed or received under a repurchase transaction or securities or commodities lending or borrowing transaction as collateral.

5 Where an institution calculating risk-weighted exposure amounts under the Standardised Approach has more than one form of credit risk mitigation covering a single exposure it shall do both of the following:

a subdivide the exposure into parts covered by each type of credit risk mitigation tool;

b calculate the risk-weighted exposure amount for each part obtained in point (a) separately in accordance with the provisions of Chapter 2 [[F563]of this Regulation and Articles 132a to 132c of Chapter 3 of the Standardised Approach and Internal Ratings Based Approach to Credit Risk (CRR) Part of the PRA Rulebook] and this Chapter.

6 When an institution calculating risk-weighted exposure amounts under the Standardised Approach covers a single exposure with credit protection provided by a single protection provider and that protection has differing maturities, it shall do both of the following:

a subdivide the exposure into parts covered by each credit risk mitigation tool;

b calculate the risk-weighted exposure amount for each part obtained in point (a) separately in accordance with the provisions of Chapter 2 [[F564]of this Regulation and Articles 132a to 132c of Chapter 3 of the Standardised Approach and Internal Ratings Based Approach to Credit Risk (CRR) Part of the PRA Rulebook] and this Chapter.

Textual Amendments

F563 Words in Art. 193(5)(b) inserted (1.1.2022) by The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/1376), regs. 1(3), **25(22)**

F564 Words in Art. 193(6)(b) inserted (1.1.2022) by The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/1376), regs. 1(3), **25(22)**

Article 194

Principles governing the eligibility of credit risk mitigation techniques

1 The technique used to provide the credit protection together with the actions and steps taken and procedures and policies implemented by the lending institution shall be such as to result in credit protection arrangements which are legally effective and enforceable in all relevant jurisdictions.

The lending institution shall provide, upon request of the competent authority, the most recent version of the independent, written and reasoned legal opinion or opinions that it used to establish whether its credit protection arrangement or arrangements meet the condition laid down in the first subparagraph.

2 The lending institution shall take all appropriate steps to ensure the effectiveness of the credit protection arrangement and to address the risks related to that arrangement.

3 Institutions may recognise funded credit protection in the calculation of the effect of credit risk mitigation only where the assets relied upon for protection meet both of the following conditions:

a they are included in the list of eligible assets set out in Articles 197 to 200, as applicable;

b they are sufficiently liquid and their value over time sufficiently stable to provide appropriate certainty as to the credit protection achieved having regard to the approach used to calculate risk-weighted exposure amounts and to the degree of recognition allowed.

4 Institutions may recognise funded credit protection in the calculation of the effect of credit risk mitigation only where the lending institution has the right to liquidate or retain, in a timely manner, the assets from which the protection derives in the event of the default, insolvency or bankruptcy — or other credit event set out in the transaction documentation — of the obligor and, where applicable, of the custodian holding the collateral. The degree of correlation between the value of the assets relied upon for protection and the credit quality of the obligor shall not be too high.

5 In the case of unfunded credit protection, a protection provider shall qualify as an eligible protection provider only where the protection provider is included in the list of eligible protection providers set out in Article 201 or 202, as applicable.

6 In the case of unfunded credit protection, a protection agreement shall qualify as an eligible protection agreement only where it meets both the following conditions:

a it is included in the list of eligible protection agreements set out in Articles 203 and 204(1);

b it is legally effective and enforceable in the relevant jurisdictions, to provide appropriate certainty as to the credit protection achieved having regard to the approach used to calculate risk-weighted exposure amounts and to the degree of recognition allowed;

c the protection provider meets the criteria laid down in paragraph 5.

7 Credit protection shall comply with the requirements set out in Section 3, as applicable.

8 An institution shall be able to demonstrate to competent authorities that it has adequate risk management processes to control those risks to which it may be exposed as a result of carrying out credit risk mitigation practices.

9 Notwithstanding the fact that credit risk mitigation has been taken into account for the purposes of calculating risk-weighted exposure amounts and, where applicable, expected loss amounts, institutions shall continue to undertake a full credit risk assessment of the underlying exposure and be in a position to demonstrate the fulfilment of this requirement to the competent authorities. In the case of repurchase transactions and securities lending or commodities lending or borrowing transactions the underlying exposure shall, for the purposes of this paragraph only, be deemed to be the net amount of the exposure.

10 [[F565]The [[F566]PRA may] make technical standards] to specify what constitutes sufficiently liquid assets and when asset values can be considered as sufficiently stable for the purpose of paragraph 3.

[F567]
...

Textual Amendments

F565 Words in Art. 194(10) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **222(1)(a)(2)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F566 Words in Art. 194(10) substituted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 47**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F567 Words in Art. 194(10) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **222(1)(b)** (with savings in S.I. 2019/680, **reg. 11**); 2020 c. 1, **Sch. 5 para. 1(1)**

Section 2

Eligible forms of credit risk mitigation

Sub-Section 1

Funded credit protection

Article 195

On-balance sheet netting

An institution may use on-balance sheet netting of mutual claims between itself and its counterparty as an eligible form of credit risk mitigation.

Without prejudice to Article 196, eligibility is limited to reciprocal cash balances between the institution and the counterparty. Institutions may amend risk-weighted exposure amounts and, as relevant, expected loss amounts only for loans and deposits that they have received themselves and that are subject to an on-balance sheet netting agreement.

Article 196

Master netting agreements covering repurchase transactions or securities or commodities lending or borrowing transactions or other capital market-driven transactions

Institutions adopting the Financial Collateral Comprehensive Method set out in Article 223 may take into account the effects of bilateral netting contracts covering repurchase transactions, securities or commodities lending or borrowing transactions, or other capital market-driven transactions with a counterparty. Without prejudice to Article 299, the collateral taken and securities or commodities borrowed within such agreements or transactions shall comply with the eligibility requirements for collateral set out in Articles 197 and 198.

Article 197

Eligibility of collateral under all approaches and methods

1 Institutions may use the following items as eligible collateral under all approaches and methods:

a cash on deposit with, or cash assimilated instruments held by, the lending institution;

b debt securities issued by central governments or central banks, which securities have a credit assessment by an ECAI or export credit agency recognised as eligible for the purposes of Chapter 2 which has been determined by [F568 the competent authority] to be associated with credit quality step 4 or above under the rules for the risk weighting of exposures to central governments and central banks under Chapter 2;

c debt securities issued by institutions [F569 or investment firms], which securities have a credit assessment by an ECAI which has been determined by [F568 the competent authority] to be associated with credit quality step 3 or above under the rules for the risk weighting of exposures to institutions under Chapter 2;

d debt securities issued by other entities which securities have a credit assessment by an ECAI which has been determined by [F568 the competent authority] to be associated with credit quality step 3 or above under the rules for the risk weighting of exposures to corporates under Chapter 2;

e debt securities with a short-term credit assessment by an ECAI which has been determined by [F568 the competent authority] to be associated with credit quality step 3 or above under the rules for the risk weighting of short term exposures under Chapter 2;

f equities or convertible bonds that are included in a main index;

g gold;

[F74 h securitisation positions that are not resecuritisation positions and which are subject to a 100 % risk weight or lower in accordance with Article 261 to Article 264.]

2 For the purposes of point (b) of paragraph 1, ' debt securities issued by central governments or central banks ' shall include all the following:

a debt securities issued by regional governments or local authorities, exposures to which are treated as exposures to the central government in whose jurisdiction they are established under Article 115(2);

b debt securities issued by public sector entities which are treated as exposures to central governments in accordance with Article 116(4);

c debt securities issued by multilateral development banks to which a 0 % risk weight is assigned under Article 117(2);

d debt securities issued by international organisations which are assigned a 0 % risk weight under Article 118.

3 For the purposes of point (c) of paragraph 1, ' debt securities issued by institutions ' shall include all the following:

a debt securities issued by regional governments or local authorities other than those debt securities referred to in point (a) of paragraph 2;

b debt securities issued by public sector entities, exposures to which are treated in accordance with Article 116(1) and (2);

c debt securities issued by multilateral development banks other than those to which a 0 % risk weight is assigned under Article 117(2).

4 An institution may use debt securities that are issued by other institutions [F570 or investment firms] and that do not have a credit assessment by an ECAI as eligible collateral where those debt securities fulfil all the following criteria:

- a they are listed on a recognised exchange;
- b they qualify as senior debt;
- c all other rated issues by the issuing institution of the same seniority have a credit assessment by an ECAI which has been determined by [F571 the competent authority] to be associated with credit quality step 3 or above under the rules for the risk weighting of exposures to institutions or short term exposures under Chapter 2;
- d the lending institution has no information to suggest that the issue would justify a credit assessment below that indicated in point (c);
- e the market liquidity of the instrument is sufficient for these purposes.

5 Institutions may use units or shares in CIUs as eligible collateral where all the following conditions are satisfied:

- a the units or shares have a daily public price quote;
- b the CIUs are limited to investing in instruments that are eligible for recognition under paragraphs 1 and 4;
- c the CIUs meet the conditions laid down in Article 132(3).

Where a CIU invests in shares or units of another CIU, conditions laid down in points (a) to (c) of the first subparagraph shall apply equally to any such underlying CIU.

The use by a CIU of derivative instruments to hedge permitted investments shall not prevent units or shares in that undertaking from being eligible as collateral.

6 For the purposes of paragraph 5, where a CIU (‘ the original CIU ’) or any of its underlying CIUs are not limited to investing in instruments that are eligible under paragraphs 1 and 4, institutions may use units or shares in that CIU as collateral to an amount equal to the value of the eligible assets held by that CIU under the assumption that that CIU or any of its underlying CIUs have invested in non-eligible assets to the maximum extent allowed under their respective mandates.

Where any underlying CIU has underlying CIUs of its own, institutions may use units or shares in the original CIU as eligible collateral provided that they apply the methodology laid down in the first subparagraph.

Where non-eligible assets can have a negative value due to liabilities or contingent liabilities resulting from ownership, institutions shall do both of the following:

- a calculate the total value of the non-eligible assets;
- b where the amount obtained under point (a) is negative, subtract the absolute value of that amount from the total value of the eligible assets.

7 With regard to points (b) to (e) of paragraph 1, where a security has two credit assessments by ECAIs, institutions shall apply the less favourable assessment. Where a security has more than two credit assessments by ECAIs, institutions shall apply the two most favourable assessments. Where the two most favourable credit assessments are different, institutions shall apply the less favourable of the two.

8 [F572 The [F573 PRA may] make technical standards] to specify the following:

- a the main indices referred to in point (f) of paragraph 1 of this Article, in point (a) of Article 198(1), in Article 224(1) and (4), and in point (e) of Article 299(2);

b the recognised exchanges referred to in point (a) of paragraph 4 of this Article, in point (a) of Article 198(1), in Article 224(1) and (4), in point (e) of Article 299(2), [F574]... in point (c) of Article 428(1), and in point 12 of Annex III in accordance with the conditions laid down in point (72) of Article 4(1).

[F575]...

Textual Amendments

F74 Substituted by Regulation (EU) 2017/2401 of the European Parliament and of the Council of 12 December 2017 amending Regulation (EU) No 575/2013 on prudential requirements for credit institutions and investment firms.

F568 Words in Art. 197(1) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **136** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F569 Words in Art. 197(1)(c) inserted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 26(2)**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F570 Words in Art. 197(4) inserted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 26(3)**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F571 Words in Art. 197(4) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **136** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F572 Words in Art. 197(8) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **224(6)(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F573 Words in Art. 197(8) substituted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 47**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F574 Words in Art. 197(8)(b) omitted (1.1.2022) by virtue of The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/1376), regs. 1(3), **25(23)**

F575 Words in Art. 197(8) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **224(6)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 198

Additional eligibility of collateral under the Financial Collateral Comprehensive Method

1 In addition to the collateral established in Article 197, where an institution uses the Financial Collateral Comprehensive Method set out in Article 223, that institution may use the following items as eligible collateral:

a equities or convertible bonds not included in a main index but traded on a recognised exchange;

b units or shares in CIUs where both the following conditions are met:

(i) the units or shares have a daily public price quote;

(ii) the CIU is limited to investing in instruments that are eligible for recognition under Article 197(1) and (4) and the items mentioned in point (a) of this subparagraph.

In the case a CIU invests in units or shares of another CIU, conditions (a) and (b) of this paragraph equally apply to any such underlying CIU.

The use by a CIU of derivative instruments to hedge permitted investments shall not prevent units or shares in that undertaking from being eligible as collateral.

2 Where the CIU or any underlying CIU are not limited to investing in instruments that are eligible for recognition under Article 197(1) and (4) and the items mentioned in point (a) of paragraph 1 of this Article, institutions may use units or shares in that CIU as collateral to an amount equal to the value of the eligible assets held by that CIU under the assumption that that CIU or any of its underlying CIUs have invested in non-eligible assets to the maximum extent allowed under their respective mandates.

Where non-eligible assets can have a negative value due to liabilities or contingent liabilities resulting from ownership, institutions shall do both of the following:

a calculate the total value of the non-eligible assets;

b where the amount obtained under point (a) is negative, subtract the absolute value of that amount from the total value of the eligible assets.

Article 199

Additional eligibility for collateral under the IRB Approach

1 In addition to the collateral referred to in Articles 197 and 198, institutions that calculate risk-weighted exposure amounts and expected loss amounts under the IRB Approach may also use the following forms of collateral:

a immovable property collateral in accordance with paragraphs 2, 3 and 4;

b receivables in accordance with paragraph 5;

c other physical collateral in accordance with paragraphs 6 and 8;

d leasing in accordance with paragraph 7.

2 Unless otherwise specified under Article 124(2), institutions may use as eligible collateral residential property which is or will be occupied or let by the owner, or the beneficial owner in the case of personal investment companies, and commercial immovable property, including offices and other commercial premises, where both the following conditions are met:

a the value of the property does not materially depend upon the credit quality of the obligor. Institutions may exclude situations where purely macro-economic factors affect both the value of the property and the performance of the borrower from their determination of the materiality of such dependence;

b the risk of the borrower does not materially depend upon the performance of the underlying property or project, but on the underlying capacity of the borrower to repay the debt from other sources, and as a consequence the repayment of the facility does not materially depend on any cash flow generated by the underlying property serving as collateral.

3 Institutions may derogate from point (b) of paragraph 2 for exposures secured by residential property situated within the territory of [F576the United Kingdom], where the competent authority F577... has published evidence showing that a well-developed and long-established residential property market is present in that territory with loss rates that do not exceed any of the following limits:

[X2(a) losses stemming from loans collateralised by residential property up to 80 % of the market value or 80 % of the mortgage lending value, unless] otherwise provided under

Article 124(2), do not exceed 0,3 % of the outstanding loans collateralised by residential property in any given year;

b overall losses stemming from loans collateralised by residential property do not exceed 0,5 % of the outstanding loans collateralised by residential property in any given year.

Where either of the conditions in points (a) and (b) of the first subparagraph is not met in a given year, institutions shall not use the treatment set out in that subparagraph until both conditions are satisfied in a subsequent year.

4 Institutions may derogate from point (b) of paragraph 2 for commercial immovable property situated within the territory of [F578the United Kingdom], where the competent authority F579... has published evidence showing that a well-developed and long-established commercial immovable property market is present in that territory with loss rates that do not exceed any of the following limits:

[X2(a) losses stemming from loans collateralised by commercial immovable property up to 50 % of the market value or 60 % of the mortgage lending value do not exceed] 0,3 % of the outstanding loans collateralised by commercial immovable property in any given year;

b overall losses stemming from loans collateralised by commercial immovable property do not exceed 0,5 % of the outstanding loans collateralised by commercial immovable property in any given year.

Where either of the conditions in points (a) and (b) of the first subparagraph is not met in a given year, institutions shall not use the treatment set out in that subparagraph until both conditions are satisfied in a subsequent year.

5 Institutions may use as eligible collateral amounts receivable linked to a commercial transaction or transactions with an original maturity of less than or equal to one year. Eligible receivables do not include those associated with securitisations, sub-participations or credit derivatives or amounts owed by affiliated parties.

6 Competent authorities shall permit an institution to use as eligible collateral physical collateral of a type other than those indicated in paragraphs 2, 3 and 4 where all the following conditions are met:

a there are liquid markets, evidenced by frequent transactions taking into account the asset type, for the disposal of the collateral in an expeditious and economically efficient manner. Institutions shall carry out the assessment of this condition periodically and where information indicates material changes in the market;

b there are well-established, publicly available market prices for the collateral. Institutions may consider market prices as well-established where they come from reliable sources of information such as public indices and reflect the price of the transactions under normal conditions. Institutions may consider market prices as publicly available, where these prices are disclosed, easily accessible, and obtainable regularly and without any undue administrative or financial burden;

c the institution analyses the market prices, time and costs required to realise the collateral and the realised proceeds from the collateral;

d the institution demonstrates that the realised proceeds from the collateral are not below 70 % of the collateral value in more than 10 % of all liquidations for a given type of collateral. Where there is material volatility in the market prices, the institution demonstrates to the satisfaction of the competent authorities that its valuation of the collateral is sufficiently conservative.

Institutions shall document the fulfilment of the conditions specified in points (a) to (d) of the first subparagraph and those specified in Article 210.

7 Subject to the provisions of Article 230(2), where the requirements set out in Article 211 are met, exposures arising from transactions whereby an institution leases property to a third party may be treated in the same manner as loans collateralised by the type of property leased.

8 [F580The PRA F581...] shall disclose a list of types of physical collateral for which institutions can assume that the conditions referred to in points (a) and (b) of paragraph 6 are met.

Editorial Information

X2 Substituted by Corrigendum to 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 (Official Journal of the European Union L 176 of 27 June 2013) (Corrected version in Official Journal of the European Union L 321 of 30 November 2013).

Textual Amendments

F576 Words in Art. 199(3) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **137(2)(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F577 Words in Art. 199(3) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **137(2)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F578 Words in Art. 199(4) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **137(3)(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F579 Words in Art. 199(4) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **137(3)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F580 Words in Art. 199(8) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **137(4)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F581 Words in Art. 199(8) omitted (1.1.2022) by virtue of Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 27**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

Article 200

Other funded credit protection

Institutions may use the following other funded credit protection as eligible collateral:

(a) cash on deposit with, or cash assimilated instruments held by, a third party institution in a non-custodial arrangement and pledged to the lending institution;

(b) life insurance policies pledged to the lending institution;

(c) [F582instruments issued by a third party institution, or an investment firm, which will be repurchased by that institution, or that investment firm, on request.]

Textual Amendments

F582 Art. 200(c) substituted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 28**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

Sub-Section 2

Unfunded credit protection

Article 201

Eligibility of protection providers under all approaches

1 Institutions may use the following parties as eligible providers of unfunded credit protection:

- a central governments and central banks;
- b regional governments or local authorities;
- c multilateral development banks;
- d international organisations exposures to which a 0 % risk weight under Article 117 is assigned;
- e public sector entities, claims on which are treated in accordance with Article 116;
- f institutions, and financial institutions for which exposures to the financial institution are treated as exposures to institutions in accordance with Article 119(5);
- g other corporate entities, including parent undertakings, subsidiaries and affiliated corporate entities of the institution, where either of the following conditions is met:
  - (i) those other corporate entities have a credit assessment by an ECAI;
  - (ii) in the case of institutions calculating risk-weighted exposure amounts and expected loss amounts under the IRB Approach, those other corporate entities do not have a credit assessment by a recognised ECAI and are internally rated by the institution;
- h **[**[F583]qualifying central counterparties.**]**

2 Where institutions calculate risk-weighted exposure amounts and expected loss amounts under the IRB Approach, to be eligible as a provider of unfunded credit protection a guarantor shall be internally rated by the institution in accordance with the provisions of Section 6 of Chapter 3.

Competent authorities shall publish and maintain the list of those financial institutions that are eligible providers of unfunded credit protection under point (f) of paragraph 1, or the guiding criteria for identifying such eligible providers of unfunded credit protection, together with a description of the applicable prudential requirements [F584]...

Textual Amendments

F583 Art. 201(1)(h) substituted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 4 para. 6**; S.I. 2021/671, reg. 5(1)(c) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F584 Words in Art. 201(2) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **138** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 202

Eligibility of protection providers under the IRB Approach which qualify for the treatment set out in Article 153(3)

An institution may use institutions, [F585 investment firms,] insurance and reinsurance undertakings and export credit agencies as eligible providers of unfunded credit protection which qualify for the treatment set out in Article 153(3) where they meet all the following conditions:

(a) they have sufficient expertise in providing unfunded credit protection;

(b) they are regulated in a manner equivalent to the rules laid down in this Regulation, or had, at the time the credit protection was provided, a credit assessment by a recognised ECAI which had been determined by [F586 the competent authority] to be associated with credit quality step 3 or above in accordance with the rules for the risk weighting of exposures to corporates set out in Chapter 2;

(c) they had, at the time the credit protection was provided, or for any period of time thereafter, an internal rating with a PD equivalent to or lower than that associated with credit quality step 2 or above in accordance with the rules for the risk weighting of exposures to corporates set out in Chapter 2;

(d) they have an internal rating with a PD equivalent to or lower than that associated with credit quality step 3 or above in accordance with the rules for the risk weighting of exposures to corporates set out in Chapter 2.

For the purpose of this Article, credit protection provided by export credit agencies shall not benefit from any explicit central government counter-guarantee.

Textual Amendments

F585 Words in Art. 202 inserted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 29**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F586 Words in Art. 202(b) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **139** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 203

Eligibility of guarantees as unfunded credit protection

Institutions may use guarantees as eligible unfunded credit protection.

Sub-Section 3

Types of derivatives

Article 204

Eligible types of credit derivatives

1 Institutions may use the following types of credit derivatives, and instruments that may be composed of such credit derivatives or that are economically effectively similar, as eligible credit protection:

a credit default swaps;

b total return swaps;

c credit linked notes to the extent of their cash funding.

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 a credit derivative, in order for the credit protection 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.

Section 3

Requirements

Sub-Section 1

Funded credit protection

Article 205

Requirements for on-balance sheet netting agreements other than master netting agreements referred to in Article 206

On-balance sheet netting agreements other than master netting agreements referred to in Article 206 shall qualify as an eligible form of credit risk mitigation where all the following conditions are met:

(a) those agreements are legally effective and enforceable in all relevant jurisdictions, including in the event of the insolvency or bankruptcy of a counterparty;

(b) institutions are able to determine at any time the assets and liabilities that are subject to those agreements;

(c) institutions monitor and control the risks associated with the termination of the credit protection on an ongoing basis;

(d) institutions monitor and control the relevant exposures on a net basis and do so on an ongoing basis.

Article 206

Requirements for master netting agreements covering repurchase transactions or securities or commodities lending or borrowing transactions or other capital market driven transactions

Master netting agreements covering repurchase transactions, securities or commodities lending or borrowing transactions or other capital market driven transactions shall qualify as an eligible form of credit risk mitigation where the collateral provided under those agreements meets all the requirements laid down in Article 207(2) to (4) and where all the following conditions are met:

(a) they are legally effective and enforceable in all relevant jurisdictions, including in the event of the bankruptcy or insolvency of the counterparty;

(b) they give the non-defaulting party the right to terminate and close-out in a timely manner all transactions under the agreement upon the event of default, including in the event of the bankruptcy or insolvency of the counterparty;

(c) they provide for the netting of gains and losses on transactions closed out under an agreement so that a single net amount is owed by one party to the other.

Article 207

Requirements for financial collateral

1 Under all approaches and methods, financial collateral and gold shall qualify as eligible collateral where all the requirements laid down in paragraphs 2 to 4 are met.

2 The credit quality of the obligor and the value of the collateral shall not have a material positive correlation. Where the value of the collateral is reduced significantly, this shall not alone imply a significant deterioration of the credit quality of the obligor. Where the credit quality of the obligor becomes critical, this shall not alone imply a significant reduction in the value of the collateral.

Securities issued by the obligor, or any related group entity, shall not qualify as eligible collateral. This notwithstanding, the obligor's own issues of covered bonds falling within the terms of Article 129 qualify as eligible collateral when they are posted as collateral for a repurchase transaction, provided that they comply with the condition set out in the first subparagraph.

3 Institutions shall fulfil any contractual and statutory requirements in respect of, and take all steps necessary to ensure, the enforceability of the collateral arrangements under the law applicable to their interest in the collateral.

Institutions shall have conducted sufficient legal review confirming the enforceability of the collateral arrangements in all relevant jurisdictions. They shall re-conduct such review as necessary to ensure continuing enforceability.

4 Institutions shall fulfil all the following operational requirements:

a they shall properly document the collateral arrangements and have in place clear and robust procedures for the timely liquidation of collateral;

b they shall use robust procedures and processes to control risks arising from the use of collateral, including risks of failed or reduced credit protection, valuation risks, risks associated with the termination of the credit protection, concentration risk arising from the use of collateral and the interaction with the institution's overall risk profile;

c they shall have in place documented policies and practices concerning the types and amounts of collateral accepted;

d they shall calculate the market value of the collateral, and revalue it accordingly, at least once every six months and whenever they have reason to believe that a significant decrease in the market value of the collateral has occurred;

e where the collateral is held by a third party, they shall take reasonable steps to ensure that the third party segregates the collateral from its own assets;

f they shall ensure that they devote sufficient resources to the orderly operation of margin agreements with OTC derivatives and securities-financing counterparties, as measured by the timeliness and accuracy of their outgoing margin calls and response time to incoming margin calls;

g they shall have in place collateral management policies to control, monitor and report the following:

(i) the risks to which margin agreements expose them;

(ii) the concentration risk to particular types of collateral assets;

(iii) the reuse of collateral including the potential liquidity shortfalls resulting from the reuse of collateral received from counterparties;

(iv) the surrender of rights on collateral posted to counterparties.

5 In addition to meeting all the requirements set out in paragraphs 2 to 4, for financial collateral to qualify as eligible collateral under the Financial Collateral Simple Method the residual maturity of the protection shall be at least as long as the residual maturity of the exposure.

Article 208

Requirements for immovable property collateral

1 Immovable property shall qualify as eligible collateral only where all the requirements laid down in paragraphs 2 to 5 are met.

2 The following requirements on legal certainly shall be met:

a a mortgage or charge is enforceable in all jurisdictions which are relevant at the time of the conclusion of the credit agreement and shall be properly filed on a timely basis;

b all legal requirements for establishing the pledge have been fulfilled;

c the protection agreement and the legal process underpinning it enable the institution to realise the value of the protection within a reasonable timeframe.

3 The following requirements on monitoring of property values and on property valuation shall be met:

a institutions monitor the value of the property on a frequent basis and at a minimum once every year for commercial immovable property and once every three years for residential property. Institutions carry out more frequent monitoring where the market is subject to significant changes in conditions;

b the property valuation is reviewed when information available to institutions indicates that the value of the property may have declined materially relative to general market prices and that review is carried out by a valuer who possesses the necessary qualifications, ability and experience to execute a valuation and who is independent from the credit decision process. For loans exceeding EUR 3 million or 5 % of the own funds of an institution, the property valuation shall be reviewed by such valuer at least every three years.

Institutions may use statistical methods to monitor the value of the immovable property and to identify immovable property that needs revaluation.

4 Institutions shall clearly document the types of residential property and commercial immovable property they accept and their lending policies in this regard.

5 Institutions shall have in place procedures to monitor that the immovable property taken as credit protection is adequately insured against the risk of damage.

Article 209

Requirements for receivables

1 Receivables shall qualify as eligible collateral where all the requirements laid down in paragraphs 2 and 3 are met.

2 The following requirements on legal certainty shall be met:

a the legal mechanism by which the collateral is provided to a lending institution shall be robust and effective and ensure that that institution has clear rights over the collateral including the right to the proceeds from the sale of the collateral;

b institutions shall take all steps necessary to fulfil local requirements in respect of the enforceability of security interest. Lending institutions shall have a first priority claim over the collateral although such claims may still be subject to the claims of preferential creditors provided for in legislative provisions;

c institutions shall have conducted sufficient legal review confirming the enforceability of the collateral arrangements in all relevant jurisdictions;

d institutions shall properly document their collateral arrangements and shall have in place clear and robust procedures for the timely collection of collateral;

e institutions shall have in place procedures that ensure that any legal conditions required for declaring the default of a borrower and timely collection of collateral are observed;

f in the event of a borrower's financial distress or default, institutions shall have legal authority to sell or assign the receivables to other parties without consent of the receivables obligors.

3 The following requirements on risk management shall be met:

a an institution shall have in place a sound process for determining the credit risk associated with the receivables. Such a process shall include analyses of a borrower's business and industry and the types of customers with whom that borrower does business. Where the institution relies on its borrowers to ascertain the credit risk of the customers, the institution shall review the borrowers' credit practices to ascertain their soundness and credibility;

b the difference between the amount of the exposure and the value of the receivables shall reflect all appropriate factors, including the cost of collection, concentration within the receivables pool pledged by an individual borrower, and potential concentration risk within the institution's total exposures beyond that controlled by the institution's general methodology. Institutions shall maintain a continuous monitoring process appropriate to the receivables. They shall also review, on a regular basis, compliance with loan covenants, environmental restrictions, and other legal requirements;

c receivables pledged by a borrower shall be diversified and not be unduly correlated with that borrower. Where there is material positive correlation, institutions shall take into account the attendant risks in the setting of margins for the collateral pool as a whole;

d institutions shall not use receivables from affiliates of a borrower, including subsidiaries and employees, as eligible credit protection;

e institution shall have in place a documented process for collecting receivable payments in distressed situations. Institutions shall have in place the requisite facilities for collection even when they normally rely on their borrowers for collections.

Article 210

Requirements for other physical collateral

Physical collateral other than immovable property collateral shall qualify as eligible collateral under the IRB Approach where all the following conditions are met:

(a) the collateral arrangement under which the physical collateral is provided to an institution shall be legally effective and enforceable in all relevant jurisdictions and shall enable that institution to realise the value of the collateral within a reasonable timeframe;

(b) with the sole exception of permissible first priority claims referred to in Article 209(2)(b), only first liens on, or charges over, collateral shall qualify as eligible collateral and an institution shall have priority over all other lenders to the realised proceeds of the collateral;

(c) institutions shall monitor the value of the collateral on a frequent basis and at least once every year. Institutions shall carry out more frequent monitoring where the market is subject to significant changes in conditions;

(d) the loan agreement shall include detailed descriptions of the collateral as well as detailed specifications of the manner and frequency of revaluation;

(e) institutions shall clearly document in internal credit policies and procedures available for examination the types of physical collateral they accept and the policies and practices they have in place in respect of the appropriate amount of each type of collateral relative to the exposure amount;

(f) institutions' credit policies with regard to the transaction structure shall address the following:

(i) appropriate collateral requirements relative to the exposure amount;

(ii) the ability to liquidate the collateral readily;

(iii) the ability to establish objectively a price or market value;

(iv) the frequency with which the value can readily be obtained, including a professional appraisal or valuation;

(v) the volatility or a proxy of the volatility of the value of the collateral.

(g) when conducting valuation and revaluation, institutions shall take fully into account any deterioration or obsolescence of the collateral, paying particular attention to the effects of the passage of time on fashion- or date-sensitive collateral;

(h) institutions shall have the right to physically inspect the collateral. They shall also have in place policies and procedures addressing their exercise of the right to physical inspection;

(i) the collateral taken as protection shall be adequately insured against the risk of damage and institutions shall have in place procedures to monitor this.

Article 211

Requirements for treating lease exposures as collateralised

Institutions shall treat exposures arising from leasing transactions as collateralised by the type of property leased, where all the following conditions are met:

(a) the conditions set out in Article 208 or 210, as applicable, for the type of property leased to qualify as eligible collateral are met;

(b) the lessor has in place robust risk management with respect to the use to which the leased asset is put, its location, its age and the planned duration of its use, including appropriate monitoring of the value of the security;

(c) the lessor has legal ownership of the asset and is able to exercise its rights as owner in a timely fashion;

(d) where this has not already been ascertained in calculating the LGD level, the difference between the value of the unamortised amount and the market value of the security is not so large as to overstate the credit risk mitigation attributed to the leased assets.

Article 212

Requirements for other funded credit protection

1 Cash on deposit with, or cash assimilated instruments held by, a third party institution shall be eligible for the treatment set out in Article 232(1), where all the following conditions are met:

a the borrower's claim against the third party institution is openly pledged or assigned to the lending institution and such pledge or assignment is legally effective and enforceable in all relevant jurisdictions and is unconditional and irrevocable;

b the third party institution is notified of the pledge or assignment;

c as a result of the notification, the third party institution is able to make payments solely to the lending institution or to other parties only with the lending institution's prior consent.

2 Life insurance policies pledged to the lending institution shall qualify as eligible collateral where all the following conditions are met:

a the life insurance policy is openly pledged or assigned to the lending institution;
b the company providing the life insurance is notified of the pledge or assignment and, as a result of the notification, may not pay amounts payable under the contract without the prior consent of the lending institution;
c the lending institution has the right to cancel the policy and receive the surrender value in the event of the default of the borrower;
d the lending institution is informed of any non-payments under the policy by the policy-holder;
e the credit protection is provided for the maturity of the loan. Where this is not possible because the insurance relationship ends before the loan relationship expires, the institution shall ensure that the amount deriving from the insurance contract serves the institution as security until the end of the duration of the credit agreement;
f the pledge or assignment is legally effective and enforceable in all jurisdictions which are relevant at the time of the conclusion of the credit agreement;
g the surrender value is declared by the company providing the life insurance and is non-reducible;
h the surrender value is to be paid by the company providing the life insurance in a timely manner upon request;
i the surrender value shall not be requested without the prior consent of the institution;
j the company providing the life insurance [F587 is an insurance undertaking or reinsurance undertaking] or is subject to supervision by a competent authority of a third country which applies supervisory and regulatory arrangements at least equivalent to those applied in the [F588 United Kingdom].

Textual Amendments

F587 Words in Art. 212(2)(j) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **140(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F588 Words in Art. 212(2)(j) substituted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **140(b)** (with savings in S.I. 2019/680, **reg. 11**); 2020 c. 1, **Sch. 5 para. 1(1)**

Sub-Section 2

Unfunded credit protection and credit linked notes

Article 213

Requirements common to guarantees and credit derivatives

1 Subject to Article 214(1), credit protection deriving from a guarantee or credit derivative shall qualify as eligible unfunded credit protection where all the following conditions are met:

a the credit protection is direct;
b the extent of the credit protection is clearly defined and incontrovertible;

c the credit protection contract does not contain any clause, the fulfilment of which is outside the direct control of the lender, that:

(i) would allow the protection provider to cancel the protection unilaterally;

(ii) would increase the effective cost of protection as a result of a deterioration in the credit quality of the protected exposure;

(iii) could prevent the protection provider from being obliged to pay out in a timely manner in the event that the original obligor fails to make any payments due, or when the leasing contract has expired for the purposes of recognising guaranteed residual value under Articles 134(7) and 166(4);

(iv) could allow the maturity of the credit protection to be reduced by the protection provider;

d the credit protection contract is legally effective and enforceable in all jurisdictions which are relevant at the time of the conclusion of the credit agreement.

2 An institution shall demonstrate to competent authorities that it has in place systems to manage potential concentration of risk arising from its use of guarantees and credit derivatives. An institution shall be able to demonstrate to the satisfaction of the competent authorities how its strategy in respect of its use of credit derivatives and guarantees interacts with its management of its overall risk profile.

3 An institution shall fulfil any contractual and statutory requirements in respect of, and take all steps necessary to ensure, the enforceability of its unfunded credit protection under the law applicable to its interest in the credit protection.

An institution shall have conducted sufficient legal review confirming the enforceability of the unfunded credit protection in all relevant jurisdictions. It shall repeat such review as necessary to ensure continuing enforceability.

Article 214

Sovereign and other public sector counter-guarantees

1 Institutions may treat the exposures referred to in paragraph 2 as protected by a guarantee provided by the entities listed in that paragraph, provided that all the following conditions are satisfied:

a the counter-guarantee covers all credit risk elements of the claim;

b both the original guarantee and the counter-guarantee meet the requirements for guarantees set out in Articles 213 and 215(1), except that the counter-guarantee need not be direct;

c the cover is robust and nothing in the historical evidence suggests that the coverage of the counter-guarantee is less than effectively equivalent to that of a direct guarantee by the entity in question.

2 The treatment set out in paragraph 1 shall apply to exposures protected by a guarantee which is counter-guaranteed by any of the following entities:

a a central government or a central bank;

b a regional government or a local authority;

c a public sector entity, claims on which are treated as claims on the central government in accordance with Article 116(4);

d a multilateral development bank or an international organisation, to which a 0 % risk weight is assigned under or by virtue of Articles 117(2) and 118 respectively;
e a public sector entity, claims on which are treated in accordance with Article 116(1) and (2).

3 Institutions shall apply the treatment set out in paragraph 1 also to an exposure which is not counter-guaranteed by any entity listed in paragraph 2 where that exposure's counter-guarantee is in turn directly guaranteed by one of those entities and the conditions listed in paragraph 1 are satisfied.

Article 215

Additional requirements for guarantees

1 Guarantees shall qualify as eligible unfunded credit protection where all the conditions in Article 213 and all the following conditions are met:

a on the qualifying default of or non-payment by the counterparty, the lending institution has the right to pursue, in a timely manner, the guarantor for any monies due under the claim in respect of which the protection is provided and the payment by the guarantor shall not be subject to the lending institution first having to pursue the obligor;

  In the case of unfunded credit protection covering residential mortgage loans, the requirements in Article 213(1)(c)(iii) and in the first subparagraph of this point have only to be satisfied within 24 months;

b the guarantee is an explicitly documented obligation assumed by the guarantor;

c either of the following conditions is met:

  (i) the guarantee covers all types of payments the obligor is expected to make in respect of the claim;

  (ii) where certain types of payment are excluded from the guarantee, the lending institution has adjusted the value of the guarantee to reflect the limited coverage.

2 In the case of guarantees provided in the context of mutual guarantee schemes or provided by or counter-guaranteed by entities listed in Article 214(2), the requirements in point (a) of paragraph 1 of this Article shall be considered to be satisfied where either of the following conditions is met:

a the lending institution has the right to obtain in a timely manner a provisional payment by the guarantor that meets both the following conditions:

  (i) it represents a robust estimate of the amount of the loss, including losses resulting from the non-payment of interest and other types of payment which the borrower is obliged to make, that the lending institution is likely to incur;

  (ii) it is proportional to the coverage of the guarantee;

b the lending institution can demonstrate to the satisfaction of the competent authorities that the effects of the guarantee, which shall also cover losses resulting from the non-payment of interest and other types of payments which the borrower is obliged to make, justify such treatment.

Article 216

Additional requirements for credit derivatives

1 Credit derivatives shall qualify as eligible unfunded credit protection where all the conditions in Article 213 and all the following conditions are met:

a the credit events specified in the credit derivative contract include:

(i) the failure to pay the amounts due under the terms of the underlying obligation that are in effect at the time of such failure, with a grace period that is equal to or shorter than the grace period in the underlying obligation;

(ii) the bankruptcy, insolvency or inability of the obligor to pay its debts, or its failure or admission in writing of its inability generally to pay its debts as they become due, and analogous events;

(iii) the restructuring of the underlying obligation involving forgiveness or postponement of principal, interest or fees that results in a credit loss event;

b where credit derivatives allow for cash settlement:

(i) institutions have in place a robust valuation process in order to estimate loss reliably;

(ii) there is a clearly specified period for obtaining post-credit-event valuations of the underlying obligation;

c where the protection purchaser's right and ability to transfer the underlying obligation to the protection provider is required for settlement, the terms of the underlying obligation provide that any required consent to such transfer shall not be unreasonably withheld;

d the identity of the parties responsible for determining whether a credit event has occurred is clearly defined;

e the determination of the credit event is not the sole responsibility of the protection provider;

f the protection buyer has the right or ability to inform the protection provider of the occurrence of a credit event.

Where the credit events do not include restructuring of the underlying obligation as described in point (a)(iii), the credit protection may nonetheless be eligible subject to a reduction in the value as specified in Article 233(2);

2 A mismatch between the underlying obligation and the reference obligation under the credit derivative or between the underlying obligation and the obligation used for purposes of determining whether a credit event has occurred is permissible only where both the following conditions are met:

a the reference obligation or the obligation used for the purpose of determining whether a credit event has occurred, as the case may be, ranks pari passu with or is junior to the underlying obligation;

b the underlying obligation and the reference obligation or the obligation used for the purpose of determining whether a credit event has occurred, as the case may be, share the same obligor and legally enforceable cross-default or cross-acceleration clauses are in place.

Article 217

Requirements to qualify for the treatment set out in Article 153(3)

1 To be eligible for the treatment set out in Article 153(3), credit protection deriving from a guarantee or credit derivative shall meet the following conditions:

a the underlying obligation is to one of the following exposures:

(i) a corporate exposure as referred to in Article 147, excluding insurance and reinsurance undertakings;

(ii) an exposure to a regional government, local authority or public sector entity which is not treated as an exposure to a central government or a central bank in accordance with Article 147;

(iii) an exposure to an SME, classified as a retail exposure in accordance with Article 147(5);

b the underlying obligors are not members of the same group as the protection provider;

c the exposure is hedged by one of the following instruments:

(i) single-name unfunded credit derivatives or single-name guarantees;

(ii) first-to-default basket products;

(iii) nth-to-default basket products;

d the credit protection meets the requirements set out in Articles 213, 215 and 216, as applicable;

e the risk weight that is associated with the exposure prior to the application of the treatment set out in Article 153(3), does not already factor in any aspect of the credit protection;

f an institution has the right and expectation to receive payment from the protection provider without having to take legal action in order to pursue the counterparty for payment. To the extent possible, the institution shall take steps to satisfy itself that the protection provider is willing to pay promptly should a credit event occur;

g the purchased credit protection absorbs all credit losses incurred on the hedged portion of an exposure that arise due to the occurrence of credit events outlined in the contract;

h where the payout structure of the credit protection provides for physical settlement, there is legal certainty with respect to the deliverability of a loan, bond, or contingent liability;

i where an institution intends to deliver an obligation other than the underlying exposure, it shall ensure that the deliverable obligation is sufficiently liquid so that the institution would have the ability to purchase it for delivery in accordance with the contract;

j the terms and conditions of credit protection arrangements are legally confirmed in writing by both the protection provider and the institution;

k institutions have in place a process to detect excessive correlation between the creditworthiness of a protection provider and the obligor of the underlying exposure due to their performance being dependent on common factors beyond the systematic risk factor;

l in the case of protection against dilution risk, the seller of purchased receivables is not a member of the same group as the protection provider.

2 For the purpose of point (c)(ii) of paragraph 1, institutions shall apply the treatment set out in Article 153(3) to the asset within the basket with the lowest risk-weighted exposure amount.

3 For the purpose of point (c)(iii) of paragraph 1, the protection obtained is only eligible for consideration under this framework where eligible (n-1)th default protection has also been obtained or where (n-1) of the assets within the basket has or have already defaulted. Where this is the case, institutions shall apply the treatment set out in Article 153(3) to the asset within the basket with the lowest risk-weighted exposure amount.

Section 4

Calculating the effects of credit risk mitigation

Sub-Section 1

Funded credit protection

Article 218

Credit linked notes

Investments in credit linked notes issued by the lending institution may be treated as cash collateral for the purpose of calculating the effect of funded credit protection in accordance with this Sub-section, provided that the credit default swap embedded in the credit linked note qualifies as eligible unfunded credit protection. For the purpose of determining whether the credit default swap embedded in a credit linked note qualifies as eligible unfunded credit protection, the institution may consider the condition in point (c) of Article 194(6) to be met.

Article 219

On-balance sheet netting

Loans to and deposits with the lending institution subject to on-balance sheet netting are to be treated by that institution as cash collateral for the purpose of calculating the effect of funded credit protection for those loans and deposits of the lending institution subject to on-balance sheet netting which are denominated in the same currency.

Article 220

Using the Supervisory Volatility Adjustments Approach or the Own Estimates Volatility Adjustments Approach for master netting agreements

1 When institutions calculate the 'fully adjusted exposure value' (E*) for the exposures subject to an eligible master netting agreement covering repurchase transactions or securities or commodities lending or borrowing transactions or other capital market-driven transactions, they shall calculate the volatility adjustments that they need to apply either by using the Supervisory Volatility Adjustments Approach or the Own Estimates Volatility Adjustments

Approach ('Own Estimates Approach') as set out in Articles 223 to 226 for the Financial Collateral Comprehensive Method.

The use of the Own Estimates Approach shall be subject to the same conditions and requirements as apply under the Financial Collateral Comprehensive Method.

2 For the purpose of calculating E*, institutions shall:

a calculate the net position in each group of securities or in each type of commodity by subtracting the amount in point (ii) from the amount in point (i):

(i) the total value of a group of securities or of commodities of the same type lent, sold or provided under the master netting agreement;

(ii) the total value of a group of securities or of commodities of the same type borrowed, purchased or received under the master netting agreement;

b calculate the net position in each currency, other than the settlement currency of the master netting agreement, by subtracting the amount in point (ii) from the amount in point (i):

(i) the sum of the total value of securities denominated in that currency lent, sold or provided under the master netting agreement and the amount of cash in that currency lent or transferred under that agreement;

(ii) the sum of the total value of securities denominated in that currency borrowed, purchased or received under the master netting agreement and the amount of cash in that currency borrowed or received under that agreement;

c apply the volatility adjustment appropriate to a given group of securities or to a cash position to the absolute value of the positive or negative net position in the securities in that group;

d apply the foreign exchange risk (fx) volatility adjustment to the net positive or negative position in each currency other than the settlement currency of the master netting agreement.

3 Institutions shall calculate E* in accordance with the following formula:

$$E^* = \max\left\{0, \left(\sum_i E_i - \sum_i C_i\right) + \sum_j \left|E^j_{sec}\right| \times H^j_{sec} + \sum_k \left|E^k_{fx}\right| \times H^k_{fx}\right\}$$

where:

E_i = the exposure value for each separate exposure i under the agreement that would apply in the absence of the credit protection, where institutions calculate risk-weighted exposure amounts under the Standardised Approach or where they calculate the risk-weighted exposure amounts and expected loss amounts under the IRB Approach;

C_i = the value of securities in each group or commodities of the same type borrowed, purchased or received or the cash borrowed or received in respect of each exposure i;

E^j_{sec} = the net position (positive or negative) in a given group of securities j;

E^k_{fx} = the net position (positive or negative) in a given currency k other than the settlement currency of the agreement as calculated under point (b) of paragraph 2;

H^j_{sec} = the volatility adjustment appropriate to a particular group of securities j;

H_{fx}^{k} = the foreign exchange volatility adjustment for currency k.

4 For the purpose of calculating risk-weighted exposure amounts and expected loss amounts for repurchase transactions or securities or commodities lending or borrowing transactions or other capital market-driven transactions covered by master netting agreements, institutions shall use E* as calculated under paragraph 3 as the exposure value of the exposure to the counterparty arising from the transactions subject to the master netting agreement for the purposes of Article 113 under the Standardised Approach or Chapter 3 under the IRB Approach.

5 For the purposes of paragraphs 2 and 3, 'group of securities' means securities which are issued by the same entity, have the same issue date, the same maturity, are subject to the same terms and conditions, and are subject to the same liquidation periods as indicated in Articles 224 and 225, as applicable.

Article 221

Using the internal models approach for master netting agreements

1 Subject to permission of competent authorities, institutions may, as an alternative to using the Supervisory Volatility Adjustments Approach or the Own Estimates Approach in calculating the fully adjusted exposure value (E*) resulting from the application of an eligible master netting agreement covering repurchase transactions, securities or commodities lending or borrowing transactions, or other capital market driven transactions other than derivative transactions, use an internal models approach which takes into account correlation effects between security positions subject to the master netting agreement as well as the liquidity of the instruments concerned.

2 Subject to the permission of the competent authorities, institutions may also use their internal models for margin lending transactions, where the transactions are covered under a bilateral master netting agreement that meets the requirements set out in Chapter 6, Section 7.

3 An institution may choose to use an internal models 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 seeks to use an internal models approach, it shall do so for all counterparties and securities, excluding immaterial portfolios where it may use the Supervisory Volatility Adjustments Approach or the Own Estimates Approach as laid down in Article 220.

Institutions that have received permission for an internal risk-measurement model under Title IV, Chapter 5 may use the internal models approach. Where an institution has not received such permission, it may still apply for permission to the competent authorities to use an internal models approach for the purposes of this Article.

4 Competent authorities shall permit an institution to use an internal models approach only where they are satisfied that the institution's system for managing the risks arising from the transactions covered by the master netting agreement is conceptually sound and implemented with integrity and where the following qualitative standards are met:

a the internal risk-measurement model used for calculating the potential price volatility for the transactions is closely integrated into the daily risk-management process of the institution and serves as the basis for reporting risk exposures to the senior management of the institution;
b the institution has a risk control unit that meets all the following requirements:

(i) it is independent from business trading units and reports directly to senior management;

(ii) it is responsible for designing and implementing the institution's risk-management system;

(iii) it produces and analyses daily reports on the output of the risk-measurement model and on the appropriate measures to be taken in terms of position limits;

c the daily reports produced by the risk-control unit are reviewed by a level of management with sufficient authority to enforce reductions of positions taken and of overall risk exposure;

d the institution has sufficient staff skilled in the use of sophisticated models in the risk control unit;

e the institution has established procedures for monitoring and ensuring compliance with a documented set of internal policies and controls concerning the overall operation of the risk-measurement system;

f the institution's models have a proven track record of reasonable accuracy in measuring risks demonstrated through the back-testing of its output using at least one year of data;

g the institution frequently conducts a rigorous programme of stress testing and the results of these tests are reviewed by senior management and reflected in the policies and limits it sets;

h the institution conducts, as part of its regular internal auditing process, an independent review of its risk-measurement system. This review shall include both the activities of the business trading units and of the independent risk-control unit;

i at least once a year, the institution conducts a review of its risk-management system;

j the internal model meets the requirements set out in Article 292(8) and (9) and in Article 294.

5 An institution's internal risk-measurement model shall capture a sufficient number of risk factors in order to capture all material price risks.

An institution may use empirical correlations within risk categories and across risk categories where its system for measuring correlations is sound and implemented with integrity.

6 Institutions using the internal models approach shall calculate E* in accordance with the following formula:

$$E^* = \max\{0, (\sum_i E_i - \sum_i C_i) + \text{potential change in value}\}$$

where:

E_i	=	the exposure value for each separate exposure i under the agreement that would apply in the absence of the credit protection, where institutions calculate the risk-weighted exposure amounts under the Standardised Approach or where they calculate risk-weighted exposure amounts and expected loss amounts under the IRB Approach;
C_i	=	the value of the securities borrowed, purchased or received or the cash borrowed or received in respect of each such exposure i.

When calculating risk-weighted exposure amounts using internal models, institutions shall use the previous business day's model output.

7 The calculation of the potential change in value referred to in paragraph 6 shall be subject to all the following standards:

- a it shall be carried out at least daily;
- b it shall be based on a 99th percentile, one-tailed confidence interval;
- c it shall be based on a 5-day equivalent liquidation period, except in the case of transactions other than securities repurchase transactions or securities lending or borrowing transactions where a 10-day equivalent liquidation period shall be used;
- d it shall be based on an effective historical observation period of at least one year except where a shorter observation period is justified by a significant upsurge in price volatility;
- e the data set used in the calculation shall be updated every three months.

Where an institution has a repurchase transaction, a securities or commodities lending or borrowing transaction and margin lending or similar transaction or netting set which meets the criteria set out in Article 285(2), (3) and (4), the minimum holding period shall be brought in line with the margin period of risk that would apply under those paragraphs, in combination with Article 285(5).

8 For the purpose of calculating risk-weighted exposure amounts and expected loss amounts for repurchase transactions or securities or commodities lending or borrowing transactions or other capital market-driven transactions covered by master netting agreements, institutions shall use E* as calculated under paragraph 6 as the exposure value of the exposure to the counterparty arising from the transactions subject to the master netting agreement for the purposes of Article 113 under the Standardised Approach or Chapter 3 under the IRB Approach.

9 [F589The [F590PRA may] make technical standards] to specify the following:

- a what constitutes an immaterial portfolio for the purpose of paragraph 3;
- b the criteria for determining whether an internal model is sound and implemented with integrity for the purpose of paragraphs 4 and 5 and master netting agreements.

F591 ...

Textual Amendments

F589 Words in Art. 221(9) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **222(1)(a)(2)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F590 Words in Art. 221(9) substituted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 47**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F591 Words in Art. 221(9) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **222(1)(b)** (with savings in S.I. 2019/680, **reg. 11**); 2020 c. 1, **Sch. 5 para. 1(1)**

Article 222

Financial Collateral Simple Method

1 Institutions may use the Financial Collateral Simple Method only where they calculate risk-weighted exposure amounts under the Standardised Approach. Institution shall not use both the Financial Collateral Simple Method and the Financial Collateral Comprehensive Method, except for the purposes of Articles 148(1) and 150(1). Institutions shall not use this exception selectively with the purpose of achieving reduced own funds requirements or with the purpose of conducting regulatory arbitrage.

2 Under the Financial Collateral Simple Method institutions shall assign to eligible financial collateral a value equal to its market value as determined in accordance with point (d) of Article 207(4).

3 Institutions shall assign to those portions of exposure values that are collateralised by the market value of eligible collateral the risk weight that they would assign under Chapter 2 [F592 of this Regulation and Articles 132a to 132c of Chapter 3 of the Standardised Approach and Internal Ratings Based Approach to Credit Risk (CRR) Part of the PRA Rulebook] where the lending institution had a direct exposure to the collateral instrument. For this purpose, the exposure value of an off-balance sheet item listed in Annex I shall be equal to 100 % of the item's value rather than the exposure value indicated in Article 111(1).

The risk weight of the collateralised portion shall be at least 20 % except as specified in paragraphs 4 to 6. Institutions shall apply to the remainder of the exposure value the risk weight that they would assign to an unsecured exposure to the counterparty under Chapter 2 [F592 of this Regulation and Articles 132a to 132c of Chapter 3 of the Standardised Approach and Internal Ratings Based Approach to Credit Risk (CRR) Part of the PRA Rulebook].

4 Institutions shall assign a risk weight of 0 % to the collateralised portion of the exposure arising from repurchase transaction and securities lending or borrowing transactions which fulfil the criteria in Article 227. Where the counterparty to the transaction is not a core market participant, institutions shall assign a risk weight of 10 %.

5 Institutions shall assign a risk weight of 0 %, to the extent of the collateralisation, to the exposure values determined under Chapter 6 [F593 of this Regulation and Sections 3 to 5 of Chapter 3 of the Counterparty Credit Risk (CRR) Part of the PRA Rulebook] for the derivative instruments listed in Annex II and subject to daily marking-to-market, collateralised by cash or cash assimilated instruments where there is no currency mismatch.

Institutions shall assign a risk weight of 10 %, to the extent of the collateralisation, to the exposure values of such transactions collateralised by debt securities issued by central governments or central banks which are assigned a 0 % risk weight under Chapter 2.

6 For transactions other than those referred to in paragraphs 4 and 5, institutions may assign a 0 % risk weight where the exposure and the collateral are denominated in the same currency, and either of the following conditions is met:

a the collateral is cash on deposit or a cash assimilated instrument;
b the collateral is in the form of debt securities issued by central governments or central banks eligible for a 0 % risk weight under Article 114, and its market value has been discounted by 20 %.

7 For the purpose of paragraphs 5 and 6 debt securities issued by central governments or central banks shall include:

a debt securities issued by regional governments or local authorities exposures to which are treated as exposures to the central government in whose jurisdiction they are established under Article 115;
b debt securities issued by multilateral development banks to which a 0 % risk weight is assigned under or by virtue of Article 117(2);
c debt securities issued by international organisations which are assigned a 0 % risk weight under Article 118;
d debt securities issued by public sector entities which are treated as exposures to central governments in accordance with Article 116(4).

Textual Amendments

F592 Words in Art. 222(3) inserted (1.1.2022) by The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/1376), regs. 1(3), **25(24)(a)**

F593 Words in Art. 222(5) inserted (1.1.2022) by The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/1376), regs. 1(3), **25(24)(b)**

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:

$$C_{VA} = C \times (1 - H_C - H_{fx})$$

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 (E_{VA}) they need to take into account as follows:

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

where:

E	=	the exposure value as would be determined under Chapter 2 or Chapter 3, as applicable, where the exposure was 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 [F594, 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;

[F595 5A For the purposes of the calculation under paragraph 5, in the case of OTC derivative transactions, institutions using the methods laid down in Sections 3, 4 and 5 of [F596 Chapter 3 of the Counterparty Credit Risk (CRR) Part of the PRA Rulebook] shall take into account the risk-mitigating effects of collateral in accordance with the provisions laid down in Sections 3, 4 and 5 of [F596 Chapter 3 of the Counterparty Credit Risk (CRR) Part of the PRA Rulebook], as applicable.]

6 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.

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

$$H = \sum_i a_i H_i$$

where:

a_i	=	the proportion of the value of an eligible item *i* in the total value of collateral;
H_i	=	the volatility adjustment applicable to eligible item *i* .

Textual Amendments

F594 Words in Art. 223(3) substituted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 4 para. 7(2)**; S.I. 2021/671, reg. 5(1)(c) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F595 Art. 223(5A) inserted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 4 para. 7(3)**; S.I. 2021/671, reg. 5(1)(c) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F596 Words in Art. 223(5A) substituted (1.1.2022) by The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/1376), regs. 1(3), **25(25)**

Article 224

Supervisory volatility adjustment under the Financial Collateral Comprehensive Method

1 The volatility adjustments to be applied by institutions under the Supervisory Volatility Adjustments Approach, assuming daily revaluation, shall be those set out in Tables 1 to 4 of this paragraph.

VOLATILITY ADJUSTMENTS

Table 1

Credit quality step with which the credit assessment of the debt security is associated	**Residual Maturity**	**Volatility adjustments for debt securities issued by entities described in Article 197(1)(b)**			**Volatility adjustments for debt securities issued by entities described in Article 197(1) (c) and (d)**			**Volatility adjustments for securitisation positions and meeting the criteria in Article 197(1) (h)**		
		20-day liquidation period (%)	**10-day liquidation period (%)**	**5-day liquidation period (%)**	**20-day liquidation period (%)**	**10-day liquidation period (%)**	**5-day liquidation period (%)**	**20-day liquidation period (%)**	**10-day liquidation period (%)**	**5-day liquidation period (%)**
1	≤ 1 year	0,707	0,5	0,354	1,414	1	0,707	2,829	2	1,414

Table 1

	>1 ≤ 5 years	2,828	2	1,414	5,657	4	2,828	11,314	8	5,657
	> 5 years	5,657	4	2,828	11,314	8	5,657	22,628	16	11,313
2-3	≤ 1 year	1,414	1	0,707	2,828	2	1,414	5,657	4	2,828
	>1 ≤ 5 years	4,243	3	2,121	8,485	6	4,243	16,971	12	8,485
	> 5 years	8,485	6	4,243	16,971	12	8,485	33,942	24	16,970
4	≤ 1 year	21,213	15	10,607	N/A	N/A	N/A	N/A	N/A	N/A
	>1 ≤ 5 years	21,213	15	10,607	N/A	N/A	N/A	N/A	N/A	N/A
	> 5 years	21,213	15	10,607	N/A	N/A	N/A	N/A	N/A	N/A

Table 2

Credit quality step with which the credit assessment of a short term debt security is associated	**Volatility adjustments for debt securities issued by entities described in Article 197(1)(b) with short-term credit assessments**			**Volatility adjustments for debt securities issued by entities described in Article 197(1) (c) and (d) with short-term credit assessments**			**Volatility adjustments for securitisation positions and meeting the criteria in Article 197(1)(h)**		
	20-day liquidation period (%)	**10-day liquidation period (%)**	**5-day liquidation period (%)**	**20-day liquidation period (%)**	**10-day liquidation period (%)**	**5-day liquidation period (%)**	**20-day liquidation period (%)**	**10-day liquidation period (%)**	**5-day liquidation period (%)**
1	0,707	0,5	0,354	1,414	1	0,707	2,829	2	1,414
2-3	1,414	1	0,707	2,828	2	1,414	5,657	4	2,828

Table 3

Other collateral or exposure types

	20-day liquidation period (%)	**10-day liquidation period (%)**	**5-day liquidation period (%)**

Table 3

Other collateral or exposure types

Main Index Equities, Main Index Convertible Bonds	21,213	15	10,607
Other Equities or Convertible Bonds listed on a recognised exchange	35,355	25	17,678
Cash	0	0	0
Gold	21,213	15	10,607

Table 4

Volatility adjustment for currency mismatch

20-day liquidation period (%)	**10-day liquidation period (%)**	**5-day liquidation period %)**
11,314	8	5,657

2 The calculation of volatility adjustments in accordance with paragraph 1 shall be subject to the following conditions:

a for secured lending transactions the liquidation period shall be 20 business days;

b for repurchase transactions, except insofar as such transactions involve the transfer of commodities or guaranteed rights relating to title to commodities, and securities lending or borrowing transactions the liquidation period shall be 5 business days;

c for other capital market driven transactions, the liquidation period shall be 10 business days.

Where an institution has a transaction or netting set which meets the criteria set out in Article 285(2), (3) and (4), the minimum holding period shall be brought in line with the margin period of risk that would apply under those paragraphs.

3 In Tables 1 to 4 of paragraph 1 and in paragraphs 4 to 6, the credit quality step with which a credit assessment of the debt security is associated is the credit quality step with which the credit assessment is determined by [F597the competent authority] to be associated under Chapter 2.

For the purpose of determining the credit quality step with which a credit assessment of the debt security is associated referred to in the first subparagraph, Article 197(7) also applies.

4 For non-eligible securities or for commodities lent or sold under repurchase transactions or securities or commodities lending or borrowing transactions, the volatility adjustment is the same as for non-main index equities listed on a recognised exchange.

5 For eligible units in CIUs the volatility adjustment is the weighted average volatility adjustments that would apply, having regard to the liquidation period of the transaction as specified in paragraph 2, to the assets in which the fund has invested.

Where the assets in which the fund has invested are not known to the institution, the volatility adjustment is the highest volatility adjustment that would apply to any of the assets in which the fund has the right to invest.

6 For unrated debt securities issued by institutions [F598or investment firms] and satisfying the eligibility criteria in Article 197(4) the volatility adjustments is the same as for securities issued by institutions or corporates with an external credit assessment associated with credit quality step 2 or 3.

Textual Amendments

F597 Words in Art. 224(3) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **141** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F598 Words in Art. 224(6) inserted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 30**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

Article 225

Own estimates of volatility adjustments under the Financial Collateral Comprehensive Method

1 The competent authorities shall permit institutions to use their own volatility estimates for calculating the volatility adjustments to be applied to collateral and exposures where those institutions comply with the requirements set out in paragraphs 2 and 3. Institutions which have obtained permission to use their own volatility estimates shall not revert to the use of other methods except for demonstrated good cause and subject to the permission of the competent authorities.

For debt securities that have a credit assessment from an ECAI equivalent to investment grade or better, institutions may calculate a volatility estimate for each category of security.

For debt securities that have a credit assessment from an ECAI equivalent to below investment grade, and for other eligible collateral, institutions shall calculate the volatility adjustments for each individual item.

Institutions using the Own Estimates Approach shall estimate volatility of the collateral or foreign exchange mismatch without taking into account any correlations between the unsecured exposure, collateral or exchange rates.

In determining relevant categories, institutions shall take into account the type of issuer of the security, the external credit assessment of the securities, their residual maturity, and their modified duration. Volatility estimates shall be representative of the securities included in the category by the institution.

2 The calculation of the volatility adjustments shall be subject to all the following criteria:

a institutions shall base the calculation on a 99th percentile, one-tailed confidence interval;
b institutions shall base the calculation on the following liquidation periods:

(i) 20 business days for secured lending transactions;

(ii) 5 business days for repurchase transactions, except insofar as such transactions involve the transfer of commodities or guaranteed rights relating to title to commodities and securities lending or borrowing transactions;

(iii) 10 business days for other capital market driven transactions;

c institutions may use volatility adjustment numbers calculated in accordance with shorter or longer liquidation periods, scaled up or down to the liquidation period set out in point (b) for the type of transaction in question, using the square root of time formula:

$$H_M = H_N \times \sqrt{\frac{T_M}{T_N}}$$

where:

T_M	=	the relevant liquidation period;
H_M	=	the volatility adjustment based on the liquidation period T_M;
H_N	=	the volatility adjustment based on the liquidation period T_N.

d institutions shall take into account the illiquidity of lower-quality assets. They shall adjust the liquidation period upwards in cases where there is doubt concerning the liquidity of the collateral. They shall also identify where historical data may understate potential volatility. Such cases shall be dealt with by means of a stress scenario;

e the length of the historical observation period institutions use for calculating volatility adjustments shall be at least one year. For institutions that use a weighting scheme or other methods for the historical observation period, the length of the effective observation period shall be at least one year. The competent authorities may also require an institution to calculate its volatility adjustments using a shorter observation period where, in the competent authorities' judgement, this is justified by a significant upsurge in price volatility;

f institutions shall update their data sets and calculate volatility adjustments at least once every three months. They shall also reassess their data sets whenever market prices are subject to material changes.

3 The estimation of volatility adjustments shall meet all the following qualitative criteria:

a an institutions shall use the volatility estimates in the day-to-day risk management process including in relation to its internal exposure limits;

b where the liquidation period used by an institution in its day-to-day risk management process is longer than that set out in this Section for the type of transaction in question, that institution shall scale up its volatility adjustments in accordance with the square root of time formula set out in point (c) of paragraph 2;

c an institution shall have in place established procedures for monitoring and ensuring compliance with a documented set of policies and controls for the operation of its system for the estimation of volatility adjustments and for the integration of such estimations into its risk management process;

d an independent review of the institution's system for the estimation of volatility adjustments shall be carried out regularly within the institution's own internal auditing process. A review of the overall system for the estimation of volatility adjustments and for the integration of those adjustments into the institution's risk management process shall take place at least once a year. The subject of that review shall include at least the following:

(i) the integration of estimated volatility adjustments into daily risk management;

(ii) the validation of any significant change in the process for the estimation of volatility adjustments;

(iii) the verification of the consistency, timeliness and reliability of data sources used to run the system for the estimation of volatility adjustments, including the independence of such data sources;

(iv) the accuracy and appropriateness of the volatility assumptions.

Article 226

Scaling up of volatility adjustment under the Financial Collateral Comprehensive Method

The volatility adjustments set out in Article 224 are the volatility adjustments an institution shall apply where there is daily revaluation. Similarly, where an institution uses its own estimates of the volatility adjustments in accordance with Article 225, it shall calculate them in the first instance on the basis of daily revaluation. Where the frequency of revaluation is less than daily, institutions shall apply larger volatility adjustments. Institutions shall calculate them by scaling up the daily revaluation volatility adjustments, using the following square-root-of-time formula:

$$H = H_M \times \sqrt{\frac{N_R + (T_M - 1)}{T_M}}$$

where:

H	=	the volatility adjustment to be applied;
H_M	=	the volatility adjustment where there is daily revaluation;
N_R	=	the actual number of business days between revaluations;
T_M	=	the liquidation period for the type of transaction in question.

Article 227

Conditions for applying a 0 % volatility adjustment under the Financial Collateral Comprehensive Method

1 In relation to repurchase transactions and securities lending or borrowing transactions, where an institution uses the Supervisory Volatility Adjustments Approach under Article 224 or the Own Estimates Approach under Article 225 and where the conditions set out in points (a) to (h) of paragraph 2 are satisfied, institutions may, instead of applying the volatility adjustments calculated under Articles 224 to 226, apply a 0 % volatility adjustment. Institutions using the internal models approach set out in Article 221 shall not use the treatment set out in this Article.

2 Institutions may apply a 0 % volatility adjustment where all the following conditions are met:

a both the exposure and the collateral are cash or debt securities issued by central governments or central banks within the meaning of Article 197(1)(b) and eligible for a 0 % risk weight under Chapter 2;
b both the exposure and the collateral are denominated in the same currency;
c either the maturity of the transaction is no more than one day or both the exposure and the collateral are subject to daily marking-to-market or daily re-margining;
d the time between the last marking-to-market before a failure to re-margin by the counterparty and the liquidation of the collateral is no more than four business days;
e the transaction is settled in a settlement system proven for that type of transaction;
f the documentation covering the agreement or transaction is standard market documentation for repurchase transactions or securities lending or borrowing transactions in the securities concerned;
g the transaction is governed by documentation specifying that where the counterparty fails to satisfy an obligation to deliver cash or securities or to deliver margin or otherwise defaults, then the transaction is immediately terminable;
h the counterparty is considered a core market participant by the competent authorities.

3 The core market participants referred to in point (h) of paragraph 2 shall include the following entities:
a the entities mentioned in Article 197(1)(b) exposures to which are assigned a 0 % risk weight under Chapter 2;
b institutions;
[F599ba investment firms;]
c other financial undertakings [F600that are an insurance undertaking or reinsurance undertaking, an insurance holding company (as defined in the Solvency 2 Regulations 2015), or a mixed financial holding company] exposures to which are assigned a 20 % risk weight under the Standardised Approach or which, in the case of institutions calculating risk-weighted exposure amounts and expected loss amounts under the IRB Approach, do not have a credit assessment by a recognised ECAI and are internally rated by the institution;
d regulated CIUs that are subject to capital or leverage requirements;
e regulated pension funds;
f recognised clearing organisations.

Textual Amendments

F599 Art. 227(3)(ba) inserted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 31**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F600 Words in Art. 227(3)(c) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **142** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 228

Calculating risk-weighted exposure amounts and expected loss amounts under the Financial Collateral Comprehensive method

1 Under the Standardised Approach, institutions shall use E* as calculated under Article 223(5) as the exposure value for the purposes of Article 113. In the case of off-balance sheet

items listed in Annex I, institutions shall use E* as the value to which the percentages indicated in Article 111(1) shall be applied to arrive at the exposure value.

2 Under the IRB Approach, institutions shall use the effective LGD (LGD*) as the LGD for the purposes of Chapter 3. Institutions shall calculate LGD* as follows:

$$LGD^* = LGD \times \frac{E^*}{E}$$

where:

LGD	=	the LGD that would apply to the exposure under Chapter 3 where the exposure was not collateralised;
E	=	the exposure value in accordance with Article 223(3);
E*	=	the fully adjusted exposure value in accordance with Article 223(5).

Article 229

Valuation principles for other eligible collateral under the IRB Approach

1 For immovable property collateral, the collateral shall be valued by an independent valuer at or at less than the market value. An institution shall require the independent valuer to document the market value in a transparent and clear manner.

[[F601]If rigorous criteria are in force at the time in the United Kingdom for the assessment of the mortgage lending value**]** the immovable property may instead be valued by an independent valuer at or at less than the mortgage lending value. Institutions shall require the independent valuer not to take into account speculative elements in the assessment of the mortgage lending value and to document that value in a transparent and clear manner.

The value of the collateral shall be the market value or mortgage lending value reduced as appropriate to reflect the results of the monitoring required under Article 208(3) and to take account of any prior claims on the immovable property.

2 For receivables, the value of receivables shall be the amount receivable.

3 Institutions shall value physical collateral other than immovable property at its market value. For the purposes of this Article, the market value is the estimated amount for which the property would exchange on the date of valuation between a willing buyer and a willing seller in an arm's-length transaction.

Textual Amendments

F601 Words in Art. 229(1) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **143** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 230

Calculating risk-weighted exposure amounts and expected loss amounts for other eligible collateral under the IRB Approach

1 Institutions shall use LGD* calculated in accordance with this paragraph and paragraph 2 as the LGD for the purposes of Chapter 3.

Where the ratio of the value of the collateral (C) to the exposure value (E) is below the required minimum collateralisation level of the exposure (C*) as laid down in Table 5, LGD* shall be the LGD laid down in Chapter 3 for uncollateralised exposures to the counterparty. For this purpose, institutions shall calculate the exposure value of the items listed in Article 166(8) to (10) by using a conversion factor or percentage of 100 % rather than the conversion factors or percentages indicated in those paragraphs.

Where the ratio of the value of the collateral to the exposure value exceeds a second, higher threshold level of C** as laid down in Table 5, LGD* shall be that prescribed in Table 5.

Where the required level of collateralisation C** is not achieved in respect of the exposure as a whole, institutions shall consider the exposure to be two exposures — one corresponding to the part in respect of which the required level of collateralisation C** is achieved and one corresponding to the remainder.

2 The applicable LGD* and required collateralisation levels for the secured parts of exposures are set out in Table 5 of this paragraph.

TABLE 5

Minimum LGD for secured parts of exposures

	LGD* for senior exposure	**LGD* for subordinated exposures**	**Required minimum collateralisation level of the exposure (C*)**	**Required minimum collateralisation level of the exposure (C**)**
Receivables	35 %	65 %	0 %	125 %
Residential property/ commercial immovable property	35 %	65 %	30 %	140 %
Other collateral	40 %	70 %	30 %	140 %

3 As an alternative to the treatment set out in paragraphs 1 and 2, and subject to Article 124(2), institutions may assign a 50 % risk weight to the part of the exposure that is, within the limits set out in Article 125(2)(d) and Article 126(2)(d) respectively, fully collateralised by residential property or commercial immovable property situated within the territory of [F602 the United Kingdom] where all the conditions in Article 199(3) or (4) are met.

Textual Amendments

F602 Words in Art. 230(3) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **144** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 231

Calculating risk-weighted exposure amounts and expected loss amounts in the case of mixed pools of collateral

1 An institution shall calculate the value of LGD* that it shall use as the LGD for the purposes of Chapter 3 in accordance with paragraphs 2 and 3 where both the following conditions are met:

a the institution uses the IRB Approach to calculate risk-weighted exposure amounts and expected loss amounts;

b an exposure is collateralised by both financial collateral and other eligible collateral.

2 Institutions shall be required to subdivide the volatility-adjusted value of the exposure, obtained by applying the volatility adjustment as set out in Article 223(5) to the value of the exposure, into parts so as to obtain a part covered by eligible financial collateral, a part covered by receivables, a part covered by commercial immovable property collateral or residential property collateral, a part covered by other eligible collateral, and the unsecured part, as applicable.

3 Institutions shall calculate LGD* for each part of the exposure obtained in paragraph 2 separately in accordance with the relevant provisions of this Chapter.

Article 232

Other funded credit protection

1 Where the conditions set out in Article 212(1) are met, a deposit with a third party institution may be treated as a guarantee by the third party institution.

2 Where the conditions set out in Article 212(2) are met, institutions shall subject the portion of the exposure collateralised by the current surrender value of life insurance policies pledged to the lending institution to the following treatment:

a where the exposure is subject to the Standardised Approach, it shall be risk-weighted by using the risk weights specified in paragraph 3;

b where the exposure is subject to the IRB Approach but not subject to the institution's own estimates of LGD, it shall be assigned an LGD of 40 %.

In the event of a currency mismatch, institutions shall reduce the current surrender value in accordance with Article 233(3), the value of the credit protection being the current surrender value of the life insurance policy.

3 For the purposes of point (a) of paragraph 2, institutions shall assign the following risk weights on the basis of the risk weight assigned to a senior unsecured exposure to the undertaking providing the life insurance:

a a risk weight of 20 %, where the senior unsecured exposure to the undertaking providing the life insurance is assigned a risk weight of 20 %;
b a risk weight of 35 %, where the senior unsecured exposure to the undertaking providing the life insurance is assigned a risk weight of 50 %;
c a risk weight of 70 %, where the senior unsecured exposure to the undertaking providing the life insurance is assigned a risk weight of 100 %;
d a risk weight of 150 %, where the senior unsecured exposure to the undertaking providing the life insurance is assigned a risk weight of 150 %.

4 Institutions may treat instruments repurchased on request that are eligible under Article 200(c) as a guarantee by the issuing institution. The value of the eligible credit protection shall be the following:

a where the instrument will be repurchased at its face value, the value of the protection shall be that amount;
b where the instrument will be repurchased at market price, the value of the protection shall be the value of the instrument valued in the same way as the debt securities that meet the conditions in Article 197(4).

Sub-Section 2

Unfunded credit protection

Article 233

Valuation

1 For the purpose of calculating the effects of unfunded credit protection in accordance with this Sub-section, the value of unfunded credit protection (G) shall be the amount that the protection provider has undertaken to pay in the event of the default or non-payment of the borrower or on the occurrence of other specified credit events.

2 In the case of credit derivatives which do not include as a credit event restructuring of the underlying obligation involving forgiveness or postponement of principal, interest or fees that result in a credit loss event the following shall apply:

a where the amount that the protection provider has undertaken to pay is not higher than the exposure value, institutions shall reduce the value of the credit protection calculated under paragraph 1 by 40 %;
b where the amount that the protection provider has undertaken to pay is higher than the exposure value, the value of the credit protection shall be no higher than 60 % of the exposure value.

3 Where unfunded credit protection is denominated in a currency different from that in which the exposure is denominated, institutions shall reduce the value of the credit protection by the application of a volatility adjustment as follows:

$$G^* = G \times (1 - H_{fx})$$

where:

G*	=	the amount of credit protection adjusted for foreign exchange risk,
G	=	the nominal amount of the credit protection;

H_{fx} = the volatility adjustment for any currency mismatch between the credit protection and the underlying obligation determined in accordance with paragraph 4.

Where there is no currency mismatch H_{fx} is equal to zero.

4 Institutions shall base the volatility adjustments for any currency mismatch on a 10 business day liquidation period, assuming daily revaluation, and may calculate them based on the Supervisory Volatility Adjustments Approach or the Own Estimates Approach as set out in Articles 224 and 225 respectively. Institutions shall scale up the volatility adjustments in accordance with Article 226.

Article 234

Calculating risk-weighted exposure amounts and expected loss amounts in the event of partial protection and tranching

Where an institution transfers a part of the risk of a loan in one or more tranches, the rules set out in Chapter 5 shall apply. Institutions may consider materiality thresholds on payments below which no payment shall be made in the event of loss to be equivalent to retained first loss positions and to give rise to a tranched transfer of risk.

Article 235

Calculating risk-weighted exposure amounts under the Standardised Approach

1 For the purposes of Article 113(3) institutions shall calculate the risk-weighted exposure amounts in accordance with the following formula:

$$\max\{0, E - G_A\} \times r + G_A \times g$$

where:

E = the exposure value in accordance with Article 111; for this purpose, the exposure value of an off-balance sheet item listed in Annex I shall be 100 % of its value rather than the exposure value indicated in Article 111(1);

G_A = the amount of credit risk protection as calculated under Article 233(3) (G*) further adjusted for any maturity mismatch as laid down in Section 5;

r = the risk weight of exposures to the obligor as specified under Chapter 2 [F603 of this Regulation and Articles 132a to 132c of Chapter 3 of the Standardised Approach and Internal Ratings Based Approach to Credit Risk (CRR) Part of the PRA Rulebook];

g = the risk weight of exposures to the protection provider as specified under Chapter 2 [F603 of this Regulation and Articles 132a to 132c of Chapter 3 of the Standardised Approach and Internal Ratings Based Approach to Credit Risk (CRR) Part of the PRA Rulebook].

2 Where the protected amount (G_A) is less than the exposure (E), institutions may apply the formula specified in paragraph 1 only where the protected and unprotected parts of the exposure are of equal seniority.

3 Institutions may extend the treatment set out in Article 114(4) and (7) to exposures or parts of exposures guaranteed by the central government or central bank, where the guarantee is denominated in the domestic currency of the borrower and the exposure is funded in that currency.

Textual Amendments

F603 Words in Art. 235(1) inserted (1.1.2022) by The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/1376), regs. 1(3), **25(26)**

Article 236

Calculating risk-weighted exposure amounts and expected loss amounts under the IRB Approach

1 For the covered portion of the exposure value (E), based on the adjusted value of the credit protection G_A, the PD for the purposes of Section 4 of Chapter 3 may be the PD of the protection provider, or a PD between that of the borrower and that of the guarantor where a full substitution is deemed not to be warranted. In the case of subordinated exposures and non-subordinated unfunded protection, the LGD to be applied by institutions for the purposes of Section 4 of Chapter 3 may be that associated with senior claims.

2 For any uncovered portion of the exposure value (E) the PD shall be that of the borrower and the LGD shall be that of the underlying exposure.

3 For the purposes of this Article, G_A is the value of G* as calculated under Article 233(3) further adjusted for any maturity mismatch as laid down in Section 5. E is the exposure value determined in accordance with Section 5 of Chapter 3. For this purpose, institutions shall calculate the exposure value of the items listed in Article 166(8) to (10) by using a conversion factor or percentage of 100 % rather than the conversion factors or percentages indicated in those paragraphs.

Section 5

Maturity mismatches

Article 237

Maturity mismatch

1 For the purpose of calculating risk-weighted exposure amounts, a maturity mismatch occurs when the residual maturity of the credit protection is less than that of the protected exposure. Where protection has a residual maturity of less than three months and the maturity of the protection is less than the maturity of the underlying exposure that protection does not qualify as eligible credit protection.

2 Where there is a maturity mismatch the credit protection shall not qualify as eligible where either of the following conditions is met:

a the original maturity of the protection is less than one year;

b the exposure is a short term exposure specified by the competent authorities as being subject to a one-day floor rather than a one-year floor in respect of the maturity value (M) under Article 162(3).

Article 238

Maturity of credit protection

1 Subject to a maximum of five years, the effective maturity of the underlying shall be the longest possible remaining time before the obligor is scheduled to fulfil its obligations. Subject to paragraph 2, the maturity of the credit protection shall be the time to the earliest date at which the protection may terminate or be terminated.

2 Where there is an option to terminate the protection which is at the discretion of the protection seller, institutions shall take the maturity of the protection to be the time to the earliest date at which that option may be exercised. Where there is an option to terminate the protection which is at the discretion of the protection buyer and the terms of the arrangement at origination of the protection contain a positive incentive for the institution to call the transaction before contractual maturity, an institution shall take the maturity of the protection to be the time to the earliest date at which that option may be exercised; otherwise the institution may consider that such an option does not affect the maturity of the protection.

3 Where a credit derivative is not prevented from terminating prior to expiration of any grace period required for a default on the underlying obligation to occur as a result of a failure to pay institutions shall reduce the maturity of the protection by the length of the grace period.

Article 239

Valuation of protection

1 For transactions subject to funded credit protection under the Financial Collateral Simple Method, where there is a mismatch between the maturity of the exposure and the maturity of the protection, the collateral does not qualify as eligible funded credit protection.

2 For transactions subject to funded credit protection under the Financial Collateral Comprehensive Method, institutions shall reflect the maturity of the credit protection and of the exposure in the adjusted value of the collateral in accordance with the following formula:

$$C_{VAM} = C_{VA} \times \frac{t - t^*}{T - t^*}$$

where:

C_{VA}	=	the volatility adjusted value of the collateral as specified in Article 223(2) or the amount of the exposure, whichever is lower;
t	=	the number of years remaining to the maturity date of the credit protection calculated in accordance with Article 238, or the value of T, whichever is lower;
T	=	the number of years remaining to the maturity date of the exposure calculated in accordance with Article 238, or five years, whichever is lower;
t*	=	0,25.

Institutions shall use C_{VAM} as C_{VA} further adjusted for maturity mismatch in the formula for the calculation of the fully adjusted value of the exposure (E*) set out in Article 223(5).

3 For transactions subject to unfunded credit protection, institutions shall reflect the maturity of the credit protection and of the exposure in the adjusted value of the credit protection in accordance with the following formula:

$$G_A = G^* \times \frac{t - t^*}{T - t^*}$$

where:

G_A	=	G* adjusted for any maturity mismatch;
G*	=	the amount of the protection adjusted for any currency mismatch;
t	=	is the number of years remaining to the maturity date of the credit protection calculated in accordance with Article 238, or the value of T, whichever is lower;
T	=	is the number of years remaining to the maturity date of the exposure calculated in accordance with Article 238, or five years, whichever is lower;
t*	=	0,25.

Institutions shall use G_A as the value of the protection for the purposes of Articles 233 to 236.

Section 6

Basket CRM techniques

Article 240

First-to-default credit derivatives

Where an institution obtains credit protection for a number of exposures under terms that the first default among the exposures shall trigger payment and that this credit event shall terminate the contract, the institution may amend the calculation of the risk-weighted exposure amount and, as relevant, the expected loss amount of the exposure which would, in the absence of the credit protection, produce the lowest risk-weighted exposure amount in accordance with this Chapter:

(a) for institutions using the Standardised Approach, the risk-weighted exposure amount shall be that calculated under the Standardised Approach;

(b) for institutions using the IRB Approach, the risk-weighted exposure amount shall be the sum of the risk-weighted exposure amount calculated under the IRB Approach and 12,5 times the expected loss amount.

The treatment set out in this Article applies only where the exposure value is less than or equal to the value of the credit protection.

Article 241

Nth-to-default credit derivatives

Where the nth default among the exposures triggers payment under the credit protection, the institution purchasing the protection may only recognise the protection for the calculation of risk-weighted exposure amounts and, as applicable, expected loss amounts where protection has also been obtained for defaults 1 to n-1 or when n-1 defaults have already occurred. In such cases, the institution may amend the calculation of the risk-weighted exposure amount and, as applicable, the expected loss amount of the exposure which would, in the absence of the credit protection, produce the n-th lowest risk-weighted exposure amount in accordance with this Chapter. Institutions shall calculate the nth lowest amount as specified in points (a) and (b) of Article 240.

The treatment set out in this Article applies only where the exposure value is less than or equal to the value of the credit protection.

All exposures in the basket shall meet the requirements laid down in Article 204(2) and Article 216(1)(d).

[F74 CHAPTER 5

Securitisation

Section 1

Definitions and criteria for simple, transparent and standardised securitisations

Article 242

Definitions

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

1 ‘ clean-up call option ’ means a contractual option that entitles the originator to call the securitisation positions before all of the securitised exposures have been repaid, either by repurchasing the underlying exposures remaining in the pool in the case of traditional securitisations or by terminating the credit protection in the case of synthetic securitisations, in both cases when the amount of outstanding underlying exposures falls to or below certain pre-specified level;

2 ‘ credit-enhancing interest-only strip ’ means an on-balance sheet asset that represents a valuation of cash flows related to future margin income and is a subordinated tranche in the securitisation;

3 ‘ liquidity facility ’ means a liquidity facility as defined in point (14) of Article 2 of Regulation (EU) 2017/2402;

4 ‘ unrated position ’ means a securitisation position which does not have an eligible credit assessment in accordance with Section 4;

5 ‘ rated position ’ means a securitisation position which has an eligible credit assessment in accordance with Section 4;

6 ‘ senior securitisation position ’ means a position backed or secured by a first claim on the whole of the underlying exposures, disregarding for these purposes amounts due under interest rate or currency derivative contracts, fees or other similar payments, and irrespective of any difference in maturity with one or more other senior tranches with which that position shares losses on a pro-rata basis;

7 ‘ IRB pool ’ means a pool of underlying exposures of a type in relation to which the institution has permission to use the IRB Approach and is able to calculate risk- weighted exposure amounts in accordance with Chapter 3 for all of these exposures;

8 ‘ mixed pool ’ means a pool of underlying exposures of a type in relation to which the institution has permission to use the IRB Approach and is able to calculate risk- weighted exposure amounts in accordance with Chapter 3 for some, but not all, of the exposures;

9 ‘ overcollateralisation ’ means any form of credit enhancement by virtue of which underlying exposures are posted in value which is higher than the value of the securitisation positions;

10 ‘ simple, transparent and standardised securitisation ’ or ‘ STS securitisation ’ means a securitisation that meets the requirements set out in Article 18 of Regulation (EU) 2017/2402;

11 ‘ asset-backed commercial paper programme ’ or ‘ ABCP programme ’ means an asset backed commercial paper programme or ABCP programme as defined in point (7) of Article 2 of Regulation (EU) 2017/2402;

12 ‘ asset-backed commercial paper transaction ’ or ‘ ABCP transaction ’ means an asset-backed commercial paper transaction or ABCP transaction as defined in point (8) of Article 2 of Regulation (EU) 2017/2402;

13 ‘ traditional securitisation ’ means a traditional securitisation as defined in point (9) of Article 2 of Regulation (EU) 2017/2402;

14 ‘ synthetic securitisation ’ means a synthetic securitisation as defined in point (10) of Article 2 of Regulation (EU) 2017/2402;

15 ‘ revolving exposure ’ means a revolving exposure as defined in point (15) of Article 2 of Regulation (EU) 2017/2402;

16 ‘ early amortisation provision ’ means an early amortisation provision as defined in point (17) of Article 2 of Regulation (EU) 2017/2402;

17 ‘ first loss tranche ’ means a first loss tranche as defined in point (18) of Article 2 of Regulation (EU) 2017/2402;

18 ‘ mezzanine securitisation position ’ means a position in the securitisation which is subordinated to the senior securitisation position and more senior than the first loss tranche, and which is subject to a risk weight lower than 1 250 % and higher than 25 % in accordance with Subsections 2 and 3 of Section 3;

[F604 19 “promotional entity” means any undertaking or entity—

a which is established by a government department or devolved administration or by a local authority in any part of the United Kingdom (“the establishing body”);

b which grants promotional loans or guarantees;

c whose primary goal is not to make profit or maximise market share, but is to promote public policy objectives of the establishing body; and

d in relation to which [F605]...—

i the establishing body is obliged to protect its economic basis and maintain its viability throughout its lifetime; or

ii at least 90% of its original capital or funding or the promotional loan it grants is directly or indirectly guaranteed by a government department, a devolved administration or a local authority in any part of the United Kingdom.**]**

Textual Amendments

F604 Art. 242(19) substituted (31.12.2020) by The Securitisation (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/660), regs. 1(2), **42** (as amended by S.I. 2020/1301, regs. 1, 3, **Sch. para. 35(g)** and with savings in S.I. 2019/680, **reg. 11**); 2020 c. 1, **Sch. 5 para. 1(1)**

F605 Words in Art. 242(19) omitted (31.12.2020 immediately after IP completion day) by virtue of The State Aid (Revocations and Amendments) (EU Exit) Regulations 2020 (S.I. 2020/1470), reg. 1(3), **Sch. 1 para. 3(3)** (with Sch. 3)

Article 243

Criteria for STS securitisations qualifying for differentiated capital treatment

1 Positions in an ABCP programme or ABCP transaction that qualify as positions in an STS securitisation shall be eligible for the treatment set out in Articles 260, 262 and 264 where the following requirements are met:

a the underlying exposures meet, at the time of their inclusion in the ABCP programme, to the best knowledge of the originator or the original lender, the conditions for being assigned, under the Standardised Approach and taking into account any eligible credit risk mitigation, a risk weight equal to or smaller than 75 % on an individual exposure basis where the exposure is a retail exposure or 100 % for any other exposures; and

b the aggregate exposure value of all exposures to a single obligor at ABCP programme level does not exceed 2 % of the aggregate exposure value of all exposures within the ABCP programme at the time the exposures were added to the ABCP programme. For the purposes of this calculation, loans or leases to a group of connected clients, to the best knowledge of the sponsor, shall be considered as exposures to a single obligor.

In the case of trade receivables, point (b) of the first subparagraph shall not apply where the credit risk of those trade receivables is fully covered by eligible credit protection in accordance with Chapter 4, provided that in that case the protection provider is an institution, **[**[F606]an investment firm,**]** an insurance undertaking or a reinsurance undertaking. For the purposes of this subparagraph, only the portion of the trade receivables remaining after taking into account the effect of any purchase price discount and overcollateralisation shall be used to determine whether they are fully covered and whether the concentration limit is met.

In the case of securitised residual leasing values, point (b) of the first subparagraph shall not apply where those values are not exposed to refinancing or resell risk due to a legally enforceable commitment to repurchase or refinance the exposure at a pre-determined amount by a third party eligible under Article 201(1).

By way of derogation from point (a) of the first subparagraph, where an institution applies Article 248(3) or has been granted permission to apply the Internal Assessment

Approach in accordance with Article 265, the risk weight that institution would assign to a liquidity facility that completely covers the ABCP issued under the programme is equal to or smaller than 100 %.

2 Positions in a securitisation, other than an ABCP programme or ABCP transaction, that qualify as positions in an STS securitisation, shall be eligible for the treatment set out in Articles 260, 262 and 264 where the following requirements are met:

a at the time of inclusion in the securitisation, the aggregate exposure value of all exposures to a single obligor in the pool does not exceed 2 % of the exposure values of the aggregate outstanding exposure values of the pool of underlying exposures. For the purposes of this calculation, loans or leases to a group of connected clients shall be considered as exposures to a single obligor.

In the case of securitised residual leasing values, the first subparagraph of this point shall not apply where those values are not exposed to refinancing or resell risk due to a legally enforceable commitment to repurchase or refinance the exposure at a pre-determined amount by a third party eligible under Article 201(1);

b at the time of their inclusion in the securitisation, the underlying exposures meet the conditions for being assigned, under the Standardised Approach and taking into account any eligible credit risk mitigation, a risk weight equal to or smaller than:

(i) 40 % on an exposure value-weighted average basis for the portfolio where the exposures are loans secured by residential mortgages or fully guaranteed residential loans, as referred to in point (e) of Article 129(1);

(ii) 50 % on an individual exposure basis where the exposure is a loan secured by a commercial mortgage;

(iii) 75 % on an individual exposure basis where the exposure is a retail exposure;

(iv) for any other exposures, 100 % on an individual exposure basis;

c where points (b)(i) and (b)(ii) apply, the loans secured by lower ranking security rights on a given asset shall only be included in the securitisation where all loans secured by prior ranking security rights on that asset are also included in the securitisation;

d where point (b)(i) of this paragraph applies, no loan in the pool of underlying exposures shall have a loan-to-value ratio higher than 100 %, at the time of inclusion in the securitisation, measured in accordance with point (d)(i) of Article 129(1) and Article 229(1).

Textual Amendments

F606 Words in Art. 243(1) inserted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 32**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

Section 2

Recognition of significant risk transfer

Article 244

Traditional securitisation

1 The originator institution of a traditional securitisation may exclude underlying exposures from its calculation of risk-weighted exposure amounts and, where relevant, expected loss amounts if either of the following conditions is fulfilled:

- a significant credit risk associated with the underlying exposures has been transferred to third parties;
- b the originator institution applies a 1 250 % risk weight to all securitisation positions it holds in the securitisation or deducts these securitisation positions from Common Equity Tier 1 items in accordance with point (k) of Article 36(1).

2 Significant credit risk shall be considered as transferred in either of the following cases:

- a the risk-weighted exposure amounts of the mezzanine securitisation positions held by the originator institution in the securitisation do not exceed 50 % of the risk-weighted exposure amounts of all mezzanine securitisation positions existing in this securitisation;
- b the originator institution does not hold more than 20 % of the exposure value of the first loss tranche in the securitisation, provided that both of the following conditions are met:
  - (i) the originator can demonstrate that the exposure value of the first loss tranche exceeds a reasoned estimate of the expected loss on the underlying exposures by a substantial margin;
  - (ii) there are no mezzanine securitisation positions.

Where the possible reduction in risk-weighted exposure amounts, which the originator institution would achieve by the securitisation under points (a) or (b), is not justified by a commensurate transfer of credit risk to third parties, [F607 the competent authority] may decide on a case-by-case basis that significant credit risk shall not be considered as transferred to third parties.

3 By way of derogation from paragraph 2, [F608 the competent authority] may allow originator institutions to recognise significant credit risk transfer in relation to a securitisation where the originator institution demonstrates in each case that the reduction in own funds requirements which the originator achieves by the securitisation is justified by a commensurate transfer of credit risk to third parties. Permission may only be granted where the institution meets both of the following conditions:

- a the institution has adequate internal risk management policies and methodologies to assess the transfer of credit risk;
- b the institution has also recognised the transfer of credit risk to third parties in each case for the purposes of the institution's internal risk management and its internal capital allocation.

4 In addition to the requirements set out in paragraphs 1, 2 and 3, all of the following conditions shall be met:

- a the transaction documentation reflects the economic substance of the securitisation;

b the securitisation positions do not constitute payment obligations of the originator institution;

c the underlying exposures are placed beyond the reach of the originator institution and its creditors in a manner that meets the requirement set out in Article 20(1) of Regulation (EU) 2017/2402;

d the originator institution does not retain control over the underlying exposures. It shall be considered that control is retained over the underlying exposures where the originator has the right to repurchase from the transferee the previously transferred exposures in order to realise their benefits or if it is otherwise required to re-assume transferred risk. The originator institution's retention of servicing rights or obligations in respect of the underlying exposures shall not of itself constitute control of the exposures;

e the securitisation documentation does not contain terms or conditions that:

(i) require the originator institution to alter the underlying exposures to improve the average quality of the pool; or

(ii) increase the yield payable to holders of positions or otherwise enhance the positions in the securitisation in response to a deterioration in the credit quality of the underlying exposures;

f where applicable, the transaction documentation makes it clear that the originator or the sponsor may only purchase or repurchase securitisation positions or repurchase, restructure or substitute the underlying exposures beyond their contractual obligations where such arrangements are executed in accordance with prevailing market conditions and the parties to them act in their own interest as free and independent parties (arm's length);

g where there is a clean-up call option, that option shall also meet all of the following conditions:

(i) it can be exercised at the discretion of the originator institution;

(ii) it may only be exercised when 10 % or less of the original value of the underlying exposures remains unamortised;

(iii) it is not structured to avoid allocating losses to credit enhancement positions or other positions held by investors in the securitisation and is not otherwise structured to provide credit enhancement;

h the originator institution has received an opinion from a qualified legal counsel confirming that the securitisation complies with the conditions set out in point (c) of this paragraph.

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Textual Amendments

F607 Words in Art. 244(2) substituted (31.12.2020) by The Securitisation (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/660), regs. 1(2), **41(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F608 Words in Art. 244(3) substituted (31.12.2020) by The Securitisation (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/660), regs. 1(2), **41(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F609 Art. 244(5) omitted (31.12.2020) by virtue of The Securitisation (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/660), regs. 1(2), **43** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F610 Art. 244(6) omitted (31.12.2020) by virtue of The Securitisation (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/660), regs. 1(2), **43** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 245

Synthetic securitisation

1 The originator institution of a synthetic securitisation may calculate risk-weighted exposure amounts, and, where relevant, expected loss amounts with respect to the underlying exposures in accordance with Articles 251 and 252, where either of the following conditions is met:

a significant credit risk has been transferred to third parties either through funded or unfunded credit protection;

b the originator institution applies a 1 250 % risk weight to all securitisation positions that it retains in the securitisation or deducts these securitisation positions from Common Equity Tier 1 items in accordance with point (k) of Article 36(1).

2 Significant credit risk shall be considered as transferred in either of the following cases:

a the risk-weighted exposure amounts of the mezzanine securitisation positions held by the originator institution in the securitisation do not exceed 50 % of the risk-weighted exposure amounts of all mezzanine securitisation positions existing in this securitisation;

b the originator institution does not hold more than 20 % of the exposure value of the first loss tranche in the securitisation, provided that both of the following conditions are met:

(i) the originator can demonstrate that the exposure value of the first loss tranche exceeds a reasoned estimate of the expected loss on the underlying exposures by a substantial margin;

(ii) there are no mezzanine securitisation positions.

Where the possible reduction in risk-weighted exposure amounts, which the originator institution would achieve by the securitisation, is not justified by a commensurate transfer of credit risk to third parties, **[**[F611]the competent authority**]** may decide on a case-by-case basis that significant credit risk shall not be considered as transferred to third parties.

3 By way of derogation from paragraph 2, **[**[F612]the competent authority**]** may allow originator institutions to recognise significant credit risk transfer in relation to a securitisation where the originator institution demonstrates in each case that the reduction in own funds requirements which the originator achieves by the securitisation is justified by a commensurate transfer of credit risk to third parties. Permission may only be granted where the institution meets both of the following conditions:

a the institution has adequate internal risk-management policies and methodologies to assess the transfer of risk;

b the institution has also recognised the transfer of credit risk to third parties in each case for the purposes of the institution's internal risk management and its internal capital allocation.

4 In addition to the requirements set out in paragraphs 1, 2 and 3, all of the following conditions shall be met:

a the transaction documentation reflects the economic substance of the securitisation;

b the credit protection by virtue of which credit risk is transferred complies with Article 249;

c the securitisation documentation does not contain terms or conditions that:

(i) impose significant materiality thresholds below which credit protection is deemed not to be triggered if a credit event occurs;

(ii) allow for the termination of the protection due to deterioration of the credit quality of the underlying exposures;

(iii) require the originator institution to alter the composition of the underlying exposures to improve the average quality of the pool; or

(iv) increase the institution's cost of credit protection or the yield payable to holders of positions in the securitisation in response to a deterioration in the credit quality of the underlying pool;

d the credit protection is enforceable in all relevant jurisdictions;

e where applicable, the transaction documentation makes it clear that the originator or the sponsor may only purchase or repurchase securitisation positions or repurchase, restructure or substitute the underlying exposures beyond their contractual obligations where such arrangements are executed in accordance with prevailing market conditions and the parties to them act in their own interest as free and independent parties (arm's length);

f where there is a clean-up call option, that option meets all the following conditions:

(i) it may be exercised at the discretion of the originator institution;

(ii) it may only be exercised when 10 % or less of the original value of the underlying exposures remains unamortised;

(iii) it is not structured to avoid allocating losses to credit enhancement positions or other positions held by investors in the securitisation and is not otherwise structured to provide credit enhancement;

g the originator institution has received an opinion from a qualified legal counsel confirming that the securitisation complies with the conditions set out in point (d) of this paragraph;

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F614 6 . . . .

Textual Amendments

F611 Words in Art. 245(2) substituted (31.12.2020) by The Securitisation (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/660), regs. 1(2), **41(c)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F612 Words in Art. 245(3) substituted (31.12.2020) by The Securitisation (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/660), regs. 1(2), **41(d)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
F613 Art. 245(5) omitted (31.12.2020) by virtue of The Securitisation (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/660), regs. 1(2), **44** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
F614 Art. 245(6) omitted (31.12.2020) by virtue of The Securitisation (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/660), regs. 1(2), **44** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 246

Operational requirements for early amortisation provisions

Where the securitisation includes revolving exposures and early amortisation provisions or similar provisions, significant credit risk shall only be considered transferred by the originator institution where the requirements laid down in Articles 244 and 245 are met and the early amortisation provision, once triggered, does not:

(a) subordinate the institution's senior or *pari passu* claim on the underlying exposures to the other investors' claims;

(b) subordinate further the institution's claim on the underlying exposures relative to other parties' claims; or

(c) otherwise increase the institution's exposure to losses associated with the underlying revolving exposures.

Section 3

Calculation of risk-weighted exposure amounts

Subsection 1

General Provisions

Article 247

Calculation of risk-weighted exposure amounts

1 Where an originator institution has transferred significant credit risk associated with the underlying exposures of the securitisation in accordance with Section 2, that institution may:

a in the case of a traditional securitisation, exclude the underlying exposures from its calculation of risk-weighted exposure amounts, and, as relevant, expected loss amounts;

b in the case of a synthetic securitisation, calculate risk-weighted exposure amounts, and, where relevant, expected loss amounts, with respect to the underlying exposures in accordance with Articles 251 and 252.

2 Where the originator institution has decided to apply paragraph 1, it shall calculate the risk-weighted exposure amounts as set out in this Chapter for the positions that it may hold in the securitisation.

Where the originator institution has not transferred significant credit risk or has decided not to apply paragraph 1, it shall not be required to calculate risk-weighted exposure amounts for any position it may have in the securitisation but shall continue including the underlying exposures in its calculation of risk-weighted exposure amounts and, where relevant, expected loss amounts as if they had not been securitised.

3 Where there is an exposure to positions in different tranches in a securitisation, the exposure to each tranche shall be considered a separate securitisation position. The providers of credit protection to securitisation positions shall be considered as holding positions in the securitisation. Securitisation positions shall include exposures to a securitisation arising from interest rate or currency derivative contracts that the institution has entered into with the transaction.

4 Unless a securitisation position is deducted from Common Equity Tier 1 items pursuant to point (k) of Article 36(1), the risk-weighted exposure amount shall be included in the institution's total of risk-weighted exposure amounts for the purposes of Article 92(3).

5 The risk-weighted exposure amount of a securitisation position shall be calculated by multiplying the exposure value of the position, calculated as set out in Article 248, by the relevant total risk weight.

6 The total risk weight shall be determined as the sum of the risk weight set out in this Chapter and any additional risk weight in accordance with Article 270a.

Article 248

Exposure value

1 The exposure value of a securitisation position shall be calculated as follows:

a the exposure value of an on-balance sheet securitisation position shall be its accounting value remaining after any relevant specific credit risk adjustments on the securitisation position have been applied in accordance with Article 110;

b the exposure value of an off-balance sheet securitisation position shall be its nominal value less any relevant specific credit risk adjustments on the securitisation position in accordance with Article 110, multiplied by the relevant conversion factor as set out in this point. The conversion factor shall be 100 %, except in the case of cash advance facilities. To determine the exposure value of the undrawn portion of the cash advance facilities, a conversion factor of 0 % may be applied to the nominal amount of a liquidity facility that is unconditionally cancellable provided that repayment of draws on the facility are senior to any other claims on the cash flows arising from the underlying exposures and the institution has demonstrated to the satisfaction of the competent authority that it is applying an appropriately conservative method for measuring the amount of the undrawn portion;

c the exposure value for the counterparty credit risk of a securitisation position that results from a derivative instrument listed in Annex II, shall be determined in accordance with Chapter 6;

d an originator institution may deduct from the exposure value of a securitisation position which is assigned 1 250 % risk weight in accordance with Subsection 3 or deducted from Common Equity Tier 1 in accordance with point (k) of Article 36(1), the amount of the specific credit risk adjustments on the underlying exposures in accordance with Article 110, and any non-refundable purchase price discounts connected with such underlying exposures to the extent that such discounts have caused the reduction of own funds.

The [F615[F616PRA may] make] technical standards to specify what constitutes an appropriately conservative method for measuring the amount of the undrawn portion referred to in point (b) of the first subparagraph.

F617 ...

2 Where an institution has two or more overlapping positions in a securitisation, it shall include only one of the positions in its calculation of risk-weighted exposure amounts.

Where the positions partially overlap, the institution may split the position into two parts and recognise the overlap in relation to one part only in accordance with the first subparagraph. Alternatively, the institution may treat the positions as if they were fully overlapping by expanding for capital calculation purposes the position that produces the higher risk-weighted exposure amounts.

The institution may also recognise an overlap between the specific risk own funds requirements for positions in the trading book and the own funds requirements for securitisation positions in the non-trading book, provided that the institution is able to calculate and compare the own funds requirements for the relevant positions.

For the purposes of this paragraph, two positions shall be deemed to be overlapping where they are mutually offsetting in such a manner that the institution is able to preclude the losses arising from one position by performing the obligations required under the other position.

3 Where point (d) of Article 270c applies to positions in an ABCP, the institution may use the risk weight assigned to a liquidity facility in order to calculate the risk-weighted exposure amount for the ABCP, provided that the liquidity facility covers 100 % of the ABCP issued by the ABCP programme and the liquidity facility ranks *pari passu* with the ABCP in a manner that they form an overlapping position. The institution shall notify [F618the competent authority] where it has applied the provisions laid down in this paragraph. For the purposes of determining the 100 % coverage set out in this paragraph, the institution may take into account other liquidity facilities in the ABCP programme, provided that they form an overlapping position with the ABCP.

Textual Amendments

F615 Words in Art. 248(1) substituted (31.12.2020) by The Securitisation (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/660), regs. 1(2), **45(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F616 Words in Art. 248(1) substituted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 47**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F617 Words in Art. 248(1) omitted (31.12.2020) by virtue of The Securitisation (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/660), regs. 1(2), **45(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F618 Words in Art. 248(3) substituted (31.12.2020) by The Securitisation (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/660), regs. 1(2), **41(e)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 249

Recognition of credit risk mitigation for securitisation positions

1 An institution may recognise funded or unfunded credit protection with respect to a securitisation position where the requirements for credit risk mitigation laid down in this Chapter and in Chapter 4 are met.

2 Eligible funded credit protection shall be limited to financial collateral which is eligible for the calculation of risk-weighted exposure amounts under Chapter 2 [F619 of this Regulation and Articles 132a to 132c of Chapter 3 of the Standardised Approach and Internal Ratings Based Approach to Credit Risk (CRR) Part of the PRA Rulebook] as laid down under Chapter 4 and recognition of credit risk mitigation shall be subject to compliance with the relevant requirements as laid down under Chapter 4.

Eligible unfunded credit protection and unfunded credit protection providers shall be limited to those which are eligible in accordance with Chapter 4 and recognition of credit risk mitigation shall be subject to compliance with the relevant requirements as laid down under Chapter 4.

3 By way of derogation from paragraph 2, the eligible providers of unfunded credit protection listed in points (a) to (h) of Article 201(1) shall have been assigned a credit assessment by a recognised ECAI which is credit quality step 2 or above at the time the credit protection was first recognised and credit quality step 3 or above thereafter. The requirement set out in this subparagraph shall not apply to qualifying central counterparties.

Institutions which are allowed to apply the IRB Approach to a direct exposure to the protection provider may assess eligibility in accordance with the first subparagraph based on the equivalence of the PD for the protection provider to the PD associated with the credit quality steps referred to in Article 136.

4 By way of derogation from paragraph 2, SSPEs shall be eligible protection providers where all of the following conditions are met:

- a the SSPE owns assets that qualify as eligible financial collateral in accordance with Chapter 4;
- b the assets referred to in point (a) are not subject to claims or contingent claims ranking ahead or *pari passu* with the claim or contingent claim of the institution receiving unfunded credit protection; and
- c all the requirements for the recognition of financial collateral set out in Chapter 4 are met.

5 For the purposes of paragraph 4, the amount of the protection adjusted for any currency and maturity mismatches (Ga) in accordance with Chapter 4 shall be limited to the volatility adjusted market value of those assets and the risk weight of exposures to the protection provider as specified under the Standardised Approach (g) shall be determined as the weighted-average risk weight that would apply to those assets as financial collateral under the Standardised Approach.

6 Where a securitisation position benefits from full credit protection or a partial credit protection on a pro-rata basis, the following requirements shall apply:

- a the institution providing credit protection shall calculate risk-weighted exposure amounts for the portion of the securitisation position benefiting from credit protection in accordance with Subsection 3 as if it held that portion of the position directly;

b the institution buying credit protection shall calculate risk-weighted exposure amounts in accordance with Chapter 4 for the protected portion.

7 In all cases not covered by paragraph 6, the following requirements shall apply:

a the institution providing credit protection shall treat the portion of the position benefiting from credit protection as a securitisation position and shall calculate risk-weighted exposure amounts as if it held that position directly in accordance with Subsection 3, subject to paragraphs 8, 9 and 10;

b the institution buying credit protection shall calculate risk-weighted exposure amounts for the protected portion of the position referred to in point (a) in accordance with Chapter 4. The institution shall treat the portion of the securitisation position not benefiting from credit protection as a separate securitisation position and shall calculate risk-weighted exposure amounts in accordance with Subsection 3, subject to paragraphs 8, 9 and 10.

8 Institutions using the Securitisation Internal Ratings Based Approach (SEC-IRBA) or the Securitisation Standardised Approach (SEC-SA) under Subsection 3 shall determine the attachment point (A) and detachment point (D) separately for each of the positions derived in accordance with paragraph 7 as if these had been issued as separate securitisation positions at the time of origination of the transaction. The value of K_{IRB} or K_{SA}, respectively, shall be calculated taking into account the original pool of exposures underlying the securitisation.

9 Institutions using the Securitisation External Ratings Based Approach (SEC-ERBA) under Subsection 3 for the original securitisation position shall calculate risk-weighted exposure amounts for the positions derived in accordance with paragraph 7 as follows:

a where the derived position has the higher seniority, it shall be assigned the risk weight of the original securitisation position;

b where the derived position has the lower seniority, it may be assigned an inferred rating in accordance with Article 263(7). In that case, thickness input T shall only be computed on the basis of the derived position. Where a rating may not be inferred, the institution shall apply the higher of the risk weight resulting from either:

(i) applying the SEC-SA in accordance with paragraph 8 and Subsection 3; or

(ii) the risk weight of the original securitisation position under the SEC-ERBA.

10 The derived position with the lower seniority shall be treated as a non-senior securitisation position even if the original securitisation position prior to protection qualifies as senior.

Textual Amendments

F619 Words in Art. 249(2) inserted (1.1.2022) by The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/1376), regs. 1(3), **25(27)**

Article 250

Implicit support

1 A sponsor institution, or an originator institution which in respect of a securitisation has made use of Article 247(1) and (2) in the calculation of risk-weighted exposure amounts or has sold instruments from its trading book to the effect that it is no longer required to hold

own funds for the risks of those instruments shall not provide support, directly or indirectly, to the securitisation beyond its contractual obligations with a view to reducing potential or actual losses to investors.

2 A transaction shall not be considered as support for the purposes of paragraph 1 where the transaction has been duly taken into account in the assessment of significant credit risk transfer and both parties have executed the transaction acting in their own interest as free and independent parties (arm's length). For these purposes, the institution shall undertake a full credit review of the transaction and, at a minimum, take into account all of the following items:

a the repurchase price;
b the institution's capital and liquidity position before and after repurchase;
c the performance of the underlying exposures;
d the performance of the securitisation positions;
e the impact of support on the losses expected to be incurred by the originator relative to investors.

3 The originator institution and the sponsor institution shall notify the competent authority of any transaction entered into in relation to the securitisation in accordance with paragraph 2.

F620 4 . . . .

5 If an originator institution or a sponsor institution fails to comply with paragraph 1 in respect of a securitisation, the institution shall include all of the underlying exposures of that securitisation in its calculation of risk-weighted exposure amounts as if they had not been securitised and disclose:

a that it has provided support to the securitisation in breach of paragraph 1; and
b the impact of the support provided in terms of own funds requirements.

Textual Amendments

F620 Art. 250(4) omitted (31.12.2020) by virtue of The Securitisation (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/660), regs. 1(2), **46** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 251

Originator institutions' calculation of risk-weighted exposure amounts securitised in a synthetic securitisation

1 For the purpose of calculating risk-weighted exposure amounts for the underlying exposures, the originator institution of a synthetic securitisation shall use the calculation methodologies set out in this Section where applicable instead of those set out in Chapter 2 **[**[F621]of this Regulation and Articles 132a to 132c of Chapter 3 of the Standardised Approach and Internal Ratings Based Approach to Credit Risk (CRR) Part of the PRA Rulebook**]**. For institutions calculating risk-weighted exposure amounts and, where relevant, expected loss amounts with respect to the underlying exposures under Chapter 3, the expected loss amount in respect of such exposures shall be zero.

2 The requirements set out in paragraph 1 of this Article shall apply to the entire pool of exposures backing the securitisation. Subject to Article 252, the originator institution shall calculate risk-weighted exposure amounts with respect to all tranches in the securitisation in

accordance with this Section, including the positions in relation to which the institution is able to recognise credit risk mitigation in accordance with Article 249. The risk weight to be applied to positions which benefit from credit risk mitigation may be amended in accordance with Chapter 4.

Textual Amendments

F621 Words in Art. 251(1) inserted (1.1.2022) by The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/1376), regs. 1(3), **25(28)**

Article 252

Treatment of maturity mismatches in synthetic securitisations

For the purposes of calculating risk-weighted exposure amounts in accordance with Article 251, any maturity mismatch between the credit protection by which the transfer of risk is achieved and the underlying exposures shall be calculated as follows:

(a) the maturity of the underlying exposures shall be taken to be the longest maturity of any of those exposures subject to a maximum of 5 years. The maturity of the credit protection shall be determined in accordance with Chapter 4;

(b) an originator institution shall ignore any maturity mismatch in calculating risk-weighted exposure amounts for securitisation positions subject to a risk weight of 1 250 % in accordance with this Section. For all other positions, the maturity mismatch treatment set out in Chapter 4 shall be applied in accordance with the following formula:

$$RW^* = RW_{SP} \cdot [(t - t^*)/(T - t^*)] + RW_{Ass} \cdot [(T - t)/(T - t^*)]$$

where:

RW*	=	risk-weighted exposure amounts for the purposes of point (a) of Article 92(3);
RW_{Ass}	=	risk-weighted exposure amounts for the underlying exposures as if they had not been securitised, calculated on a pro-rata basis;
RW_{SP}	=	risk-weighted exposure amounts calculated under Article 251 as if there was no maturity mismatch;
T	=	maturity of the underlying exposures, expressed in years;
t	=	maturity of credit protection, expressed in years;
t*	=	0,25

Article 253

Reduction in risk-weighted exposure amounts

1 Where a securitisation position is assigned a 1 250 % risk weight under this Section, institutions may deduct the exposure value of such position from Common Equity Tier 1 capital

in accordance with point (k) of Article 36(1) as an alternative to including the position in their calculation of risk-weighted exposure amounts. For that purpose, the calculation of the exposure value may reflect eligible funded credit protection in accordance with Article 249.

2 Where an institution makes use of the alternative set out in paragraph 1, it may subtract the amount deducted in accordance with point (k) of Article 36(1) from the amount specified in Article 268 as maximum capital requirement that would be calculated in respect of the underlying exposures as if they had not been securitised.

Subsection 2

Hierarchy of methods and common parameters

Article 254

Hierarchy of methods

1 Institutions shall use one of the methods set out in Subsection 3 to calculate risk-weighted exposure amounts in accordance with the following hierarchy:

- a where the conditions set out in Article 258 are met, an institution shall use the SEC-IRBA in accordance with Articles 259 and 260;
- b where the SEC-IRBA may not be used, an institution shall use the SEC-SA in accordance with Articles 261 and 262;
- c where the SEC-SA may not be used, an institution shall use the SEC-ERBA in accordance with Articles 263 and 264 for rated positions or positions in respect of which an inferred rating may be used.

2 For rated positions or positions in respect of which an inferred rating may be used, an institution shall use the SEC-ERBA instead of the SEC-SA in each of the following cases:

- a where the application of the SEC-SA would result in a risk weight higher than 25 % for positions qualifying as positions in an STS securitisation;
- b where the application of the SEC-SA would result in a risk weight higher than 25 % or the application of the SEC-ERBA would result in a risk weight higher than 75 % for positions not qualifying as positions in an STS securitisation;
- c for securitisation transactions backed by pools of auto loans, auto leases and equipment leases.

3 **[**[F622]The third and fourth subparagraphs apply where, on or before 17 November 2018, an institution notified the competent authority of a relevant decision."A relevant decision" is a decision made under the first subparagraph, as it had effect on 17 November 2018 by virtue of the first subparagraph of Article 3 (entry into force), to apply the SEC-ERBA instead of the SEC-SA to all its rated securitisation positions or positions in respect of which an inferred rating may be used.**]**

Any subsequent decision to further change the approach applied to all of its rated securitisation positions shall be notified by the institution to its competent authority before the 15th November immediately following that decision.

In the absence of any objection by the competent authority by 15 December immediately following the deadline referred to in the second or third subparagraph, as appropriate, the decision notified by the institution shall take effect from 1 January of the following year and shall be valid until a subsequently notified decision comes into effect. An institution shall not use different approaches in the course of the same year.

4 By way of derogation from paragraph 1, [F623the competent authority] may prohibit institutions, on a case by case basis, from applying the SEC-SA when the risk-weighted exposure amount resulting from the application of the SEC-SA is not commensurate to the risks posed to the institution or to financial stability, including but not limited to the credit risk embedded in the exposures underlying the securitisation. In the case of exposures not qualifying as positions in an STS securitisation, particular regard shall be had to securitisations with highly complex and risky features.

5 Without prejudice to paragraph 1 of this Article, an institution may apply the Internal Assessment Approach to calculate risk-weighted exposure amounts in relation to an unrated position in an ABCP programme or ABCP transaction in accordance with Article 266, provided that the conditions set out in Article 265 are met. Where an institution has received permission to apply the Internal Assessment Approach in accordance with Article 265(2), and a specific position in an ABCP programme or ABCP transaction falls within the scope of application covered by such permission, the institution shall apply that approach to calculate the risk-weighted exposure amount of that position.

6 For a position in a re-securitisation, institutions shall apply the SEC-SA in accordance with Article 261, with the modifications set out in Article 269.

7 In all other cases, a risk weight of 1 250 % shall be assigned to securitisation positions.

F624 8 . . . .

Textual Amendments

F622 Words in Art. 254(3) substituted (31.12.2020) by The Securitisation (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/660), regs. 1(2), **47(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F623 Words in Art. 254(4) substituted (31.12.2020) by The Securitisation (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/660), regs. 1(2), **41(f)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F624 Art. 254(8) omitted (31.12.2020) by virtue of The Securitisation (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/660), regs. 1(2), **47(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 255

Determination of K_{IRB} and K_{SA}

1 Where an institution applies the SEC-IRBA under Subsection 3, the institution shall calculate K_{IRB} in accordance with paragraphs 2 to 5.

2 Institutions shall determine K_{IRB} by multiplying the risk-weighted exposure amounts that would be calculated under Chapter 3 in respect of the underlying exposures as if they had not been securitised by 8 % divided by the exposure value of the underlying exposures. K_{IRB} shall be expressed in decimal form between zero and one.

3 For K_{IRB} calculation purposes, the risk-weighted exposure amounts that would be calculated under Chapter 3 in respect of the underlying exposures shall include:

a the amount of expected losses associated with all the underlying exposures of the securitisation including defaulted underlying exposures that are still part of the pool in accordance with Chapter 3; and
b the amount of unexpected losses associated with all the underlying exposures including defaulted underlying exposures in the pool in accordance with Chapter 3.

4 Institutions may calculate K_{IRB} in relation to the underlying exposures of the securitisation in accordance with the provisions set out in Chapter 3 for the calculation of capital requirements for purchased receivables. For these purposes, retail exposures shall be treated as purchased retail receivables and non-retail exposures as purchased corporate receivables.

5 Institutions shall calculate K_{IRB} separately for dilution risk in relation to the underlying exposures of a securitisation where dilution risk is material to such exposures.

Where losses from dilution and credit risks are treated in an aggregate manner in the securitisation, institutions shall combine the respective K_{IRB} for dilution and credit risk into a single K_{IRB} for the purposes of Subsection 3. The presence of a single reserve fund or overcollateralisation available to cover losses from either credit or dilution risk may be regarded as an indication that these risks are treated in an aggregate manner.

Where dilution and credit risk are not treated in an aggregate manner in the securitisation, institutions shall modify the treatment set out in the second subparagraph to combine the respective K_{IRB} for dilution and credit risk in a prudent manner.

6 Where an institution applies the SEC-SA under Subsection 3, it shall calculate K_{SA} by multiplying the risk-weighted exposure amounts that would be calculated under Chapter 2 [F625of this Regulation and Articles 132a to 132c of Chapter 3 of the Standardised Approach and Internal Ratings Based Approach to Credit Risk (CRR) Part of the PRA Rulebook] in respect of the underlying exposures as if they had not been securitised by 8 % divided by the value of the underlying exposures. K_{SA} shall be expressed in decimal form between zero and one.

For the purposes of this paragraph, institutions shall calculate the exposure value of the underlying exposures without netting any specific credit risk adjustments and additional value adjustments in accordance with Articles 34 and 110 and other own funds reductions.

7 For the purposes of paragraphs 1 to 6, where a securitisation structure involves the use of an SSPE, all the SSPE's exposures related to the securitisation shall be treated as underlying exposures. Without prejudice to the preceding, the institution may exclude the SSPE's exposures from the pool of underlying exposures for K_{IRB} or K_{SA} calculation purposes if the risk from the SSPE's exposures is immaterial or if it does not affect the institution's securitisation position.

In the case of funded synthetic securitisations, any material proceeds from the issuance of credit-linked notes or other funded obligations of the SSPE that serve as collateral for the repayment of the securitisation positions shall be included in the calculation of K_{IRB} or K_{SA} if the credit risk of the collateral is subject to the tranched loss allocation.

F626 8 . . . .

9 The [F627[F628PRA may] make] technical standards to further specify the conditions to allow institutions to calculate K_{IRB} for the pools of underlying exposures in accordance with paragraph 4, in particular with regard to:
a internal credit policy and models for calculating K_{IRB} for securitisations;

b use of different risk factors relating to the pool of underlying exposures and, where sufficient accurate or reliable data on that pool are not available, of proxy data to estimate PD and LGD; and

c due diligence requirements to monitor the actions and policies of sellers of receivables or other originators.

F629 ...

Textual Amendments

F625 Words in Art. 255(6) inserted (1.1.2022) by The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/1376), regs. 1(3), **25(29)**

F626 Art. 255(8) omitted (31.12.2020) by virtue of The Securitisation (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/660), regs. 1(2), **48(2)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F627 Words in Art. 255(9) substituted (31.12.2020) by The Securitisation (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/660), regs. 1(2), **48(3)(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F628 Words in Art. 255(9) substituted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 47**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F629 Words in Art. 255(9) omitted (31.12.2020) by virtue of The Securitisation (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/660), regs. 1(2), **48(3)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 256

Determination of attachment point (A) and detachment point (D)

1 For the purposes of Subsection 3, institutions shall set the attachment point (A) at the threshold at which losses within the pool of underlying exposures would start to be allocated to the relevant securitisation position.

The attachment point (A) shall be expressed as a decimal value between zero and one and shall be equal to the greater of zero and the ratio of the outstanding balance of the pool of underlying exposures in the securitisation minus the outstanding balance of all tranches that rank senior or *pari passu* to the tranche containing the relevant securitisation position including the exposure itself to the outstanding balance of all the underlying exposures in the securitisation.

2 For the purposes of Subsection 3, institutions shall set the detachment point (D) at the threshold at which losses within the pool of underlying exposures would result in a complete loss of principal for the tranche containing the relevant securitisation position.

The detachment point (D) shall be expressed as a decimal value between zero and one and shall be equal to the greater of zero and the ratio of the outstanding balance of the pool of underlying exposures in the securitisation minus the outstanding balance of all tranches that rank senior to the tranche containing the relevant securitisation position to the outstanding balance of all the underlying exposures in the securitisation.

3 For the purposes of paragraphs 1 and 2, institutions shall treat overcollateralisation and funded reserve accounts as tranches and the assets comprising such reserve accounts as underlying exposures.

4 For the purposes of paragraphs 1 and 2, institutions shall disregard unfunded reserve accounts and assets that do not provide credit enhancement, such as those that only provide liquidity support, currency or interest rate swaps and cash collateral accounts related to those positions in the securitisation. For funded reserve accounts and assets providing credit enhancement, the institution shall only treat as securitisation positions the parts of those accounts or assets that are loss-absorbing.

5 Where two or more positions of the same transaction have different maturities but share pro rata loss allocation, the calculation of the attachment points (A) and the detachment points (D) shall be based on the aggregated outstanding balance of those positions and the resulting attachment points (A) and detachment points (D) shall be the same.

Article 257

Determination of tranche maturity (M_T)

1 For the purposes of Subsection 3 and subject to paragraph 2, institutions may measure the maturity of a tranche (M_T) as either:

a the weighted average maturity of the contractual payments due under the tranche in accordance with the following formula:

$$\sum_t t \cdot CF_t / \sum_t CF_t,$$

where CF_t denotes all contractual payments (principal, interests and fees) payable by the borrower during period t; or

b the final legal maturity of the tranche in accordance with the following formula:

$$M_T = 1 + (M_L - 1) * 80\,\%,$$

where M_L is the final legal maturity of the tranche.

2 For the purposes of paragraph 1, the determination of a tranche maturity (M_T) shall be subject in all cases to a floor of 1 year and a cap of 5 years.

3 Where an institution may become exposed to potential losses from the underlying exposures by virtue of contract, the institution shall determine the maturity of the securitisation position by taking into account the maturity of the contract plus the longest maturity of such underlying exposures. For revolving exposures, the longest contractually possible remaining maturity of the exposure that might be added during the revolving period shall apply.

F630 4 . . . .

Textual Amendments

F630 Art. 257(4) omitted (31.12.2020) by virtue of The Securitisation (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/660), regs. 1(2), **49** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Subsection 3

Methods to calculate risk-weighted exposure amounts

Article 258

Conditions for the use of the Internal Ratings Based Approach (SEC-IRBA)

1 Institutions shall use the SEC-IRBA to calculate risk-weighted exposure amounts in relation to a securitisation position where the following conditions are met:

a the position is backed by an IRB pool or a mixed pool, provided that, in the latter case, the institution is able to calculate K_{IRB} in accordance with Section 3 on a minimum of 95 % of the underlying exposure amount;

b there is sufficient information available in relation to the underlying exposures of the securitisation for the institution to be able to calculate K_{IRB} ; and

c the institution has not been precluded from using the SEC-IRBA in relation to a specified securitisation position in accordance with paragraph 2.

2 [F631 The competent authority] may on a case-by-case basis preclude the use of the SEC-IRBA where securitisations have highly complex or risky features. For these purposes, the following may be regarded as highly complex or risky features:

a credit enhancement that can be eroded for reasons other than portfolio losses;

b pools of underlying exposures with a high degree of internal correlation as a result of concentrated exposures to single sectors or geographical areas;

c transactions where the repayment of the securitisation positions is highly dependent on risk drivers not reflected in K_{IRB} ; or

d highly complex loss allocations between tranches.

Textual Amendments

F631 Words in Art. 258(2) substituted (31.12.2020) by The Securitisation (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/660), regs. 1(2), **41(g)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 259

Calculation of risk-weighted exposure amounts under the SEC-IRBA

1 Under the SEC-IRBA, the risk-weighted exposure amount for a securitisation position shall be calculated by multiplying the exposure value of the position calculated in accordance with Article 248 by the applicable risk weight determined as follows, in all cases subject to a floor of 15 %:

RW = 1 250 %	when $D \leq K_{IRB}$
$RW = 12{,}5 \cdot K_{SSFA(K_{IRB})}$	when $A \geq K_{IRB}$
	when $A < K_{IRB} < D$

$$RW = \left[\left(\frac{K_{IRB} - A}{D - A}\right) \cdot 12.5\right] + \left[\left(\frac{D - K_{IRB}}{D - A}\right) \cdot 12.5 \cdot K_{SSFA(K_{IRB})}\right]$$

where:

K_{IRB}	is the capital charge of the pool of underlying exposures as defined in Article 255
D	is the detachment point as determined in accordance with Article 256
A	is the attachment point as determined in accordance with Article 256

$$K_{SSFA(K_{IRB})} = \frac{e^{a \cdot u} - e^{a \cdot l}}{a(u - l)}$$

where:

a	=	$-(1/(p * K_{IRB}))$
u	=	$D - K_{IRB}$
l	=	$\max(A - K_{IRB}; 0)$

where:

$$p = \max\left[0{,}3; \left(A + B^{*}(1/N) + C^{*}K_{IRB} + D^{*}LGD + E^{*}M_T\right)\right]$$

where:

N	is the effective number of exposures in the pool of underlying exposures, calculated in accordance with paragraph 4;
LGD	is the exposure-weighted average loss-given-default of the pool of underlying exposures, calculated in accordance with paragraph 5;
M_T	is the maturity of the tranche as determined in accordance with Article 257.

The parameters A, B, C, D, and E shall be determined according to the following look-up table:

		A	**B**	**C**	**D**	**E**
Non-retail	Senior, granular (N ≥ 25)	0	3,56	-1,85	0,55	0,07
	Senior, non-granular (N < 25)	0,11	2,61	-2,91	0,68	0,07
	Non-senior, granular (N ≥ 25)	0,16	2,87	-1,03	0,21	0,07
	Non-senior, non-granular (N < 25)	0,22	2,35	-2,46	0,48	0,07
Retail	Senior	0	0	-7,48	0,71	0,24
	Non-senior	0	0	-5,78	0,55	0,27

2 If the underlying IRB pool comprises both retail and non-retail exposures, the pool shall be divided into one retail and one non-retail subpool and, for each subpool, a separate p-parameter (and the corresponding input parameters N, K_{IRB} and LGD) shall be estimated. Subsequently, a weighted average p-parameter for the transaction shall be calculated on the basis of the p-parameters of each subpool and the nominal size of the exposures in each subpool.

3 Where an institution applies the SEC-IRBA to a mixed pool, the calculation of the p-parameter shall be based on the underlying exposures subject to the IRB Approach only. The underlying exposures subject to the Standardised Approach shall be ignored for these purposes.

4 The effective number of exposures (N) shall be calculated as follows:

$$N = \frac{(\sum_i EAD_i)^2}{\sum_i EAD_i^2}$$

where EAD_i represents the exposure value associated with the ith exposure in the pool.

Multiple exposures to the same obligor shall be consolidated and treated as a single exposure.

5 The exposure-weighted average LGD shall be calculated as follows:

$$LGD = \frac{\sum_i LGD_i \cdot EAD_i}{\sum_i EAD_i}$$

where LGD_i represents the average LGD associated with all exposures to the ith obligor.

Where credit and dilution risks for purchased receivables are managed in an aggregate manner in a securitisation, the LGD input shall be construed as a weighted average of the LGD for credit risk and 100 % LGD for dilution risk. The weights shall be the stand-alone IRB Approach capital requirements for credit risk and dilution risk, respectively. For these purposes, the presence of a single reserve fund or overcollateralisation available to cover losses from either credit or dilution risk may be regarded as an indication that these risks are managed in an aggregate manner.

6 Where the share of the largest underlying exposure in the pool (C_1) is no more than 3 %, institutions may use the following simplified method to calculate N and the exposure-weighted average LGDs:

$$N = \left(C_1 \cdot C_m + \left(\frac{C_m - C_1}{m-1}\right) \cdot \max\left\{1 - m \cdot C_1, 0\right\}\right)^{-1}$$

LGD = 0,50

where

C_m	denotes the share of the pool corresponding to the sum of the largest m exposures; and
m	is set by the institution.

If only C_1 is available and this amount is no more than 0,03, then the institution may set LGD as 0,50 and N as $1/C_1$.

7 Where the position is backed by a mixed pool and the institution is able to calculate K_{IRB} on at least 95 % of the underlying exposure amounts in accordance with point (a) of Article 258(1), the institution shall calculate the capital charge for the pool of underlying exposures as:

$$d \cdot K_{IRB} + (1 - d) \cdot K_{SA},$$

where

d is the share of the exposure amount of underlying exposures for which the institution can calculate K_{IRB} over the exposure amount of all underlying exposures.

8 Where an institution has a securitisation position in the form of a derivative to hedge market risks, including interest rate or currency risks, the institution may attribute to that derivative an inferred risk weight equivalent to the risk weight of the reference position calculated in accordance with this Article.

For the purposes of the first subparagraph, the reference position shall be the position that is *pari passu* in all respects to the derivative or, in the absence of such *pari passu* position, the position that is immediately subordinate to the derivative.

Article 260

Treatment of STS securitisations under the SEC-IRBA

Under the SEC-IRBA, the risk weight for a position in an STS securitisation shall be calculated in accordance with Article 259, subject to the following modifications:

risk-weight floor for senior securitisation positions = 10 %

$$p = \max\left[0{,}3;\ 0{,}5 \cdot \left(A + B \cdot (1 / N) + C \cdot K_{IRB} + D \cdot LGD + E \cdot M_T\right)\right]$$

Article 261

Calculation of risk-weighted exposure amounts under the Standardised Approach (SEC-SA)

1 Under the SEC-SA, the risk-weighted exposure amount for a position in a securitisation shall be calculated by multiplying the exposure value of the position as calculated in accordance with Article 248 by the applicable risk weight determined as follows, in all cases subject to a floor of 15 %:

RW = 1 250 %	when $D \leq K_A$
$RW = 12.5 \cdot K_{SSFA(K_A)}$	when $A \geq K_A$
$RW = \left[\left(\frac{K_A - A}{D - A}\right) \cdot 12.5\right] + \left[\left(\frac{D - K_A}{D - A}\right) \cdot 12.5 \cdot K_{SSFA(K_A)}\right]$	when $A < K_A < D$

where:

D	is the detachment point as determined in accordance with Article 256;
A	is the attachment point as determined in accordance with Article 256;
K_A	is a parameter calculated in accordance with paragraph 2;

$$K_{SSFA(K_A)} = \frac{e^{a \cdot u} - e^{a \cdot l}}{a(u-l)}$$

where:

a	=	$-(1/(p \cdot K_A))$
u	=	$D - K_A$
l	=	$\max(A - K_A; 0)$
p	=	1 for a securitisation exposure that is not a re-securitisation exposure

2 For the purposes of paragraph 1, K_A shall be calculated as follows:

$$K_A = (1 - W) \cdot K_{SA} + W \cdot 0.5$$

where:

K_{SA} is the capital charge of the underlying pool as defined in Article 255;

W = ratio of:

(a) the sum of the nominal amount of underlying exposures in default, to

(b) the sum of the nominal amount of all underlying exposures.

For these purposes, an exposure in default shall mean an underlying exposure which is either: (i) 90 days or more past due; (ii) subject to bankruptcy or insolvency proceedings; (iii) subject to foreclosure or similar proceeding; or (iv) in default in accordance with the securitisation documentation.

Where an institution does not know the delinquency status for 5 % or less of underlying exposures in the pool, the institution may use the SEC-SA subject to the following adjustment in the calculation K_A:

$$K_A = \left(\frac{EAD_{\text{Subpool 1 where W known}}}{\text{EAD Total}} \times K^A_{\text{Subpool 1 where W known}}\right) + \frac{EAD_{\text{Subpool 2 where W unknown}}}{\text{EAD Total}}$$

Where the institution does not know the delinquency status for more than 5 % of underlying exposures in the pool, the position in the securitisation must be risk-weighted at 1 250 %.

3 Where an institution has a securitisation position in the form of a derivative to hedge market risks, including interest rate or currency risks, the institution may attribute to that derivative an inferred risk weight equivalent to the risk weight of the reference position calculated in accordance with this Article.

For the purposes of this paragraph, the reference position shall be the position that is *pari passu* in all respects to the derivative or, in the absence of such *pari passu* position, the position that is immediately subordinate to the derivative.

Article 262

Treatment of STS securitisations under the SEC-SA

Under the SEC-SA the risk weight for a position in an STS securitisation shall be calculated in accordance with Article 261, subject to the following modifications:

risk-weight floor for senior securitisation positions = 10 %

p = 0,5

Article 263

Calculation of risk-weighted exposure amounts under the External Ratings Based Approach (SEC-ERBA)

1 Under the SEC-ERBA, the risk-weighted exposure amount for a securitisation position shall be calculated by multiplying the exposure value of the position as calculated in accordance with Article 248 by the applicable risk weight in accordance with this Article.

2 For exposures with short-term credit assessments or when a rating based on a short-term credit assessment may be inferred in accordance with paragraph 7, the following risk weights shall apply:

TABLE 1

Credit Quality Step	1	2	3	All other ratings
Risk weight	15 %	50 %	100 %	1 250 %

3 For exposures with long-term credit assessments or when a rating based on a long-term credit assessment may be inferred in accordance with paragraph 7 of this Article, the risk weights set out in Table 2 shall apply, adjusted as applicable for tranche maturity (M_T) in accordance with Article 257 and paragraph 4 of this Article and for tranche thickness for non-senior tranches in accordance with paragraph 5 of this Article:

TABLE 2

Credit Quality Step	**Senior tranche**		**Non-senior (thin) tranche**	
	Tranche maturity (M_T)		**Tranche maturity (M_T)**	
	1 year	**5 years**	**1 year**	**5 years**
1	15 %	20 %	15 %	70 %
2	15 %	30 %	15 %	90 %
3	25 %	40 %	30 %	120 %
4	30 %	45 %	40 %	140 %
5	40 %	50 %	60 %	160 %
6	50 %	65 %	80 %	180 %

7	60 %	70 %	120 %	210 %
8	75 %	90 %	170 %	260 %
9	90 %	105 %	220 %	310 %
10	120 %	140 %	330 %	420 %
11	140 %	160 %	470 %	580 %
12	160 %	180 %	620 %	760 %
13	200 %	225 %	750 %	860 %
14	250 %	280 %	900 %	950 %
15	310 %	340 %	1 050 %	1 050 %
16	380 %	420 %	1 130 %	1 130 %
17	460 %	505 %	1 250 %	1 250 %
All other	1 250 %	1 250 %	1 250 %	1 250 %

4 In order to determine the risk weight for tranches with a maturity between 1 and 5 years, institutions shall use linear interpolation between the risk weights applicable for 1 and 5 years maturity respectively in accordance with Table 2.

5 In order to account for tranche thickness, institutions shall calculate the risk weight for non-senior tranches as follows:

$$RW = [\text{RW after adjusting for maturity according to paragraph 4}] \cdot [1 - \min(T; 50\ \%)]$$

where

T = tranche thickness measured as D – A

where

D is the detachment point as determined in accordance with Article 256
A is the attachment point as determined in accordance with Article 256

6 The risk weights for non-senior tranches resulting from paragraphs 3, 4 and 5 shall be subject to a floor of 15 %. In addition, the resulting risk weights shall be no lower than the risk weight corresponding to a hypothetical senior tranche of the same securitisation with the same credit assessment and maturity.

7 For the purposes of using inferred ratings, institutions shall attribute to an unrated position an inferred rating equivalent to the credit assessment of a rated reference position which meets all of the following conditions:

a the reference position ranks *pari passu* in all respects to the unrated securitisation position or, in the absence of a *pari passu* ranking position, the reference position is immediately subordinate to the unrated position;
b the reference position does not benefit from any third-party guarantees or other credit enhancements that are not available to the unrated position;
c the maturity of the reference position shall be equal to or longer than that of the unrated position in question;

d on an ongoing basis, any inferred rating shall be updated to reflect any changes in the credit assessment of the reference position.

8 Where an institution has a securitisation position in the form of a derivative to hedge market risks, including interest rate or currency risks, the institution may attribute to that derivative an inferred risk weight equivalent to the risk weight of the reference position calculated in accordance with this Article.

For the purposes of the first subparagraph, the reference position shall be the position that is pari passu in all respects to the derivative or, in the absence of such pari passu position, the position that is immediately subordinate to the derivative.

Article 264

Treatment of STS securitisations under the SEC-ERBA

1 Under the SEC-ERBA, the risk weight for a position in an STS securitisation shall be calculated in accordance with Article 263, subject to the modifications laid down in this Article.

2 For exposures with short-term credit assessments or when a rating based on a short-term credit assessment may be inferred in accordance with Article 263(7), the following risk weights shall apply:

TABLE 3

Credit Quality Step	1	2	3	All other ratings
Risk weight	10 %	30 %	60 %	1 250 %

3 For exposures with long-term credit assessments or when a rating based on a long-term credit assessment may be inferred in accordance with Article 263(7), risk weights shall be determined in accordance with Table 4, adjusted for tranche maturity (M_T) in accordance with Article 257 and Article 263(4) and for tranche thickness for non-senior tranches in accordance with Article 263(5):

TABLE 4

Credit Quality Step	**Senior tranche**		**Non-senior (thin) tranche**	
	Tranche maturity (M_T)		**Tranche maturity (M_T)**	
	1 year	**5 years**	**1 year**	**5 years**
1	10 %	10 %	15 %	40 %
2	10 %	15 %	15 %	55 %
3	15 %	20 %	15 %	70 %
4	15 %	25 %	25 %	80 %
5	20 %	30 %	35 %	95 %
6	30 %	40 %	60 %	135 %
7	35 %	40 %	95 %	170 %

8	45 %	55 %	150 %	225 %
9	55 %	65 %	180 %	255 %
10	70 %	85 %	270 %	345 %
11	120 %	135 %	405 %	500 %
12	135 %	155 %	535 %	655 %
13	170 %	195 %	645 %	740 %
14	225 %	250 %	810 %	855 %
15	280 %	305 %	945 %	945 %
16	340 %	380 %	1 015 %	1 015 %
17	415 %	455 %	1 250 %	1 250 %
All other	1 250 %	1 250 %	1 250 %	1 250 %

Article 265

Scope and operational requirements for the Internal Assessment Approach

1 Institutions may calculate the risk-weighted exposure amounts for unrated positions in ABCP programmes or ABCP transactions under the Internal Assessment Approach in accordance with Article 266 where the conditions set out in paragraph 2 of this Article are met.

Where an institution has received permission to apply the Internal Assessment Approach in accordance with paragraph 2 of this Article, and a specific position in an ABCP programme or ABCP transaction falls within the scope of application covered by such permission, the institution shall apply that approach to calculate the risk-weighted exposure amount of that position.

2 [F632The competent authority] shall grant institutions permission to apply the Internal Assessment Approach within a clearly defined scope of application where all of the following conditions are met:

a all positions in the commercial paper issued from the ABCP programme are rated positions;

b the internal assessment of the credit quality of the position reflects the publicly available assessment methodology of one or more ECAIs for the rating of securitisation positions backed by underlying exposures of the type securitised;

c the commercial paper issued from the ABCP programme is predominantly issued to third-party investors;

d the institution's internal assessment process is at least as conservative as the publicly available assessments of those ECAIs which have provided an external rating for the commercial paper issued from the ABCP programme, in particular with regard to stress factors and other relevant quantitative elements;

e the institution's internal assessment methodology takes into account all relevant publicly available rating methodologies of the ECAIs that rate the commercial paper of the ABCP programme and includes rating grades corresponding to the credit assessments of ECAIs. The institution shall document in its internal records an explanatory statement describing how the requirements set out in this point have been met and shall update such statement on a regular basis;

f the institution uses the internal assessment methodology for internal risk management purposes, including in its decision-making, management information and internal capital allocation processes;

g internal or external auditors, an ECAI, or the institution's internal credit review or risk management function perform regular reviews of the internal assessment process and the quality of the internal assessments of the credit quality of the institution's exposures to an ABCP programme or ABCP transaction;

h the institution tracks the performance of its internal ratings over time to evaluate the performance of its internal assessment methodology and makes adjustments, as necessary, to that methodology when the performance of the exposures routinely diverges from that indicated by the internal ratings;

i the ABCP programme includes underwriting and liability management standards in the form of guidelines to the programme administrator on, at least:

(i) the asset eligibility criteria, subject to point (j);

(ii) the types and monetary value of the exposures arising from the provision of liquidity facilities and credit enhancements;

(iii) the loss distribution between the securitisation positions in the ABCP programme or ABCP transaction;

(iv) the legal and economic isolation of the transferred assets from the entity selling the assets;

j the asset eligibility criteria in the ABCP programme provide for, at least:

(i) exclusion of the purchase of assets that are significantly past due or defaulted;

(ii) limitation of excessive concentration to individual obligor or geographic area; and

(iii) limitation of the tenor of the assets to be purchased;

k an analysis of the asset seller's credit risk and business profile is performed including, at least, an assessment of the seller's:

(i) past and expected future financial performance;

(ii) current market position and expected future competitiveness;

(iii) leverage, cash flow, interest coverage and debt rating; and

(iv) underwriting standards, servicing capabilities, and collection processes;

l the ABCP programme has collection policies and processes that take into account the operational capability and credit quality of the servicer and comprises features that mitigate performance-related risks of the seller and the servicer. For the purposes of this point, performance-related risks may be mitigated through triggers based on the seller or servicer's current credit quality to prevent commingling of funds in the event of the seller's or servicer's default;

m the aggregated estimate of loss on an asset pool that may be purchased under the ABCP programme takes into account all sources of potential risk, such as credit and dilution risk;

n where the seller-provided credit enhancement is sized based only on credit-related losses and dilution risk is material for the particular asset pool, the ABCP programme comprises a separate reserve for dilution risk;

o the size of the required enhancement level in the ABCP programme is calculated taking into account several years of historical information, including losses, delinquencies, dilutions, and the turnover rate of the receivables;

p the ABCP programme comprises structural features in the purchase of exposures in order to mitigate potential credit deterioration of the underlying portfolio. Such features may include wind-down triggers specific to a pool of exposures;

q the institution evaluates the characteristics of the underlying asset pool, such as its weighted-average credit score, and identifies any concentrations to an individual obligor or geographic area and the granularity of the asset pool.

3 Where the institution's internal audit, credit review, or risk management functions perform the review provided for in point (g) of paragraph 2, those functions shall be independent from the institution's internal functions dealing with ABCP programme business and customer relations.

4 Institutions which have received permission to apply the Internal Assessment Approach shall not revert to the use of other methods for positions that fall within scope of application of the Internal Assessment Approach unless both of the following conditions are met:

a the institution has demonstrated to the satisfaction of the competent authority that the institution has good cause to do so;

b the institution has received the prior permission of the competent authority.

Textual Amendments

F632 Words in Art. 265(2) substituted (31.12.2020) by The Securitisation (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/660), regs. 1(2), **41(h)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 266

Calculation of risk-weighted exposure amounts under the Internal Assessment Approach

1 Under the Internal Assessment Approach, the institution shall assign the unrated position in the ABCP programme or ABCP transaction to one of the rating grades laid down in point (e) of Article 265(2) on the basis of its internal assessment. The position shall be attributed a derived rating which shall be the same as the credit assessments corresponding to that rating grade as laid down in point (e) of Article 265(2).

2 The rating derived in accordance with paragraph 1 shall be at least at the level of investment grade or better at the time it was first assigned and shall be regarded as an eligible credit assessment by an ECAI for the purposes of calculating risk-weighted exposure amounts in accordance with Article 263 or Article 264, as applicable.

Subsection 4

Caps for securitisation positions

Article 267

Maximum risk weight for senior securitisation positions: look-through approach

1 An institution which has knowledge at all times of the composition of the underlying exposures may assign the senior securitisation position a maximum risk weight equal to the exposure-weighted-average risk weight that would be applicable to the underlying exposures as if the underlying exposures had not been securitised.

2 In the case of pools of underlying exposures where the institution uses exclusively the Standardised Approach or the IRB Approach, the maximum risk weight of the senior securitisation position shall be equal to the exposure-weighted-average risk weight that would apply to the underlying exposures under [F633Chapter 2 of this Regulation and Articles 132a to 132c of Chapter 3 of the Standardised Approach and Internal Ratings Based Approach to Credit Risk (CRR) Part of the PRA Rulebook or Chapter 3], respectively, as if they had not been securitised.

In the case of mixed pools the maximum risk weight shall be calculated as follows:

- a where the institution applies the SEC-IRBA, the Standardised Approach portion and the IRB Approach portion of the underlying pool shall each be assigned the corresponding Standardised Approach risk weight and IRB Approach risk weight respectively;
- b where the institution applies the SEC-SA or the SEC-ERBA, the maximum risk weight for senior securitisation positions shall be equal to the Standardised Approach weighted-average risk weight of the underlying exposures.

3 For the purposes of this Article, the risk weight that would be applicable under the IRB Approach in accordance with Chapter 3 shall include the ratio of:

- a expected losses multiplied by 12,5 to
- b the exposure value of the underlying exposures.

4 Where the maximum risk weight calculated in accordance with paragraph 1 results in a lower risk weight than the risk-weight floors set out in Articles 259 to 264, as applicable, the former shall be used instead.

Textual Amendments

F633 Words in Art. 267(2) substituted (1.1.2022) by The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/1376), regs. 1(3), **25(30)**

Article 268

Maximum capital requirements

1 An originator institution, a sponsor institution or other institution using the SEC-IRBA or an originator institution or sponsor institution using the SEC-SA or the SEC-ERBA may apply a maximum capital requirement for the securitisation position it holds equal to the capital requirements that would be calculated under [F634Chapter 2 of this Regulation and Articles 132a

to 132c of Chapter 3 of the Standardised Approach and Internal Ratings Based Approach to Credit Risk (CRR) Part of the PRA Rulebook or Chapter 3 of this Regulation**]** in respect of the underlying exposures had they not been securitised. For the purposes of this Article, the IRB Approach capital requirement shall include the amount of the expected losses associated with those exposures calculated under Chapter 3 and that of unexpected losses.

2 In the case of mixed pools, the maximum capital requirement shall be determined by calculating the exposure-weighted average of the capital requirements of the IRB Approach and Standardised Approach portions of the underlying exposures in accordance with paragraph 1.

3 The maximum capital requirement shall be the result of multiplying the amount calculated in accordance with paragraphs 1 or 2 by the largest proportion of interest that the institution holds in the relevant tranches (V), expressed as a percentage and calculated as follows:

- a for an institution that has one or more securitisation positions in a single tranche, V shall be equal to the ratio of the nominal amount of the securitisation positions that the institution holds in that given tranche to the nominal amount of the tranche;
- b for an institution that has securitisation positions in different tranches, V shall be equal to the maximum proportion of interest across tranches. For these purposes, the proportion of interest for each of the different tranches shall be calculated as set out in point (a).

4 When calculating the maximum capital requirement for a securitisation position in accordance with this Article, the entire amount of any gain on sale and credit-enhancing interest-only strips arising from the securitisation transaction shall be deducted from Common Equity Tier 1 items in accordance with point (k) of Article 36(1).

Textual Amendments

F634 Words in Art. 268(1) substituted (1.1.2022) by The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/1376), regs. 1(3), **25(31)**

Subsection 5

Miscellaneous provisions

Article 269

Re-securitisations

1 For a position in a re-securitisation, institutions shall apply the SEC-SA in accordance with Article 261, with the following changes:

- a $W = 0$ for any exposure to a securitisation tranche within the pool of underlying exposures;
- b $p = 1{,}5$;
- c the resulting risk weight shall be subject to a risk-weight floor of 100 %.

2 K_{SA} for the underlying securitisation exposures shall be calculated in accordance with Subsection 2.

3 The maximum capital requirements set out in Subsection 4 shall not be applied to re-securitisation positions.

4 Where the pool of underlying exposures consists of a mix of securitisation tranches and other types of assets, the K_A parameter shall be determined as the nominal exposure weighted-average of the K_A calculated individually for each subset of exposures.

[F635 *Article 269a*

NPE securitisations

1. The risk weight for a position in an NPE securitisation calculated in accordance with this Chapter is subject to the requirements laid down in the Non-Performing Exposures Securitisation (CRR) Part of the PRA Rulebook.

2. In this Article:

‘non-performing exposure’ means an exposure that meets any of the conditions set out in Article 47a(3);

‘NPE securitisation’ means a securitisation backed by a pool of non-performing exposures the nominal value of which makes up not less than 90% of the entire pool’s nominal value at the time of origination and at any later time where assets are added to or removed from the underlying pool due to replenishment or restructuring.**]**

Textual Amendments

F635 Art. 269a inserted (1.1.2022) by The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/1376), regs. 1(3), **25(32)**

Article 270

Senior positions in SME securitisations

An originator institution may calculate the risk-weighted exposure amounts in respect of a securitisation position in accordance with Articles 260, 262 or 264, as applicable, where the following conditions are met:

a the securitisation meets the requirements for STS securitisation set out in Chapter 4 of Regulation (EU) 2017/2402 as applicable, other than **[**F636 Articles 18 and**]** 20(1) to (6) of that Regulation;

[F637 aa the originator, sponsor and SSPE must be established in the United Kingdom;**]**

b the position qualifies as the senior securitisation position;

c the securitisation is backed by a pool of exposures to undertakings, provided that at least 70 % of those in terms of portfolio balance qualify as SMEs within the meaning of Article 501 at the time of issuance of the securitisation or in the case of revolving securitisations at the time an exposure is added to the securitisation;

d the credit risk associated with the positions not retained by the originator institution is transferred through a guarantee or a counter-guarantee meeting the requirements for unfunded credit protection set out in Chapter 4 for the Standardised Approach to credit risk;

e the third party to which the credit risk is transferred is one or more of the following:

i the central government or the central bank of [F638the United Kingdom], a multilateral development bank, an international organisation or a promotional entity, provided that the exposures to the guarantor or counter-guarantor qualify for a 0 % risk weight under Chapter 2;

ii an institutional investor as defined in point (12) of Article 2 of Regulation (EU) 2017/2402 provided that the guarantee or counter-guarantee is fully collateralised by cash on deposit with the originator institution.

Textual Amendments

F636 Words in Art. 270(a) substituted (31.12.2020) by The Securitisation (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/660), regs. 1(2), **50(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F637 Art. 270(aa) inserted (31.12.2020) by The Securitisation (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/660), regs. 1(2), **50(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F638 Words in Art. 270(e)(i) substituted (31.12.2020) by The Securitisation (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/660), regs. 1(2), **50(c)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 270a

Additional risk weight

1 Where an institution does not meet the requirements in Chapter 2 of Regulation (EU) 2017/2402 in any material respect by reason of negligence or omission by the institution, [F639the competent authority] shall impose a proportionate additional risk weight of no less than 250 % of the risk weight, capped at 1 250 %, which shall apply to the relevant securitisation positions in the manner specified in Article 247(6) or Article 337(3) of this Regulation respectively. The additional risk weight shall progressively increase with each subsequent infringement of the due diligence and risk management provisions. [F639The competent authority] shall take into account the exemptions for certain securitisations provided for in Article 6(5)) of Regulation (EU) 2017/2402 by reducing the risk weight they would otherwise impose under this Article in respect of a securitisation to which Article 6(5) of Regulation (EU) 2017/2402 applies.

2 The [F640[F641PRA may] make] technical standards to facilitate the convergence of supervisory practices with regard to the implementation of paragraph 1, including the measures to be taken in the case of breach of the due diligence and risk management obligations. F642...

F643...

Textual Amendments

F639 Words in Art. 270a(1) substituted (31.12.2020) by The Securitisation (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/660), regs. 1(2), **41(i)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F640 Words in Art. 270a(2) substituted (31.12.2020) by The Securitisation (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/660), regs. 1(2), **51(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F641 Words in Art. 270a(2) substituted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 47**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F642 Words in Art. 270a(2) omitted (31.12.2020) by virtue of The Securitisation (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/660), regs. 1(2), **51(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F643 Words in Art. 270a(2) omitted (31.12.2020) by virtue of The Securitisation (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/660), regs. 1(2), **51(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Section 4

External credit assessments

Article 270b

Use of credit assessments by ECAIs

Institutions may use only credit assessments to determine the risk weight of a securitisation position in accordance with this Chapter where the credit assessment has been issued or has been endorsed by an ECAI in accordance with Regulation (EC) No 1060/2009.

Article 270c

Requirements to be met by the credit assessments of ECAIs

For the purposes of calculating risk-weighted exposure amounts in accordance with Section 3, institutions shall only use a credit assessment of an ECAI where all of the following conditions are met:

(a) there is no mismatch between the types of payments reflected in the credit assessment and the types of payments to which the institution is entitled under the contract giving rise to the securitisation position in question;

(b) the ECAI publishes the credit assessments and information on loss and cash-flow analysis, sensitivity of ratings to changes in the underlying ratings assumptions, including the performance of underlying exposures, and on the procedures, methodologies, assumptions, and key elements underpinning the credit assessments in accordance with Regulation (EC) No 1060/2009. For the purposes of this point, information shall be considered as publicly available where it is published in accessible format. Information that is made available only to a limited number of entities shall not be considered as publicly available;

(c) the credit assessments are included in the ECAI's transition matrix;

(d) the credit assessments are not based or partly based on unfunded support provided by the institution itself. Where a position is based or partly based on unfunded support, the institution shall consider that position as if it were unrated for the purposes of calculating risk-weighted exposure amounts for this position in accordance with Section 3;

(e) the ECAI has committed to publishing explanations on how the performance of underlying exposures affects the credit assessment.

Article 270d

Use of credit assessments

1 An institution may decide to nominate one or more ECAIs the credit assessments of which shall be used in the calculation of its risk-weighted exposure amounts under this Chapter (a 'nominated ECAI').

2 An institution shall use the credit assessments of its securitisation positions in a consistent and non-selective manner and, for these purposes, shall comply with the following requirements:

a an institution shall not use an ECAI's credit assessments for its positions in some tranches and another ECAI's credit assessments for its positions in other tranches within the same securitisation that may or may not be rated by the first ECAI;
b where a position has two credit assessments by nominated ECAIs, the institution shall use the less favourable credit assessment;
c where a position has three or more credit assessments by nominated ECAIs, the two most favourable credit assessments shall be used. Where the two most favourable assessments are different, the less favourable of the two shall be used;
d an institution shall not actively solicit the withdrawal of less favourable ratings.

3 Where the exposures underlying a securitisation benefit from full or partial eligible credit protection in accordance with Chapter 4, and the effect of such protection has been reflected in the credit assessment of a securitisation position by a nominated ECAI, the institution shall use the risk weight associated with that credit assessment. Where the credit protection referred to in this paragraph is not eligible under Chapter 4, the credit assessment shall not be recognised and the securitisation position shall be treated as unrated.

4 Where a securitisation position benefits from eligible credit protection in accordance with Chapter 4 and the effect of such protection has been reflected in its credit assessment by a nominated ECAI, the institution shall treat the securitisation position as if it were unrated and calculate the risk-weighted exposure amounts in accordance with Chapter 4.

Article 270e

Securitisation mapping

[F644 The PRA may][F645 make] technical standards to map in an objective and consistent manner the credit quality steps set out in this Chapter relative to the relevant credit assessments of all ECAIs. [F646 For the purposes of this Article, the PRA shall] in particular:

(a) differentiate between the relative degrees of risk expressed by each assessment;

(b) consider quantitative factors, such as default or loss rates and the historical performance of credit assessments of each ECAI across different asset classes;

(c) consider qualitative factors such as the range of transactions assessed by the ECAI, its methodology and the meaning of its credit assessments in particular whether such assessments take into account expected loss or first Euro loss, and timely payment of interests or ultimate payment of interests;

(d) seek to ensure that securitisation positions to which the same risk weight is applied on the basis of the credit assessments of ECAIs are subject to equivalent degrees of credit risk.

F647 ...]

Textual Amendments

F644 Words in Art. 270e substituted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 33(2)**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F645 Words in Art. 270e substituted (31.12.2020) by The Securitisation (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/660), regs. 1(2), **52(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F646 Words in Art. 270e substituted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 33(3)**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F647 Words in Art. 270e omitted (31.12.2020) by virtue of The Securitisation (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/660), regs. 1(2), **52(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

CHAPTER 6

Counterparty credit risk

Section 1

Definitions

Article 271

Determination of the exposure value

1 An institution shall determine the exposure value of derivative instruments listed in Annex II in accordance with this Chapter.

2 An institution may determine the exposure value of repurchase transactions, securities or commodities lending or borrowing transactions, long settlement transactions and margin lending transactions in accordance with this Chapter instead of making use of Chapter 4.

Article 272

Definitions

For the purposes of this Chapter and of Title VI of this Part, the following definitions shall apply:

General terms

(1) ' counterparty credit risk ' or ' CCR ' means the risk that the counterparty to a transaction could default before the final settlement of the transaction's cash flows;

Transaction types

(2) ' long settlement transactions ' means transactions where a counterparty undertakes to deliver a security, a commodity, or a foreign exchange amount against cash, other financial instruments, or commodities, or vice versa, at a settlement or delivery date specified by contract that is later than the market standard for this particular type of transaction or five business days after the date on which the institution enters into the transaction, whichever is earlier;

(3) ' margin lending transactions ' means transactions in which an institution extends credit in connection with the purchase, sale, carrying or trading of securities. Margin lending transactions do not include other loans that are secured by collateral in the form of securities;

Netting set [F648]... and related terms

(4) ' netting set ' means a group of transactions between an institution and a single counterparty that is subject to a legally enforceable bilateral netting arrangement that is recognised under Section 7 and Chapter 4.

Each transaction that is not subject to a legally enforceable bilateral netting arrangement which is recognised under Section 7 shall be treated as its own netting set for the purposes of this Chapter.

Under the Internal Model Method set out in Section 6, all netting sets with a single counterparty may be treated as a single netting set if negative simulated market values of the individual netting sets are set to 0 in the estimation of expected exposure (hereinafter referred to as ' EE ');

(5) [F649]...

(6) [F650]...

(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;

(8) [F651]...

(9) ' margin period of risk ' means the time period from the most recent exchange of collateral covering a netting set of transactions with a defaulting counterparty until the transactions are closed out and the resulting market risk is re-hedged;

(10) ' effective maturity ' under the Internal Model Method for a netting set with maturity greater than one year means the ratio of the sum of expected exposure over the life of the transactions in the netting set discounted at the risk-free rate of return, divided by the sum of expected exposure over one year in the netting set discounted at the risk-free rate.

This effective maturity may be adjusted to reflect rollover risk by replacing expected exposure with effective expected exposure for forecasting horizons under one year;

(11) ' cross-product netting ' means the inclusion of transactions of different product categories within the same netting set pursuant to the cross-product netting rules set out in this Chapter;

(12) F652...

Distributions

(13) ' distribution of market values ' means the forecast of the probability distribution of net market values of transactions within a netting set for a future date (the forecasting horizon), given the realised market value of those transactions at the date of the forecast;

(14) ' distribution of exposures ' means the forecast of the probability distribution of market values that is generated by setting forecast instances of negative net market values equal to zero;

(15) ' risk-neutral distribution ' means a distribution of market values or exposures over a future time period where the distribution is calculated using market implied values such as implied volatilities;

(16) ' actual distribution ' means a distribution of market values or exposures at a future time period where the distribution is calculated using historic or realised values such as volatilities calculated using past price or rate changes;

Exposure measures and adjustments

(17) ' current exposure ' means the larger of zero and the market value of a transaction or portfolio of transactions within a netting set with a counterparty that would be lost upon the default of the counterparty, assuming no recovery on the value of those transactions in insolvency or liquidation;

(18) ' peak exposure ' means a high percentile of the distribution of exposures at particular future date before the maturity date of the longest transaction in the netting set;

(19) ' expected exposure ' (hereinafter referred to as ' EE ') means the average of the distribution of exposures at a particular future date before the longest maturity transaction in the netting set matures;

(20) ' effective expected exposure at a specific date ' (hereinafter referred to as ' Effective EE ') means the maximum expected exposure that occurs at that date or any prior date. Alternatively, it may be defined for a specific date as the greater of the expected exposure at that date or the effective expected exposure at any prior date;

(21) ' expected positive exposure ' (hereinafter referred to as ' EPE ') means the weighted average over time of expected exposures, where the weights are the proportion of the entire time period that an individual expected exposure represents.

When calculating the own funds requirement, institutions shall take the average over the first year or, if all the contracts within the netting set mature within less than one year, over the time period until the contract with the longest maturity in the netting set has matured;

(22) ' effective expected positive exposure ' (hereinafter referred to as ' Effective EPE ') means the weighted average of effective expected exposure over the first year of a netting set or, if all the contracts within the netting set mature within less than one year, over the time period of the longest maturity

contract in the netting set, where the weights are the proportion of the entire time period that an individual expected exposure represents;

CCR related risks

(23) ‘ rollover risk ’ means the amount by which EPE is understated when future transactions with a counterparty are expected to be conducted on an ongoing basis.

The additional exposure generated by those future transactions is not included in calculation of EPE;

(24) ‘ counterparty ’ for the purposes of Section 7 means any legal or natural person that enters into a netting agreement, and has the contractual capacity to do so;

(25) ‘ contractual cross product netting agreement ’ means a bilateral contractual agreement between an institution and a counterparty which creates a single legal obligation (based on netting of covered transactions) covering all bilateral master agreements and transactions belonging to different product categories that are included within the agreement;

For the purposes of this definition, ‘ different product categories ’ means:

(a) repurchase transactions, securities and commodities lending and borrowing transactions;

(b) margin lending transactions;

(c) the contracts listed in Annex II;

(26) F653 ...

Textual Amendments

F648 Words in Art. 272 omitted (1.1.2022) by virtue of The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **6(3)(f)(i)(aa)**

F649 Words in Art. 272(5) omitted (1.1.2022) by virtue of The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **6(3)(f)(i)(bb)**

F650 Words in Art. 272(6) omitted (1.1.2022) by virtue of The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **6(3)(f)(i)(cc)**

F651 Words in Art. 272(8) omitted (1.1.2022) by virtue of The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **6(3)(f)(i)(dd)**

F652 Words in Art. 272(12) omitted (1.1.2022) by virtue of The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **6(3)(f)(i)(ee)**

F653 Words in Art. 272(26) omitted (1.1.2022) by virtue of The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **6(3)(f)(i)(ff)**

Section 2

Methods for calculating the exposure value

[F654] *Article 273*

Methods for calculating the exposure value

Textual Amendments

F654 Art. 273 omitted (1.1.2022) by virtue of The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **6(3)(f)(ii)(aa)**

Section 3

Mark-to-Market Method

[F655] *Article 274*

Mark-to-Market Method

Textual Amendments

F655 Art. 274 omitted (1.1.2022) by virtue of The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **6(3)(f)(ii)(bb)**

Section 4

Original Exposure Method

[F656] *Article 275*

Original Exposure Method

Textual Amendments

F656 Art. 275 omitted (1.1.2022) by virtue of The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **6(3)(f)(ii)(cc)**

Section 5

Standardised Method

F657 *Article 276*

Standardised Method

. . . .

Textual Amendments

F657 Arts. 276-282 omitted (1.1.2022) by virtue of The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **6(3)(f)(ii)(dd)**

F657 *Article 277*

Transactions with a linear risk profile

. . . .

Textual Amendments

F657 Arts. 276-282 omitted (1.1.2022) by virtue of The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **6(3)(f)(ii)(dd)**

F657 *Article 278*

Transactions with a non-linear risk profile

. . . .

Textual Amendments

F657 Arts. 276-282 omitted (1.1.2022) by virtue of The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **6(3)(f)(ii)(dd)**

F657 *Article 279*

Treatment of collateral

. . . .

Textual Amendments

F657 Arts. 276-282 omitted (1.1.2022) by virtue of The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **6(3)(f)(ii)(dd)**

F657 *Article 279a*

Supervisory delta

. . . .

Textual Amendments

F657 Arts. 276-282 omitted (1.1.2022) by virtue of The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **6(3)(f)(ii)(dd)**

F657 *Article 280*

Calculation of risk positions

. . . .

Textual Amendments

F657 Arts. 276-282 omitted (1.1.2022) by virtue of The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **6(3)(f)(ii)(dd)**

F657 *Article 281*

Interest rate risk positions

. . . .

Textual Amendments

F657 Arts. 276-282 omitted (1.1.2022) by virtue of The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **6(3)(f)(ii)(dd)**

F657 *Article 282*

Hedging sets

. . . .

Textual Amendments

F657 Arts. 276-282 omitted (1.1.2022) by virtue of The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **6(3)(f)(ii)(dd)**

Section 6

Internal Model Method

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 [F658Sections 3 to 5 of Chapter 3 of the Counterparty Credit Risk (CRR) Part of the PRA Rulebook] 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 [F659Sections 3 to 5 of Chapter 3 of the Counterparty Credit Risk (CRR) Part of the PRA Rulebook] for transaction type for which they do not use the IMM.

4 [F660For 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 [F661Section 3 of Chapter 3 of the Counterparty Credit Risk (CRR) Part of the PRA Rulebook]. 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 [F662Sections 3 to 5 of Chapter 3 of the Counterparty Credit Risk (CRR) Part of the PRA Rulebook] 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.

Textual Amendments

F658 Words in Art. 283(1) substituted (1.1.2022) by The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/1376), regs. 1(3), **25(33)(a)**

F659 Words in Art. 283(3) substituted (1.1.2022) by The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/1376), regs. 1(3), **25(33)(b)**

F660 Art. 283(4) substituted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 4 para. 8**; S.I. 2021/671, reg. 5(1)(c) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F661 Words in Art. 283(4) substituted (1.1.2022) by The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/1376), regs. 1(3), **25(33)(c)**

F662 Words in Art. 283(5) substituted (1.1.2022) by The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/1376), regs. 1(3), **25(33)(d)**

Article 284

Exposure value

1 Where an institution is permitted, in accordance with Article 283(1), to use the IMM to calculate the exposure value of some or all transactions mentioned in that paragraph, it shall measure the exposure value of those transactions at the level of the netting set.

The model used by the institution for that purpose shall:

- a specify the forecasting distribution for changes in the market value of the netting set attributable to joint changes in relevant market variables, such as interest rates, foreign exchange rates;
- b calculate the exposure value for the netting set at each of the future dates on the basis of the joint changes in the market variables.

2 In order for the model to capture the effects of margining, the model of the collateral value shall meet the quantitative, qualitative and data requirements for the IMM in accordance with this Section and the institution may include in its forecasting distributions for changes in the market value of the netting set only eligible financial collateral as referred to in Articles 197 and 198 and points (c) and (d) of Article 299(2).

3 The own funds requirement for counterparty credit risk with respect to the CCR exposures to which an institution applies the IMM, shall be the higher of the following:

- a the own funds requirement for those exposures calculated on the basis of Effective EPE using current market data;
- b the own funds requirement for those exposures calculated on the basis of Effective EPE using a single consistent stress calibration for all CCR exposures to which they apply the IMM.

4 Except for counterparties identified as having Specific Wrong-Way risk that fall within the scope of Article 291(4) and (5), institutions shall calculate the exposure value as the product of alpha (α) times Effective EPE, as follows:

$$\textit{Exposure value} = \alpha \cdot \textit{Effective EPE}$$

where:

α = 1.4, unless competent authorities require a higher α or permit institutions to use their own estimates in accordance with paragraph 9;

Effective EPE shall be calculated by estimating expected exposure (EEt) as the average exposure at future date t, where the average is taken across possible future values of relevant market risk factors.

The model shall estimate EE at a series of future dates t1, t2, t3, etc.

5 Effective EE shall be calculated recursively as:

$$\text{Effective EE}_{tk} = \max\{\text{Effective EE}_{tk-1}, \text{EE}_{tk}\}$$

where:

the current date is denoted as t_0 ;

Effective EE $_{t0}$ equals current exposure.

6 Effective EPE is the average Effective EE during the first year of future exposure. If all contracts in the netting set mature within less than one year, EPE shall be the average of EE until all contracts in the netting set mature. Effective EPE shall be calculated as a weighted average of Effective EE:

$$Effective\ EPE = \frac{1}{\min\{1year,\ maturity\}} \times \sum_{k=1}^{\min\{1year,\ maturity\}} Effective\ EE_{t_k} \times \Delta t_k$$

where the weights

$\Delta t_k = t_k - t_{k-1}$

allow for the case when future exposure is calculated at dates that are not equally spaced over time.

7 Institutions shall calculate EE or peak exposure measures on the basis of a distribution of exposures that accounts for the possible non-normality of the distribution of exposures.

8 An institution may use a measure of the distribution calculated by the IMM that is more conservative than α multiplied by Effective EPE as calculated in accordance with the equation in paragraph 4 for every counterparty.

9 Notwithstanding paragraph 4, competent authorities may permit institutions to use their own estimates of alpha, where:

a alpha shall equal the ratio of internal capital from a full simulation of CCR exposure across counterparties (numerator) and internal capital based on EPE (denominator);
b in the denominator, EPE shall be used as if it were a fixed outstanding amount.

When estimated in accordance with this paragraph, alpha shall be no lower than 1,2.

10 For the purposes of an estimate of alpha under paragraph 9, an institution shall ensure that the numerator and denominator are calculated in a manner consistent with the modelling methodology, parameter specifications and portfolio composition. The approach used to estimate α shall be based on the institution's internal capital approach, be well documented and be subject to independent validation. In addition, an institution shall review its estimates of alpha on at least a quarterly basis, and more frequently when the composition of the portfolio varies over time. An institution shall also assess the model risk.

11 An institution shall demonstrate to the satisfaction of the competent authorities that its internal estimates of alpha capture in the numerator material sources of dependency of distribution of market values of transactions or of portfolios of transactions across counterparties. Internal estimates of alpha shall take account of the granularity of portfolios.

12 In supervising the use of estimates under paragraph 9, competent authorities shall have regard to the significant variation in estimates of alpha that arises from the potential for mis-specification in the models used for the numerator, especially where convexity is present.

13 Where appropriate, volatilities and correlations of market risk factors used in the joint modelling of market and credit risk shall be conditioned on the credit risk factor to reflect potential increases in volatility or correlation in an economic downturn.

Editorial Information

X2 Substituted by Corrigendum to 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 (Official Journal of the European Union L 176 of 27 June 2013) (Corrected version in Official Journal of the European Union L 321 of 30 November 2013).

Article 285

Exposure value for netting sets subject to a margin agreement

1 If the netting set is subject to a margin agreement and daily mark-to-market valuation, the institution shall calculate Effective EPE as set out in this paragraph. If the model captures the effects of margining when estimating EE, the institution may, subject to the permission of the competent authority, use the model's EE measure directly in the equation in Article 284(5). Competent authorities shall grant such permission only if they verify that the model properly captures the effects of margining when estimating EE. An institution that has not received such permission shall use one of the following Effective EPE measures:

- a Effective EPE, calculated without taking into account any collateral held or posted by way of margin plus any collateral that has been posted to the counterparty independent of the daily valuation and margining process or current exposure;
- b Effective EPE, calculated as the potential increase in exposure over the margin period of risk, plus the larger of:
  - (i) the current exposure including all collateral currently held or posted, other than collateral called or in dispute;
  - (ii) the largest net exposure, including collateral under the margin agreement, that would not trigger a collateral call. This amount shall reflect all applicable thresholds, minimum transfer amounts, independent amounts and initial margins under the margin agreement.

For the purposes of point (b), institutions shall calculate the add-on as the expected positive change of the mark-to-market value of the transactions during the margin period of risk. Changes in the value of collateral shall be reflected using the Supervisory Volatility Adjustments Approach in accordance with Section 4 of Chapter 4 or the own estimates of volatility adjustments of the Financial Collateral Comprehensive Method, but no collateral payments shall be assumed during the margin period of risk. The margin period of risk is subject to the minimum periods set out in paragraphs 2 to 5.

2 For transactions subject to daily re-margining and mark-to-market valuation, the margin period of risk used for the purpose of modelling the exposure value with margin agreements shall not be less than:

- a 5 business days for netting sets consisting only of repurchase transactions, securities or commodities lending or borrowing transactions and margin lending transactions;
- b 10 business days for all other netting sets.

3 Points (a) and (b) of paragraph 2 shall be subject to the following exceptions:

- a for all netting sets where the number of trades exceeds 5 000 at any point during a quarter, the margin period of risk for the following quarter shall not be less than 20 business days. This exception shall not apply to institutions' trade exposures;
- b for netting sets containing one or more trades involving either illiquid collateral, or an OTC derivative that cannot be easily replaced, the margin period of risk shall not be less than 20 business days.

An institution shall determine whether collateral is illiquid or whether OTC derivatives cannot be easily replaced in the context of stressed market conditions, characterised by the absence of continuously active markets where a counterparty would, within two days or fewer, obtain multiple price quotations that would not move the market or represent a price reflecting a market discount (in the case of collateral) or premium (in the case of an OTC derivative).

An institution shall consider whether trades or securities it holds as collateral are concentrated in a particular counterparty and if that counterparty exited the market precipitously whether the institution would be able to replace those trades or securities.

4 If an institution has been involved in more than two margin call disputes on a particular netting set over the immediately preceding two quarters that have lasted longer than the applicable margin period of risk under paragraphs 2 and 3, the institution shall use a margin period of risk that is at least double the period specified in paragraphs 2 and 3 for that netting set for the subsequent two quarters.

5 For re-margining with a periodicity of N days, the margin period of risk shall be at least equal to the period specified in paragraphs 2 and 3, F, plus N days minus one day. That is:

$$Margin\ Period\ of\ Risk = F + N - 1$$

6 If the internal model includes the effect of margining on changes in the market value of the netting set, an institution shall model collateral, other than cash of the same currency as the exposure itself, jointly with the exposure in its exposure value calculations for OTC derivatives and securities-financing transactions.

7 If an institution is not able to model collateral jointly with the exposure, it shall not recognise in its exposure value calculations for OTC derivatives and securities-financing transactions the effect of collateral other than cash of the same currency as the exposure itself, unless it uses either volatility adjustments that meet the standards of the financial collateral comprehensive Method with own volatility adjustments estimates or the standard Supervisory Volatility Adjustments Approach in accordance with Chapter 4.

8 An institution using the IMM shall ignore in its models the effect of a reduction of the exposure value due to any clause in a collateral agreement that requires receipt of collateral when counterparty credit quality deteriorates.

Article 286

Management of CCR — Policies, processes and systems

1 An institution shall establish and maintain a CCR management framework, consisting of:

- a policies, processes and systems to ensure the identification, measurement, management, approval and internal reporting of CCR;
- b procedures for ensuring that those policies, processes and systems are complied with.

Those policies, processes and systems shall be conceptually sound, implemented with integrity and documented. The documentation shall include an explanation of the empirical techniques used to measure CCR.

2 The CCR management framework required by paragraph 1 shall take account of market, liquidity, and legal and operational risks that are associated with CCR. In particular, the framework shall ensure that the institution complies with the following principles:

- a it does not undertake business with a counterparty without assessing its creditworthiness;
- b it takes due account of settlement and pre-settlement credit risk;
- c it manages such risks as comprehensively as practicable at the counterparty level by aggregating CCR exposures with other credit exposures and at the firm-wide level.

3 An institution using the IMM shall ensure that its CCR management framework accounts to the satisfaction of the competent authority for the liquidity risks of all of the following:

- a potential incoming margin calls in the context of exchanges of variation margin or other margin types, such as initial or independent margin, under adverse market shocks;
- b potential incoming calls for the return of excess collateral posted by counterparties;
- c calls resulting from a potential downgrade of its own external credit quality assessment.

An institution shall ensure that the nature and horizon of collateral re-use is consistent with its liquidity needs and does not jeopardise its ability to post or return collateral in a timely manner.

4 An institution's management body and senior management shall be actively involved in, and ensure that adequate resources are allocated to, the management of CCR. Senior management shall be aware of the limitations and assumptions of the model used and the impact those limitations and assumptions can have on the reliability of the output through a formal process. Senior management shall be also aware of the uncertainties of the market environment and operational issues and of how these are reflected in the model.

5 The daily reports prepared on an institution's exposures to CCR in accordance with Article 287(2)(b) shall be reviewed by a level of management with sufficient seniority and authority to enforce both reductions of positions taken by individual credit managers or traders and reductions in the institution's overall CCR exposure.

6 An institution's CCR management framework established in accordance with paragraph 1 shall be used in conjunction with internal credit and trading limits. Credit and trading limits shall be related to the institution's risk measurement model in a manner that is consistent over time and that is well understood by credit managers, traders and senior

management. An institution shall have a formal process to report breaches of risk limits to the appropriate level of management.

7 An institution's measurement of CCR shall include measuring daily and intra-day use of credit lines. The institution shall measure current exposure gross and net of collateral. At portfolio and counterparty level, the institution shall calculate and monitor peak exposure or potential future exposure at the confidence interval chosen by the institution. The institution shall take account of large or concentrated positions, including by groups of related counterparties, by industry and by market.

8 An institution shall establish and maintain a routine and rigorous program of stress testing. The results of that stress testing shall be reviewed regularly and at least quarterly by senior management and shall be reflected in the CCR policies and limits set by the management body or senior management. Where stress tests reveal particular vulnerability to a given set of circumstances, the institution shall take prompt steps to manage those risks.

Article 287

Organisation structures for CCR management

1 An institution using the IMM shall establish and maintain:

a a risk control unit that complies with paragraph 2;

b a collateral management unit that complies with paragraph 3.

2 The risk control unit shall be responsible for the design and implementation of its CCR management, including the initial and on-going validation of the model, and shall carry out the following functions and meet the following requirements:

a it shall be responsible for the design and implementation of the CCR management system of the institution;

b it shall produce daily reports on and analyse the output of the institution's risk measurement model. That analysis shall include an evaluation of the relationship between measures of CCR exposure values and trading limits;

c it shall control input data integrity and produce and analyse reports on the output of the institution's risk measurement model, including an evaluation of the relationship between measures of risk exposure and credit and trading limits;

d it shall be independent from units responsible for originating, renewing or trading exposures and free from undue influence;

e it shall be adequately staffed;

f it shall report directly to the senior management of the institution;

g its work shall be closely integrated into the day-to-day credit risk management process of the institution;

h its output shall be an integral part of the process of planning, monitoring and controlling the institution's credit and overall risk profile.

3 The collateral management unit shall carry out the following tasks and functions:

a calculating and making margin calls, managing margin call disputes and reporting levels of independent amounts, initial margins and variation margins accurately on a daily basis;

b controlling the integrity of the data used to make margin calls, and ensuring that it is consistent and reconciled regularly with all relevant sources of data within the institution;

c tracking the extent of re-use of collateral and any amendment of the rights of the institution to or in connection with the collateral that it posts;
d reporting to the appropriate level of management the types of collateral assets that are reused, and the terms of such reuse including instrument, credit quality and maturity;
e tracking concentration to individual types of collateral assets accepted by the institution;
f reporting collateral management information on a regular basis, but at least quarterly, to senior management, including information on the type of collateral received and posted, the size, aging and cause for margin call disputes. That internal reporting shall also reflect trends in these figures.

4 Senior management shall allocate sufficient resources to the collateral management unit required under paragraph 1(b) to ensure that its systems achieve an appropriate level of operational performance, as measured by the timeliness and accuracy of margin calls by the institution and the timeliness of the response of the institution to margin calls by its counterparties. Senior management shall ensure that the unit is adequately staffed to process calls and disputes in a timely manner even under severe market crisis, and to enable the institution to limit its number of large disputes caused by trade volumes.

Article 288

Review of CCR management system

An institution shall regularly conduct an independent review of its CCR management system through its internal auditing process. That review shall include both the activities of the control and collateral management units required by Article 287 and shall specifically address, as a minimum:

(a) the adequacy of the documentation of the CCR management system and process required by Article 286;

(b) the organisation of the CCR control unit required by Article 287(1)(a);

(c) the organisation of the collateral management unit required by Article 287(1)(b);

(d) the integration of CCR measures into daily risk management;

(e) the approval process for risk pricing models and valuation systems used by front and back-office personnel;

(f) the validation of any significant change in the CCR measurement process;

(g) the scope of CCR captured by the risk measurement model;

(h) the integrity of the management information system;

(i) the accuracy and completeness of CCR data;

(j) the accurate reflection of legal terms in collateral and netting agreements into exposure value measurements;

(k) the verification of the consistency, timeliness and reliability of data sources used to run models, including the independence of such data sources;

(l) the accuracy and appropriateness of volatility and correlation assumptions;

(m) the accuracy of valuation and risk transformation calculations;

(n) the verification of the model's accuracy through frequent back-testing as set out in points (b) to (e) of Article 293(1);

(o) the compliance of the CCR control unit and collateral management unit with the relevant regulatory requirements.

Article 289

Use test

1 Institutions shall ensure that the distribution of exposures generated by the model used to calculate Effective EPE is closely integrated into the day-to-day CCR management process of the institution, and that the output of the model is taken into account in the process of credit approval, CCR management, internal capital allocation and corporate governance.

2 The institution shall demonstrate to the satisfaction of the competent authorities that it has been using a model to calculate the distribution of exposures upon which the EPE calculation is based that meets, broadly, the requirements set out in this Section for at least one year prior to permission to use the IMM by the competent authorities in accordance with Article 283.

3 The model used to generate a distribution of exposures to CCR shall be part of the CCR management framework required by Article 286. This framework shall include the measurement of usage of credit lines, aggregating CCR exposures with other credit exposures and internal capital allocation.

4 In addition to EPE, an institution shall measure and manage current exposures. Where appropriate, the institution shall measure current exposure gross and net of collateral. The use test is satisfied if an institution uses other CCR measures, such as peak exposure, based on the distribution of exposures generated by the same model to compute EPE.

5 An institution shall have the systems capability to estimate EE daily if necessary, unless it demonstrates to the satisfaction of its competent authorities that its exposures to CCR warrant less frequent calculation. The institution shall estimate EE along a time profile of forecasting horizons that adequately reflects the time structure of future cash flows and maturity of the contracts and in a manner that is consistent with the materiality and composition of the exposures.

6 Exposure shall be measured, monitored and controlled over the life of all contracts in the netting set and not only to the one-year horizon. The institution shall have procedures in place to identify and control the risks for counterparties where the exposure rises beyond the one-year horizon. The forecast increase in exposure shall be an input into the institution's internal capital model.

Article 290

Stress testing

1 An institution shall have a comprehensive stress testing programme for CCR, including for use in assessment of own funds requirements for CCR, which complies with the requirements laid down in paragraphs 2 to 10.

2 It shall identify possible events or future changes in economic conditions that could have unfavourable effects on an institution's credit exposures and assess the institution's ability to withstand such changes.

3 **[**[F663] The stress measures under the programme shall be compared against risk limits and considered by the institution as part of **[**[F664]rule 6.1 of the Internal Capital Adequacy Part of the PRA rulebook**].]**

4 The programme shall comprehensively capture trades and aggregate exposures across all forms of counterparty credit risk at the level of specific counterparties in a sufficient time frame to conduct regular stress testing.

5 It shall provide for at least monthly exposure stress testing of principal market risk factors such as interest rates, FX, equities, credit spreads, and commodity prices for all counterparties of the institution, in order to identify, and enable the institution when necessary to reduce outsized concentrations in specific directional risks. Exposure stress testing -including single factor, multifactor and material non-directional risks- and joint stressing of exposure and creditworthiness shall be performed at the counterparty-specific, counterparty group and aggregate institution-wide CCR levels.

6 It shall apply at least quarterly multifactor stress testing scenarios and assess material non-directional risks including yield curve exposure and basis risks. Multiple-factor stress tests shall, at a minimum, address the following scenarios in which the following occurs:

a severe economic or market events have occurred;

b broad market liquidity has decreased significantly;

c a large financial intermediary is liquidating positions.

7 The severity of the shocks of the underlying risk factors shall be consistent with the purpose of the stress test. When evaluating solvency under stress, the shocks of the underlying risk factors shall be sufficiently severe to capture historical extreme market environments and extreme but plausible stressed market conditions. The stress tests shall evaluate the impact of such shocks on own funds, own funds requirements and earnings. For the purpose of day-to-day portfolio monitoring, hedging, and management of concentrations the testing programme shall also consider scenarios of lesser severity and higher probability.

8 The programme shall include provision, where appropriate, for reverse stress tests to identify extreme, but plausible, scenarios that could result in significant adverse outcomes. Reverse stress testing shall account for the impact of material non-linearity in the portfolio.

9 The results of the stress testing under the programme shall be reported regularly, at least on a quarterly basis, to senior management. The reports and analysis of the results shall cover the largest counterparty-level impacts across the portfolio, material concentrations within segments of the portfolio (within the same industry or region), and relevant portfolio and counterparty specific trends.

10 Senior management shall take a lead role in the integration of stress testing into the risk management framework and risk culture of the institution and ensure that the results are meaningful and used to manage CCR. The results of stress testing for significant exposures shall be assessed against guidelines that indicate the institution's risk appetite, and referred to senior management for discussion and action when excessive or concentrated risks are identified.

Textual Amendments

F663 Art. 290(3): existing wording becomes first sub-paragraph (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **146(a)** (with savings in S.I. 2019/680, **reg. 11**); 2020 c. 1, **Sch. 5 para. 1(1)**

F664 Words in Art. 290(3) substituted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 34**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

Article 291

Wrong-Way Risk

1 For the purposes of this Article:

a ‘ General Wrong-Way risk ’ arises when the likelihood of default by counterparties is positively correlated with general market risk factors;

b ‘ Specific Wrong-Way risk ’ arises when future exposure to a specific counterparty is positively correlated with the counterparty's PD due to the nature of the transactions with the counterparty. An institution shall be considered to be exposed to Specific Wrong-Way risk if the future exposure to a specific counterparty is expected to be high when the counterparty's probability of a default is also high.

2 An institution shall give due consideration to exposures that give rise to a significant degree of Specific and General Wrong-Way risk.

3 In order to identify General Wrong-Way risk, an institution shall design stress testing and scenario analyses to stress risk factors that are adversely related to counterparty creditworthiness. Such testing shall address the possibility of severe shocks occurring when relationships between risk factors have changed. An institution shall monitor General Wrong Way risk by product, by region, by industry, or by other categories that are relevant to the business.

4 An institution shall maintain procedures to identify, monitor and control cases of Specific Wrong-Way risk for each legal entity, beginning at the inception of a transaction and continuing through the life of the transaction.

5 Institutions shall calculate the own funds requirements for CCR in relation to transactions where Specific Wrong-Way risk has been identified and where there exists a legal connection between the counterparty and the issuer of the underlying of the OTC derivative or the underlying of the transactions referred to in points (b), (c) and (d) of Article 273(2)), in accordance with the following principles:

a the instruments where Specific Wrong-Way risk exists shall not be included in the same netting set as other transactions with the counterparty, and shall each be treated as a separate netting set;

b within any such separate netting set, for single-name credit default swaps the exposure value equals the full expected loss in the value of the remaining fair value of the underlying instruments based on the assumption that the underlying issuer is in liquidation;

c LGD for an institution using the approach set out in Chapter 3 shall be 100 % for such swap transactions;

d for an institution using the approach set out in Chapter 2 **[**[F665]of this Regulation and Articles 132a to 132c of Chapter 3 of the Standardised Approach and Internal Ratings Based Approach to Credit Risk (CRR) Part of the PRA Rulebook**]**, the applicable risk weight shall be that of an unsecured transaction;

e for all other transactions referencing a single name in any such separate netting set, the calculation of the exposure value shall be consistent with the assumption of a jump-to-default of those underlying obligations where the issuer is legally connected with the counterparty. For transactions referencing a basket of names or index, the jump-to-default of the respective underlying obligations where the issuer is legally connected with the counterparty, shall be applied, if material;

f to the extent that this uses existing market risk calculations for own funds requirements for incremental default and migration risk as set out in Title IV, Chapter 5, Section 4 that already contain an LGD assumption, the LGD in the formula used shall be 100 %.

6 Institutions shall provide senior management and the appropriate committee of the management body with regular reports on both Specific and General Wrong-Way risks and the steps being taken to manage those risks.

Textual Amendments

F665 Words in Art. 291(5)(d) inserted (1.1.2022) by The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/1376), regs. 1(3), **25(34)**

Article 292

Integrity of the modelling process

1 An institution shall ensure the integrity of modelling process as set out in Article 284 by adopting at least the following measures:

a the model shall reflect transaction terms and specifications in a timely, complete, and conservative fashion;
b those terms shall include at least contract notional amounts, maturity, reference assets, margining arrangements and netting arrangements;
c those terms and specifications shall be maintained in a database that is subject to formal and periodic audit;
d a process for recognising netting arrangements that requires legal staff to verify that netting under those arrangements is legally enforceable;
e the verification required under point (d) shall be entered into the database mentioned in point (c) by an independent unit;
f the transmission of transaction terms and specification data to the EPE model shall be subject to internal audit;
g there shall be processes for formal reconciliation between the model and source data systems to verify on an ongoing basis that transaction terms and specifications are being reflected in EPE correctly or at least conservatively.

2 Current market data shall be used to determine current exposures. An institution may calibrate its EPE model using either historic market data or market implied data to establish parameters of the underlying stochastic processes, such as drift, volatility and correlation. If an institution uses historical data, it shall use at least three years of such data. The data shall be updated at least quarterly, and more frequently if necessary to reflect market conditions.

To calculate the Effective EPE using a stress calibration, an institution shall calibrate Effective EPE using either three years of data that includes a period of stress to the credit default spreads of its counterparties or market implied data from such a period of stress.

The requirements in paragraphs 3, 4 and 5 shall be applied by the institution for that purpose.

3 An institution shall demonstrate to the satisfaction of the competent authority, at least quarterly, that the stress period used for the calculation under this paragraph coincides with a period of increased credit default swap or other credit (such as loan or corporate bond) spreads

for a representative selection of its counterparties with traded credit spreads. In situations where the institution does not have adequate credit spread data for a counterparty, it shall map that counterparty to specific credit spread data based on region, internal rating and business types.

4 The EPE model for all counterparties shall use data, either historic or implied, that include the data from the stressed credit period and shall use such data in a manner consistent with the method used for the calibration of the EPE model to current data.

5 To evaluate the effectiveness of its stress calibration for EEPE, an institution shall create several benchmark portfolios that are vulnerable to the main risk factors to which the institution is exposed. The exposure to these benchmark portfolios shall be calculated using (a) a stress methodology, based on current market values and model parameters calibrated to stressed market conditions, and (b) the exposure generated during the stress period, but applying the method set out in this Section (end of stress period market value, volatilities, and correlations from the 3-year stress period).

The competent authorities shall require an institution to adjust the stress calibration if the exposures of those benchmark portfolios deviate substantially from each other.

6 An institution shall subject the model to a validation process that is clearly articulated in the institutions' policies and procedures. That validation process shall:

a specify the kind of testing needed to ensure model integrity and identify conditions under which the assumptions underlying the model are inappropriate and may therefore result in an understatement of EPE;
b include a review of the comprehensiveness of the model.

7 An institution shall monitor the relevant risks and have processes in place to adjust its estimation of Effective EPE when those risks become significant. In complying with this paragraph, the institution shall:

a identify and manage its exposures to Specific Wrong-Way risk arising as specified in Article 291(1)(b) and exposures to General Wrong-Way risk arising as specified in Article 291(1)(a);
b for exposures with a rising risk profile after one year, compare on a regular basis the estimate of a relevant measure of exposure over one year with the same exposure measure over the life of the exposure;
c for exposures with a residual maturity below one year, compare on a regular basis the replacement cost (current exposure) and the realised exposure profile, and store data that would allow such a comparison.

8 An institution shall have internal procedures to verify that, prior to including a transaction in a netting set, the transaction is covered by a legally enforceable netting contract that meets the requirements set out in Section 7.

9 An institution that uses collateral to mitigate its CCR shall have internal procedures to verify that, prior to recognising the effect of collateral in its calculations, the collateral meets the legal certainty standards set out in Chapter 4.

F666 10 . . . .

Textual Amendments

F666 Art. 292(10) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **147** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 293

Requirements for the risk management system

1 An institution shall comply with the following requirements:

a it shall meet the qualitative requirements set out in Part Three, Title IV, Chapter 5;

b it shall conduct a regular programme of back-testing, comparing the risk measures generated by the model with realised risk measures, and hypothetical changes based on static positions with realised measures;

c it shall carry out an initial validation and an on-going periodic review of its CCR exposure model and the risk measures generated by it. The validation and review shall be independent of the model development;

d the management body and senior management shall be involved in the risk control process and shall ensure that adequate resources are devoted to credit and counterparty credit risk control. In this regard, the daily reports prepared by the independent risk control unit established in accordance Article 287(1)(a) shall be reviewed by a level of management with sufficient seniority and authority to enforce both reductions of positions taken by individual traders and reductions in the overall risk exposure of the institution;

e the internal risk measurement exposure model shall be integrated into the day-to-day risk management process of the institution;

f the risk measurement system shall be used in conjunction with internal trading and exposure limits. In this regard, exposure limits shall be related to the institution's risk measurement model in a manner that is consistent over time and that is well understood by traders, the credit function and senior management;

g an institution shall ensure that its risk management system is well documented. In particular, it shall maintain a documented set of internal policies, controls and procedures concerning the operation of the risk measurement system, and arrangements to ensure that those policies are complied with;

h an independent review of the risk measurement system shall be carried out regularly in the institution's own internal auditing process. This review shall include both the activities of the business trading units and of the independent risk control unit. A review of the overall risk management process shall take place at regular intervals (and no less than once a year) and shall specifically address, as a minimum, all items referred to in Article 288;

i the on-going validation of counterparty credit risk models, including back-testing, shall be reviewed periodically by a level of management with sufficient authority to decide the action that will be taken to address weaknesses in the models.

2 Competent authorities shall take into account the extent to which an institution meets the requirements of paragraph 1 when setting the level of alpha, as set out in Article 284(4). Only those institutions that comply fully with those requirements shall be eligible for application of the minimum multiplication factor.

3 An institution shall document the process for initial and on-going validation of its CCR exposure model and the calculation of the risk measures generated by the models to a level of detail that would enable a third party to recreate, respectively, the analysis and the risk measures. That documentation shall set out the frequency with which back testing analysis and any other on-going validation will be conducted, how the validation is conducted with respect to data flows and portfolios and the analyses that are used.

4 An institution shall define criteria with which to assess its CCR exposure models and the models that input into the calculation of exposure and maintain a written policy that describes the process by which unacceptable performance will be identified and remedied.

5 An institution shall define how representative counterparty portfolios are constructed for the purposes of validating an CCR exposure model and its risk measures.

6 The validation of CCR exposure models and their risk measures that produce forecast distributions shall consider more than a single statistic of the forecast distribution.

Article 294

Validation requirements

1 As part of the initial and on-going validation of its CCR exposure model and its risk measures, an institution shall ensure that the following requirements are met:

a the institution shall carry out back-testing using historical data on movements in market risk factors prior to the permission by the competent authorities in accordance with Article 283(1). That back-testing shall consider a number of distinct prediction time horizons out to at least one year, over a range of various initialisation dates and covering a wide range of market conditions;

b the institution using the approach set out in Article 285(1)(b) shall regularly validate its model to test whether realised current exposures are consistent with prediction over all margin periods within one year. If some of the trades in the netting set have a maturity of less than one year, and the netting set has higher risk factor sensitivities without these trades, the validation shall take this into account;

c it shall back-test the performance of its CCR exposure model and the model's relevant risk measures as well as the market risk factor predictions. For collateralised trades, the prediction time horizons considered shall include those reflecting typical margin periods of risk applied in collateralised or margined trading;

d if the model validation indicates that Effective EPE is underestimated, the institution shall take the action necessary to address the inaccuracy of the model;

e it shall test the pricing models used to calculate CCR exposure for a given scenario of future shocks to market risk factors as part of the initial and on-going model validation process. Pricing models for options shall account for the nonlinearity of option value with respect to market risk factors;

f the CCR exposure model shall capture the transaction-specific information necessary to be able to aggregate exposures at the level of the netting set. An institution shall verify that transactions are assigned to the appropriate netting set within the model;

g the CCR exposure model shall include transaction-specific information to capture the effects of margining. It shall take into account both the current amount of margin and margin that would be passed between counterparties in the future. Such a model shall account for the nature of margin agreements that are unilateral or bilateral, the frequency of margin calls, the margin period of risk, the minimum threshold of un-margined exposure the institution is willing to accept, and the minimum transfer amount. Such a model shall either estimate the mark-to-market change in the value of collateral posted or apply the rules set out in Chapter 4;

h the model validation process shall include static, historical back-testing on representative counterparty portfolios. An institution shall conduct such back-testing on a number of representative counterparty portfolios that are actual or hypothetical at regular intervals. Those representative portfolios shall be chosen on the basis of their sensitivity to the material risk factors and combinations of risk factors to which the institution is exposed;

i an institution shall conduct back-testing that is designed to test the key assumptions of the CCR exposure model and the relevant risk measures, including the modelled relationship between tenors of the same risk factor, and the modelled relationships between risk factors;

j the performance of CCR exposure models and its risk measures shall be subject to appropriate back-testing practice. The back testing programme shall be capable of identifying poor performance in an EPE model's risk measures;

k an institution shall validate its CCR exposure models and all risk measures out to time horizons commensurate with the maturity of trades for which exposure is calculated using IMM in accordance to the Article 283;

l an institution shall regularly test the pricing models used to calculate counterparty exposure against appropriate independent benchmarks as part of the on-going model validation process;

m the on-going validation of an institution's CCR exposure model and the relevant risk measures shall include an assessment of the adequacy of the recent performance;

n the frequency with which the parameters of an CCR exposure model are updated shall be assessed by an institution as part of the initial and on-going validation process;

o the initial and on-going validation of CCR exposure models shall assess whether or not the counterparty level and netting set exposure calculations of exposure are appropriate.

2 A measure that is more conservative than the metric used to calculate regulatory exposure value for every counterparty may be used in place of alpha multiplied by Effective EPE with the prior permission of the competent authorities. The degree of relative conservatism will be assessed upon initial approval by the competent authorities and at the regular supervisory reviews of the EPE models. An institution shall validate the conservatism regularly. The on-going assessment of model performance shall cover all counterparties for which the models are used.

3 If back-testing indicates that a model is not sufficiently accurate, the competent authorities shall revoke its permission for the model, or impose appropriate measures to ensure that the model is improved promptly.

Section 7

Contractual netting

Article 295

Recognition of contractual netting as risk-reducing

Institutions may treat as risk reducing in accordance with Article 298 only the following types of contractual netting agreements where the netting agreement has been recognised by competent authorities in accordance with Article 296 and where the institution meets the requirements set out in Article 297:

(a) bilateral contracts for novation between an institution and its counterparty under which mutual claims and obligations are automatically amalgamated in such a way that the novation fixes one single net amount each time it applies so as to create a single new contract that replaces all former contracts and all obligations between parties pursuant to those contracts and is binding on the parties;

(b) other bilateral agreements between an institution and its counterparty;

(c) contractual cross-product netting agreements for institutions that have received the approval to use the method set out in Section 6 for transactions falling under the scope of that method. [F667]...

Netting across transactions entered into by different legal entities of a group shall not be recognised for the purposes of calculating the own funds requirements.

Textual Amendments

F667 Words in Art. 295(c) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **148** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 296

Recognition of contractual netting agreements

1 Competent authorities shall recognise a contractual netting agreement only where the conditions in paragraph 2 and, where relevant, 3 are fulfilled.

2 The following conditions shall be fulfilled by all contractual netting agreements used by an institution for the purposes of determining exposure value in this Part:

a the institution has concluded a contractual netting agreement with its counterparty which creates a single legal obligation, covering all included transactions, such that, in the event of default by the counterparty it would be entitled to receive or obliged to pay only the net sum of the positive and negative mark-to-market values of included individual transactions;

b the institution has made available to the competent authorities written and reasoned legal opinions to the effect that, in the event of a legal challenge of the netting agreement, the institution's claims and obligations would not exceed those referred to in point (a). The legal opinion shall refer to the applicable law:

(i) the jurisdiction in which the counterparty is incorporated;

(ii) if a branch of an undertaking is involved, which is located in a country other than that where the undertaking is incorporated, the jurisdiction in which the branch is located;

(iii) the jurisdiction whose law governs the individual transactions included in the netting agreement;

(iv) the jurisdiction whose law governs any contract or agreement necessary to effect the contractual netting;

c credit risk to each counterparty is aggregated to arrive at a single legal exposure across transactions with each counterparty. This aggregation shall be factored into credit limit purposes and internal capital purposes;

d the contract shall not contain any clause which, in the event of default of a counterparty, permits a non-defaulting counterparty to make limited payments only, or no payments at all, to the estate of the defaulting party, even if the defaulting party is a net creditor (i.e. walk-away clause).

If [F668]... the competent authorities are not satisfied that the contractual netting is legally valid and enforceable under the law of each of the jurisdictions referred to in point (b) the contractual netting agreement shall not be recognised as risk-reducing for either of the counterparties. [F669]...

3 The legal opinions referred to in point (b) may be drawn up by reference to types of contractual netting. The following additional conditions shall be fulfilled by contractual cross-product netting agreements:

a the net sum referred to in point (a) of paragraph 2 is the net sum of the positive and negative close out values of any included individual bilateral master agreement and of the positive and negative mark-to-market value of the individual transactions (the ' cross-product net amount ');
b the legal opinions referred to in point (b) of paragraph 2 shall address the validity and enforceability of the entire contractual cross-product netting agreement under its terms and the impact of the netting arrangement on the material provisions of any included individual bilateral master agreement.

Textual Amendments

F668 Words in Art. 296(2) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **149(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F669 Words in Art. 296(2) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **149(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 297

Obligations of institutions

1 An institution shall establish and maintain procedures to ensure that the legal validity and enforceability of its contractual netting is reviewed in the light of changes in the law of relevant jurisdictions referred to in Article 296(2)(b).

2 The institution shall maintain all required documentation relating to its contractual netting in its files.

3 The institution shall factor the effects of netting into its measurement of each counterparty's aggregate credit risk exposure and the institution shall manage its CCR on the basis of those effects of that measurement.

4 In the case of contractual cross-product netting agreements referred to in Article 295, the institution shall maintain procedures under Article 296(2)(c) to verify that any transaction which is to be included in a netting set is covered by a legal opinion referred to in Article 296(2)(b).

Taking into account the contractual cross-product netting agreement, the institution shall continue to comply with the requirements for the recognition of bilateral netting and the requirements of Chapter 4 for the recognition of credit risk mitigation, as applicable, with respect to each included individual bilateral master agreement and transaction.

[F670 Article 298

Effects of recognition of netting as risk-reducing

Netting for the purposes of [F671Section 6 of this Chapter, and Sections 3 to 5 of Chapter 3 of the Counterparty Credit Risk (CRR) Part of the PRA Rulebook] shall be recognised as set out in those Sections.]

Textual Amendments

F670 Art. 298 substituted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 4 para. 9**; S.I. 2021/671, reg. 5(1)(c) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F671 Words in Art. 298 substituted (1.1.2022) by The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/1376), regs. 1(3), **25(35)**

Section 8

Items in the trading book

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 [F672paragraph 8 of Part 1 of Schedule 2 to the Regulated Activities Order].

2 When calculating risk-weighted exposure amounts for counterparty risk of items in the trading book, institutions shall comply with the following principles:

F673a . . . .

b institutions shall not use the Financial Collateral Simple Method set out in Article 222 for the recognition of the effects of financial collateral;

c 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;

d 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;

e 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;

f 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;

g 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;

h 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:

(i) treat it as if there were no counterparty risk arising from the position in that credit derivative;

(ii) 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.

Textual Amendments

F672 Words in Art. 299(1) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **150** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F673 Art. 299(2)(a) omitted (1.1.2022) by virtue of Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 4 para. 10**; S.I. 2021/671, reg. 5(1)(c) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

Section 9

Own funds requirements for exposures to a central counterparty

F674 Article 300

Definitions

. . . .

Textual Amendments

F674 Arts. 300-311 omitted (1.1.2022) by virtue of The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **6(3)(f)(ii)(ee)**

F674 Article 301

Material scope

. . . .

Textual Amendments

F674 Arts. 300-311 omitted (1.1.2022) by virtue of The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **6(3)(f)(ii)(ee)**

F674 Article 302

Monitoring of exposures to CCPs

. . . .

Textual Amendments

F674 Arts. 300-311 omitted (1.1.2022) by virtue of The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **6(3)(f)(ii)(ee)**

F674 Article 303

Treatment of clearing members' exposures to CCPs

. . . .

Textual Amendments

F674 Arts. 300-311 omitted (1.1.2022) by virtue of The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **6(3)(f)(ii)(ee)**

F674 Article 304

Treatment of clearing members' exposures to clients

. . . .

Textual Amendments

F674 Arts. 300-311 omitted (1.1.2022) by virtue of The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **6(3)(f)(ii)(ee)**

F674 *Article 305*

Treatment of clients' exposures

. . . .

Textual Amendments

F674 Arts. 300-311 omitted (1.1.2022) by virtue of The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **6(3)(f)(ii)(ee)**

F674 *Article 306*

Own funds requirements for trade exposures

. . . .

Textual Amendments

F674 Arts. 300-311 omitted (1.1.2022) by virtue of The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **6(3)(f)(ii)(ee)**

F674 *Article 307*

Own funds requirements for pre-funded contributions to the default fund of a CCP

. . . .

Textual Amendments

F674 Arts. 300-311 omitted (1.1.2022) by virtue of The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **6(3)(f)(ii)(ee)**

F674 *Article 308*

Own funds requirements for pre-funded contributions to the default fund of a QCCP

. . . .

Textual Amendments

F674 Arts. 300-311 omitted (1.1.2022) by virtue of The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **6(3)(f)(ii)(ee)**

F674 *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

. . . .

Textual Amendments

F674 Arts. 300-311 omitted (1.1.2022) by virtue of The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **6(3)(f)(ii)(ee)**

F674 *Article 310*

Alternative calculation of own funds requirement for exposures to a QCCP

. . . .

Textual Amendments

F674 Arts. 300-311 omitted (1.1.2022) by virtue of The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **6(3)(f)(ii)(ee)**

F674 *Article 311*

Own funds requirements for exposures to CCPs that cease to meet certain conditions

. . . .

Textual Amendments

F674 Arts. 300-311 omitted (1.1.2022) by virtue of The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **6(3)(f)(ii)(ee)**

TITLE III

OWN FUNDS REQUIREMENTS FOR OPERATIONAL RISK

CHAPTER 1

General principles governing the use of the different approaches

Article 312

Permission and notification

1 To qualify for use of the Standardised Approach, institutions shall meet the criteria set out in Article 320, in addition to meeting the general risk management standards set out in [F675Directive 2013/36/EU UK law which implemented] Articles 74 and 85 [F676of that Directive]. Institutions shall notify the competent authorities prior to using the Standardised Approach.

Competent authorities shall permit institutions to use an alternative relevant indicator for the business lines of retail banking and commercial banking where the conditions set out in Articles 319(2) and 320 are met.

2 Competent authorities shall permit institutions to use Advanced Measurement Approaches based on their own operational risk measurement systems, where all the qualitative and quantitative standards set out in Articles 321 and 322 respectively are met and where institutions meet the general risk management standards set out in Articles 74 and 85 of Directive 2013/36/EU and Section II, Chapter 3, Title VII of that Directive.

Institutions shall also apply for permission from their competent authorities where they want to implement material extensions and changes to those Advanced Measurement Approaches. Competent authorities shall grant the permission only where institutions would continue to meet the standards specified in the first subparagraph following those material extensions and changes.

3 Institutions shall notify the competent authorities of all changes to their Advanced Measurement Approaches models.

4 [F677The [F678PRA may] make technical standards] to specify the following:

- a the assessment methodology under which [F679it permits] institutions to use Advanced Measurement Approaches;
- b the conditions for assessing the materiality of extensions and changes to the Advanced Measurement Approaches;
- c the modalities of the notification required in paragraph 3.

F680 ...

Textual Amendments

F675 Words in Art. 312(1) inserted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **152(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F676 Words in Art. 312(1) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **152(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F677 Words in Art. 312(4) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **222(1)(a)(2)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F678 Words in Art. 312(4) substituted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 47**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F679 Words in Art. 312(4) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **225(5)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F680 Words in Art. 312(4) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **222(1)(b)** (with savings in S.I. 2019/680, **reg. 11**); 2020 c. 1, **Sch. 5 para. 1(1)**

Article 313

Reverting to the use of less sophisticated approaches

1 Institutions that use the Standardised Approach shall not revert to the use of the Basic Indicator Approach unless the conditions in paragraph 3 are met.

2 Institutions that use the Advanced Measurement Approaches shall not revert to the use of the Standardised Approach or the Basic Indicator Approach unless the conditions in paragraph 3 are met.

3 An institution may only revert to the use of a less sophisticated approach for operational risk where both the following conditions are met:

a the institution has demonstrated to the satisfaction of the competent authority that the use of a less sophisticated approach is not proposed in order to reduce the operational risk related own funds requirements of the institution, is necessary on the basis of nature and complexity of the institution and would not have a material adverse impact on the solvency of the institution or its ability to manage operational risk effectively;

b the institution has received the prior permission of the competent authority.

Article 314

Combined use of different approaches

1 Institutions may use a combination of approaches provided that they obtain permission from the competent authorities. Competent authorities shall grant such permission where the requirements set out in paragraphs 2 to 4, as applicable, are met.

2 An institution may use an Advanced Measurement Approach in combination with either the Basic Indicator Approach or the Standardised Approach, where both of the following conditions are met:

a the combination of Approaches used by the institution captures all its operational risks and competent authorities are satisfied with the methodology used by the institution to cover different activities, geographical locations, legal structures or other relevant divisions determined on an internal basis;

b the criteria set out in Article 320 and the standards set out in Articles 321 and 322 are fulfilled for the part of activities covered by the Standardised Approach and the Advanced Measurement Approaches respectively.

3 For institutions that want to use an Advanced Measurement Approach in combination with either the Basic Indicator Approach or the Standardised Approach competent authorities shall impose the following additional conditions for granting permission:

a on the date of implementation of an Advanced Measurement Approach, a significant part of the institution's operational risks are captured by that Approach;

b the institution takes a commitment to apply the Advanced Measurement Approach across a material part of its operations within a time schedule that was submitted to and approved by its competent authorities.

4 An institution may request permission from a competent authority to use a combination of the Basic Indicator Approach and the Standardised Approach only in exceptional circumstances such as the recent acquisition of new business which may require a transitional period for the application of the Standardised Approach.

A competent authority shall grant such permission only where the institution has committed to apply the Standardised Approach within a time schedule that was submitted to and approved by the competent authority.

5 [F681The [F682PRA may] make technical standards] to specify the following:

a the conditions that [F683it] shall use when assessing the methodology referred to in point (a) of paragraph 2;

b the conditions that [F683it] shall use when deciding whether to impose the additional conditions referred to in paragraph 3.

F684 ...

Textual Amendments

F681 Words in Art. 314(5) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **222(1)(a)(2)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F682 Words in Art. 314(5) substituted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 47**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F683 Word in Art. 314(5)(a)(b) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **225(1)**(2)(3)(k) (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F684 Words in Art. 314(5) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **222(1)(b)** (with savings in S.I. 2019/680, **reg. 11**); 2020 c. 1, **Sch. 5 para. 1(1)**

CHAPTER 2

Basic Indicator Approach

Article 315

Own funds requirement

1 Under the Basic Indicator Approach, the own funds requirement for operational risk is equal to 15 % of the average over three years of the relevant indicator as set out in Article 316.

Institutions shall calculate the average over three years of the relevant indicator on the basis of the last three twelve-monthly observations at the end of the financial year. When audited figures are not available, institutions may use business estimates.

2 Where an institution has been in operation for less than three years it may use forward-looking business estimates in calculating the relevant indicator, provided that it starts using historical data as soon as it is available.

3 Where an institution can prove to its competent authority that, due to a merger, an acquisition or a disposal of entities or activities, using a three year average to calculate the relevant indicator would lead to a biased estimation for the own funds requirement for operational risk, the competent authority may permit the institution to amend the calculation in a way that would take into account such events [F685]... . In such circumstances, the competent authority may, on its own initiative, also require an institution to amend the calculation.

4 Where for any given observation, the relevant indicator is negative or equal to zero, institutions shall not take into account this figure in the calculation of the average over three years. Institutions shall calculate the average over three years as the sum of positive figures divided by the number of positive figures.

Textual Amendments

F685 Words in Art. 315(3) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **153** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

[F686] *Article 316*

Relevant indicator

. . . .

Textual Amendments

F686 Art. 316 omitted (1.1.2022) by virtue of The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **6(4)**

CHAPTER 3

Standardised Approach

Article 317

Own funds requirement

1 Under the Standardised Approach, institutions shall divide their activities into the business lines set out in Table 2 of paragraph 4 and in accordance with the principles set out in Article 318.

2 Institutions shall calculate the own funds requirement for operational risk as the average over three years of the sum of the annual own funds requirements across all business lines referred to in Table 2 of paragraph 4. The annual own funds requirement of each business line is equal to the product of the corresponding beta factor referred to in that Table and the part of the relevant indicator mapped to the respective business line.

3 In any given year, institutions may offset negative own funds requirements resulting from a negative part of the relevant indicator in any business line with positive own funds requirements in other business lines without limit. However, where the aggregate own funds requirement across all business lines within a given year is negative, institutions shall use the value zero as the input to the numerator for that year.

4 Institutions shall calculate the average over three years of the sum referred to in paragraph 2 on the basis of the last three twelve-monthly observations at the end of the financial year. When audited figures are not available, institutions may use business estimates.

Where an institution can prove to its competent authority that, due to a merger, an acquisition or a disposal of entities or activities, using a three year average to calculate the relevant indicator would lead to a biased estimation for the own funds requirement for operational risk, the competent authority may permit institutions to amend the calculation in a way that would take into account such events [F687]... . In such circumstances, the competent authority may, on its own initiative, also require an institution to amend the calculation.

Where an institution has been in operation for less than three years it may use forward-looking business estimates in calculating the relevant indicator, provided that it starts using historical data as soon as it is available.

TABLE 2

Business line	List of activities	Percentage (beta factor)
Corporate finance	Underwriting of financial instruments or placing of financial instruments on a firm commitment basis Services related to underwriting Investment advice Advice to undertakings on capital structure, industrial strategy and related matters and advice	18 %

	and services relating to the mergers and the purchase of undertakings Investment research and financial analysis and other forms of general recommendation relating to transactions in financial instruments	
Trading and sales	Dealing on own account Money broking Reception and transmission of orders in relation to one or more financial instruments Execution of orders on behalf of clients Placing of financial instruments without a firm commitment basis Operation of Multilateral Trading Facilities	18 %
Retail brokerage (Activities with natural persons or with SMEs meeting the criteria set out in Article 123 for the retail exposure class)	Reception and transmission of orders in relation to one or more financial instruments Execution of orders on behalf of clients Placing of financial instruments without a firm commitment basis	12 %
Commercial banking	Acceptance of deposits and other repayable funds Lending Financial leasing Guarantees and commitments	15 %
Retail banking (Activities with natural persons or with SMEs meeting the criteria set out in Article 123 for the retail exposure class)	Acceptance of deposits and other repayable funds Lending Financial leasing Guarantees and commitments	12 %
Payment and settlement	Money transmission services, Issuing and administering means of payment	18 %
Agency services	Safekeeping and administration of financial instruments for the account	15 %

	of clients, including custodianship and related services such as cash/ collateral management	
Asset management	Portfolio management Managing of UCITS Other forms of asset management	12 %

Textual Amendments

F687 Words in Art. 317(4) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **155** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 318

Principles for business line mapping

1 Institutions shall develop and document specific policies and criteria for mapping the relevant indicator for current business lines and activities into the standardised framework set out in Article 317. They shall review and adjust those policies and criteria as appropriate for new or changing business activities and risks.

2 Institutions shall apply the following principles for business line mapping:

a institutions shall map all activities into the business lines in a mutually exclusive and jointly exhaustive manner;

b institutions shall allocate any activity which cannot be readily mapped into the business line framework, but which represents an ancillary activity to an activity included in the framework, to the business line it supports. Where more than one business line is supported through the ancillary activity, institutions shall use an objective-mapping criterion;

c where an activity cannot be mapped into a particular business line then institutions shall use the business line yielding the highest percentage. The same business line equally applies to any ancillary activity associated with that activity;

d institutions may use internal pricing methods to allocate the relevant indicator between business lines. Costs generated in one business line which are imputable to a different business line may be reallocated to the business line to which they pertain;

e the mapping of activities into business lines for operational risk capital purposes shall be consistent with the categories institutions use for credit and market risks;

f senior management shall be responsible for the mapping policy under the control of the management body of the institution;

g institutions shall subject the mapping process to business lines to independent review.

3 [[F688]The [[F689]PRA may] make technical standards] to determine the conditions of application of the principles for business line mapping provided in this Article.

F690
...

Textual Amendments

F688 Words in Art. 318(3) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **222(1)(a)(2)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F689 Words in Art. 318(3) substituted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 47**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F690 Words in Art. 318(3) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **222(1)(b)** (with savings in S.I. 2019/680, **reg. 11**); 2020 c. 1, **Sch. 5 para. 1(1)**

Article 319

Alternative Standardised Approach

1 Under the Alternative Standardised Approach, for the business lines 'retail banking' and 'commercial banking', institutions shall apply the following:

a the relevant indicator is a normalised income indicator equal to the nominal amount of loans and advances multiplied by 0,035;

b the loans and advances consist of the total drawn amounts in the corresponding credit portfolios. For the 'commercial banking' business line, institutions shall also include securities held in the non trading book in the nominal amount of loans and advances.

2 To be permitted to use the Alternative Standardised Approach, an institution shall meet all the following conditions:

a its retail or commercial banking activities shall account for at least 90 % of its income;

b a significant proportion of its retail or commercial banking activities shall comprise loans associated with a high PD;

c the Alternative Standardised Approach provides an appropriate basis for calculating its own funds requirement for operational risk.

Article 320

Criteria for the Standardised Approach

The criteria referred to in the first subparagraph of Article 312(1) are the following:

(a) an institution shall have in place a well-documented assessment and management system for operational risk with clear responsibilities assigned for this system. It shall identify its exposures to operational risk and track relevant operational risk data, including material loss data. This system shall be subject to regular independent review carried out by an internal or external party possessing the necessary knowledge to carry out such review;

(b) an institution's operational risk assessment system shall be closely integrated into the risk management processes of the institution. Its output shall be an integral part of the process of monitoring and controlling the institution's operational risk profile;

(c) an institution shall implement a system of reporting to senior management that provides operational risk reports to relevant functions within the institution. An institution shall have in place procedures for taking appropriate action according to the information within the reports to management.

CHAPTER 4

Advanced measurement approaches

Article 321

Qualitative standards

The qualitative standards referred to in Article 312(2) are the following:

(a) an institution's internal operational risk measurement system shall be closely integrated into its day-to-day risk management processes;

(b) an institution shall have an independent risk management function for operational risk;

(c) an institution shall have in place regular reporting of operational risk exposures and loss experience and shall have in place procedures for taking appropriate corrective action;

(d) an institution's risk management system shall be well documented. An institution shall have in place routines for ensuring compliance and policies for the treatment of non-compliance;

(e) an institution shall subject its operational risk management processes and measurement systems to regular reviews performed by internal or external auditors;

(f) an institution's internal validation processes shall operate in a sound and effective manner;

(g) data flows and processes associated with an institution's risk measurement system shall be transparent and accessible.

Article 322

Quantitative Standards

1 The quantitative standards referred to in Article 312(2) include the standards relating to process, to internal data, to external data, to scenario analysis, to business environment and to internal control factors laid down in paragraphs 2 to 6 respectively.

2 The standards relating to process are the following:

a an institution shall calculate its own funds requirement as comprising both expected loss and unexpected loss, unless expected loss is adequately captured in its internal business practices. The operational risk measure shall capture potentially severe tail events, achieving a soundness standard comparable to a 99,9 % confidence interval over a one year period;

b an institution's operational risk measurement system shall include the use of internal data, external data, scenario analysis and factors reflecting the business environment and internal control systems as set out in paragraphs 3 to 6. An institution shall have in place a well documented approach for weighting the use of these four elements in its overall operational risk measurement system;

c an institution's risk measurement system shall capture the major drivers of risk affecting the shape of the tail of the estimated distribution of losses;

d an institution may recognise correlations in operational risk losses across individual operational risk estimates only where its systems for measuring correlations are sound, implemented with integrity, and take into account the uncertainty surrounding any such correlation estimates, particularly in periods of stress. An institution shall validate its correlation assumptions using appropriate quantitative and qualitative techniques;

e an institution's risk measurement system shall be internally consistent and shall avoid the multiple counting of qualitative assessments or risk mitigation techniques recognised in other areas of this Regulation.

3 The standards relating to internal data are the following:

a an institution shall base its internally generated operational risk measures on a minimum historical observation period of five years. When an institution first moves to an Advanced Measurement Approach, it may use a three-year historical observation period;

b an institution shall be able to map their historical internal loss data into the business lines defined in Article 317 and into the event types defined in Article 324, and to provide these data to competent authorities upon request. In exceptional circumstances, an institution may allocate loss events which affect the entire institution to an additional business line ‘corporate items’. An institution shall have in place documented, objective criteria for allocating losses to the specified business lines and event types. An institution shall record the operational risk losses that are related to credit risk and that the institution has historically included in the internal credit risk databases in the operational risk databases and shall identify them separately. Such losses shall not be subject to the operational risk charge, provided that the institution is required to continue to treat them as credit risk for the purposes of calculating own funds requirements. An institution shall include operational risk losses that are related to market risks in the scope of the own funds requirement for operational risk;

c an institution's internal loss data shall be comprehensive in that it captures all material activities and exposures from all appropriate sub-systems and geographic locations. An institution shall be able to justify that any excluded activities or exposures, both individually and in combination, would not have a material impact on the overall risk estimates. An institution shall define appropriate minimum loss thresholds for internal loss data collection;

d aside from information on gross loss amounts, an institution shall collect information about the date of the loss event, any recoveries of gross loss amounts, as well as descriptive information about the drivers or causes of the loss event;

e an institution shall have in place specific criteria for assigning loss data arising from a loss event in a centralised function or an activity that spans more than one business line, as well as from related loss events over time;

f an institution shall have in place documented procedures for assessing the on-going relevance of historical loss data, including those situations in which judgement overrides, scaling, or other adjustments may be used, to what extent they may be used and who is authorised to make such decisions.

4 The qualifying standards relating to external data are the following:

a an institution's operational risk measurement system shall use relevant external data, especially when there is reason to believe that the institution is exposed to infrequent, yet potentially severe, losses. An institution shall have a systematic process for determining the situations for which external data shall be used and the methodologies used to incorporate the data in its measurement system;

b an institution shall regularly review the conditions and practices for external data and shall document them and subject them to periodic independent review.

5 An institution shall use scenario analysis of expert opinion in conjunction with external data to evaluate its exposure to high severity events. Over time, the institution shall validate and reassess such assessments through comparison to actual loss experience to ensure their reasonableness.

6 The qualifying standards relating to business environment and internal control factors are the following:

a an institution's firm-wide risk assessment methodology shall capture key business environment and internal control factors that can change the institutions operational risk profile;

b an institution shall justify the choice of each factor as a meaningful driver of risk, based on experience and involving the expert judgment of the affected business areas;

c an institution shall be able to justify to competent authorities the sensitivity of risk estimates to changes in the factors and the relative weighting of the various factors. In addition to capturing changes in risk due to improvements in risk controls, an institution's risk measurement framework shall also capture potential increases in risk due to greater complexity of activities or increased business volume;

d an institution shall document its risk measurement framework and shall subject it to independent review within the institution and by competent authorities. Over time, an institution shall validate and reassess the process and the outcomes through comparison to actual internal loss experience and relevant external data.

Article 323

Impact of insurance and other risk transfer mechanisms

1 The competent authorities shall permit institutions to recognise the impact of insurance subject to the conditions set out in paragraphs 2 to 5 and other risk transfer mechanisms where the institution can demonstrate that a noticeable risk mitigating effect is achieved.

2 The insurance provider shall be authorised to provide insurance or re-insurance and shall have a minimum claims paying ability rating by an ECAI which has been determined by [[F691]the competent authorities] to be associated with credit quality step 3 or above under the rules for the risk weighting of exposures to institutions under Title II, Chapter 2.

3 The insurance and the institutions' insurance framework shall meet all the following conditions:

a the insurance policy has an initial term of no less than one year. For policies with a residual term of less than one year, an institution shall make appropriate haircuts reflecting the declining residual term of the policy, up to a full 100 % haircut for policies with a residual term of 90 days or less;

b the insurance policy has a minimum notice period for cancellation of the contract of 90 days;

c the insurance policy has no exclusions or limitations triggered by supervisory actions or, in the case of a failed institution, that preclude the institution's receiver or liquidator from recovering the damages suffered or expenses incurred by the institution, except in respect of events occurring after the initiation of receivership or liquidation proceedings in respect of the institution. However, the insurance policy may exclude any fine, penalty, or punitive damages resulting from actions by the competent authorities;

d the risk mitigation calculations shall reflect the insurance coverage in a manner that is transparent in its relationship to, and consistent with, the actual likelihood and impact of loss used in the overall determination of operational risk capital;

e the insurance is provided by a third party entity. In the case of insurance through captives and affiliates, the exposure has to be laid off to an independent third party entity that meets the eligibility criteria set out in paragraph 2;

f the framework for recognising insurance is well reasoned and documented.

4 The methodology for recognising insurance shall capture all the following elements through discounts or haircuts in the amount of insurance recognition:

a the residual term of the insurance policy, where less than one year;

b the policy's cancellation terms, where less than one year;

c the uncertainty of payment as well as mismatches in coverage of insurance policies.

5 The reduction in own funds requirements from the recognition of insurances and other risk transfer mechanisms shall not exceed 20 % of the own funds requirement for operational risk before the recognition of risk mitigation techniques.

Textual Amendments

F691 Words in Art. 323(2) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **156** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 324

Loss event type classification

The loss events types referred to in point (b) of Article 322(3) are the following:

TABLE 3

Event-Type Category	Definition
Internal fraud	Losses due to acts of a type intended to defraud, misappropriate property or circumvent regulations, the law or company policy, excluding diversity/discrimination events, which involves at least one internal party
External fraud	Losses due to acts of a type intended to defraud, misappropriate property or circumvent the law, by a third party
Employment Practices and Workplace Safety	Losses arising from acts inconsistent with employment, health or safety laws or agreements, from payment of personal injury claims, or from diversity/discrimination events

Clients, Products & Business Practices	Losses arising from an unintentional or negligent failure to meet a professional obligation to specific clients (including fiduciary and suitability requirements), or from the nature or design of a product
Damage to Physical Assets	Losses arising from loss or damage to physical assets from natural disaster or other events
Business disruption and system failures	Losses arising from disruption of business or system failures
Execution, Delivery & Process Management	Losses from failed transaction processing or process management, from relations with trade counterparties and vendors

TITLE IV

OWN FUNDS REQUIREMENTS FOR MARKET RISK

CHAPTER 1

General provisions

Article 325

Approaches for calculating the own funds requirements for market risk

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

a the standardised approach referred to in paragraph 2;

b the internal model approach set out in Chapter 5 of this Title for those risk categories for which the institution has been granted permission in accordance with Article 363 to use that approach.

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

a the own funds requirements for position risk referred to in Chapter 2;

b the own funds requirements for foreign exchange risk referred to in Chapter 3;

c the own funds requirements for commodity risk referred to in Chapter 4.

F692 3 . . . .

4 An institution may use in combination the approaches set out in points (a) and (b) of paragraph 1 of this Article on a permanent basis within a group in accordance with Article 363.

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F693 8 . . . .

F693 9 . . . .

Textual Amendments

F692 Art. 325(3) omitted (1.1.2022) by virtue of The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/1376), regs. 1(3), **25(36)**

F693 Art. 325(5)-(9) omitted (1.1.2022) by virtue of The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/1376), regs. 1(3), **25(36)**

F694 *Article 325a*

Exemptions from specific reporting requirements for market risk

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Textual Amendments

F694 Art. 325a omitted (1.1.2022) by virtue of The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/1376), regs. 1(3), **25(37)**

Article 325b

Permission for consolidated requirements

1 Subject to paragraph 2, and only for the purpose of calculating net positions and own funds requirements in accordance with this Title on a consolidated basis, institutions may use positions in one institution or undertaking to offset positions in another institution or undertaking.

2 Institutions may apply paragraph 1 only with the permission of the competent authorities which shall be granted if all the following conditions are met:

- a there is a satisfactory allocation of own funds within the group;
- b the regulatory, legal or contractual framework in which the institutions operate guarantees mutual financial support within the group.

3 Where there are undertakings located in third countries, all the following conditions shall be met in addition to those set out in paragraph 2:

- a such undertakings have been authorised in a third country and either satisfy the definition of a credit institution or are recognised third-country investment firms;
- b on an individual basis, such undertakings comply with own funds requirements equivalent to those laid down in this Regulation;
- c no regulations exist in the third countries in question which might significantly affect the transfer of funds within the group.

[F695]CHAPTER 1a

Alternative standardised approach

Section 1

General provisions

Article 325c

Scope and structure of the alternative standardised approach

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Article 325d

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Subsection 1

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Article 325af

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Correlations across buckets for general interest rate risk

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Article 325ah

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Article 325aj

Correlations across buckets for credit spread risk for non-securitisations

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Article 325am

Risk weights for credit spread risk for securitisations not included in the ACTP

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Article 325an

Intra-bucket correlations for credit spread risk for securitisations not included in the ACTP

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Article 325ao

Correlations across buckets for credit spread risk for securitisations not included in the ACTP

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Article 325ap

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Article 325aq

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Vega and curvature risk weights

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Article 325ay

Vega and curvature risk correlations

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Textual Amendments

F695 Pt. 3 Title 4 Ch. 1a omitted (1.1.2022) by virtue of The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/1376), regs. 1(3), **25(38)(a)**

[F696]*CHAPTER 1b*

Alternative internal model approach

Section 1

Permission and own funds requirements

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Alternative internal model approach and permission to use alternative internal models

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Textual Amendments

F696 Pt. 3 Title 4 Ch. 1b omitted (1.1.2022) by virtue of The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/1376), regs. 1(3), **25(38)(b)**

CHAPTER 2

Own funds requirements for position risk

Section 1

General provisions and specific instruments

Article 326

Own funds requirements for position risk

The institution's own funds requirement for position risk shall be the sum of the own funds requirements for the general and specific risk of its positions in debt and equity instruments. Securitisation positions in the trading book shall be treated as debt instruments.

Article 327

Netting

1 The absolute value of the excess of an institution's long (short) positions over its short (long) positions in the same equity, debt and convertible issues and identical financial futures, options, warrants and covered warrants shall be its net position in each of those different instruments. In calculating the net position, positions in derivative instruments shall be treated as laid down in Articles 328 to 330. Institutions' holdings of their own debt instruments shall be disregarded in calculating specific risk capital requirements under Article 336.

2 No netting shall be allowed between a convertible and an offsetting position in the instrument underlying it, unless the competent authorities adopt an approach under which the likelihood of a particular convertible's being converted is taken into account or require an own funds requirement to cover any loss which conversion might entail. [F697]...

3 All net positions, irrespective of their signs, shall be converted on a daily basis into the institution's reporting currency at the prevailing spot exchange rate before their aggregation.

Textual Amendments

F697 Words in Art. 327(2) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **158** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 328

Interest rate futures and forwards

1 Interest-rate futures, forward-rate agreements (FRAs) and forward commitments to buy or sell debt instruments shall be treated as combinations of long and short positions. Thus a long interest-rate futures position shall be treated as a combination of a borrowing maturing on the delivery date of the futures contract and a holding of an asset with maturity date equal to

that of the instrument or notional position underlying the futures contract in question. Similarly a sold FRA will be treated as a long position with a maturity date equal to the settlement date plus the contract period, and a short position with maturity equal to the settlement date. Both the borrowing and the asset holding shall be included in the first category set out in Table 1 in Article 336 in order to calculate the own funds requirement for specific risk for interest-rate futures and FRAs. A forward commitment to buy a debt instrument shall be treated as a combination of a borrowing maturing on the delivery date and a long (spot) position in the debt instrument itself. The borrowing shall be included in the first category set out in Table 1 in Article 336 for purposes of specific risk, and the debt instrument under whichever column is appropriate for it in the same table.

2 For the purposes of this Article, ‘ long position ’ means a position in which an institution has fixed the interest rate it will receive at some time in the future, and ‘ short position ’ means a position in which it has fixed the interest rate it will pay at some time in the future.

Article 329

Options and warrants

1 Options and warrants on interest rates, debt instruments, equities, equity indices, financial futures, swaps and foreign currencies shall be treated as if they were positions equal in value to the amount of the underlying instrument to which the option refers, multiplied by its delta for the purposes of this Chapter. The latter positions may be netted off against any offsetting positions in the identical underlying securities or derivatives. The delta used shall be that of the exchange concerned. For OTC-options, or where delta is not available from the exchange concerned, the institution may calculate delta itself using an appropriate model, subject to permission by the competent authorities. Permission shall be granted if the model appropriately estimates the rate of change of the option's or warrant's value with respect to small changes in the market price of the underlying.

2 Institutions shall adequately reflect other risks, apart from the delta risk, associated with options in the own funds requirements.

3 **[**[F698]The **[**[F699]PRA may**]** make technical standards**]** defining a range of methods to reflect in the own funds requirements other risks, apart from delta risk, referred to in paragraph 2 in a manner proportionate to the scale and complexity of institutions' activities in options and warrants.

[F700] ...

[F701]4 . . . .

Textual Amendments

F698 Words in Art. 329(3) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **222(1)(a)(2)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F699 Words in Art. 329(3) substituted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 47**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F700 Words in Art. 329(3) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **222(1)(b)** (with savings in S.I. 2019/680, **reg. 11**); 2020 c. 1, **Sch. 5 para. 1(1)**

F701 Art. 329(4) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **159** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 330

Swaps

Swaps shall be treated for interest-rate risk purposes on the same basis as on-balance-sheet instruments. Thus, an interest-rate swap under which an institution receives floating-rate interest and pays fixed-rate interest shall be treated as equivalent to a long position in a floating-rate instrument of maturity equivalent to the period until the next interest fixing and a short position in a fixed-rate instrument with the same maturity as the swap itself.

Article 331

Interest rate risk on derivative instruments

1 Institutions which mark to market and manage the interest-rate risk on the derivative instruments covered in Articles 328 to 330 on a discounted-cash-flow basis may, subject to permission by the competent authorities, use sensitivity models to calculate the positions referred to in those Articles and may use them for any bond which is amortised over its residual life rather than via one final repayment of principal. Permission shall be granted if these models generate positions which have the same sensitivity to interest-rate changes as the underlying cash flows. This sensitivity shall be assessed with reference to independent movements in sample rates across the yield curve, with at least one sensitivity point in each of the maturity bands set out in Table 2 in Article 339. The positions shall be included in the calculation of own funds requirements for general risk of debt instruments.

2 Institutions which do not use models under paragraph 1 may, treat as fully offsetting any positions in derivative instruments covered in Articles 328 to 330 which meet the following conditions at least:

a the positions are of the same value and denominated in the same currency;
b the reference rate (for floating-rate positions) or coupon (for fixed-rate positions) is closely matched;
c the next interest-fixing date or, for fixed coupon positions, residual maturity corresponds with the following limits:

(i) less than one month hence: same day;

(ii) between one month and one year hence: within seven days;

(iii) over one year hence: within 30 days.

Article 332

Credit Derivatives

1 When calculating the own funds requirement for general and specific risk of the party who assumes the credit risk (the ‘ protection seller ’), unless specified differently, the notional amount of the credit derivative contract shall be used. Notwithstanding the first sentence, the

institution may elect to replace the notional value by the notional value plus the net market value change of the credit derivative since trade inception, a net downward change from the protection seller's perspective carrying a negative sign. For the purpose of calculating the specific risk charge, other than for total return swaps, the maturity of the credit derivative contract, rather than the maturity of the obligation, shall apply. Positions are determined as follows:

a a total return swap creates a long position in the general risk of the reference obligation and a short position in the general risk of a government bond with a maturity equivalent to the period until the next interest fixing and which is assigned a 0 % risk weight under Title II, Chapter 2. It also creates a long position in the specific risk of the reference obligation;

b a credit default swap does not create a position for general risk. For the purposes of specific risk, the institution shall record a synthetic long position in an obligation of the reference entity, unless the derivative is rated externally and meets the conditions for a qualifying debt item, in which case a long position in the derivative is recorded. If premium or interest payments are due under the product, these cash flows shall be represented as notional positions in government bonds;

c a single name credit linked note creates a long position in the general risk of the note itself, as an interest rate product. For the purpose of specific risk, a synthetic long position is created in an obligation of the reference entity. An additional long position is created in the issuer of the note. Where the credit linked note has an external rating and meets the conditions for a qualifying debt item, a single long position with the specific risk of the note need only be recorded;

d in addition to a long position in the specific risk of the issuer of the note, a multiple name credit linked note providing proportional protection creates a position in each reference entity, with the total notional amount of the contract assigned across the positions according to the proportion of the total notional amount that each exposure to a reference entity represents. Where more than one obligation of a reference entity can be selected, the obligation with the highest risk weighting determines the specific risk;

e a first-asset-to-default credit derivative creates a position for the notional amount in an obligation of each reference entity. If the size of the maximum credit event payment is lower than the own funds requirement under the method in the first sentence of this point, the maximum payment amount may be taken as the own funds requirement for specific risk.

A -n-th-asset-to-default credit derivative creates a position for the notional amount in an obligation of each reference entity less the n-1 reference entities with the lowest specific risk own funds requirement. If the size of the maximum credit event payment is lower than the own funds requirement under the method in the first sentence of this point, this amount may be taken as the own funds requirement for specific risk.

Where an n-th-to-default credit derivative is externally rated, the protection seller shall calculate the specific risk own funds requirement using the rating of the derivative and apply the respective securitisation risk weights as applicable.

2 For the party who transfers credit risk (the protection buyer), the positions are determined as the mirror principle of the protection seller, with the exception of a credit linked note (which entails no short position in the issuer). When calculating the own funds requirement for the ‘ protection buyer ’ , the notional amount of the credit derivative contract shall be used. Notwithstanding the first sentence, the institution may elect to replace the notional value by the notional value plus the net market value change of the credit derivative since trade inception, a net downward change from the protection seller's perspective carrying a negative sign. If at a given moment there is a call option in combination with a step-up, such moment is treated as the maturity of the protection.

3 Credit derivatives in accordance with Article 338(1) or (3) shall be included only in the determination of the specific risk own funds requirement in accordance with Article 338(4).

Article 333

Securities sold under a repurchase agreement or lent

The transferor of securities or guaranteed rights relating to title to securities in a repurchase agreement and the lender of securities in a securities lending shall include these securities in the calculation of its own funds requirement under this Chapter provided that such securities are trading book positions.

Section 2

Debt instruments

Article 334

Net positions in debt instruments

Net positions shall be classified according to the currency in which they are denominated and shall calculate the own funds requirement for general and specific risk in each individual currency separately.

Sub-Section 1

Specific risk

Article 335

Cap on the own funds requirement for a net position

The institution may cap the own funds requirement for specific risk of a net position in a debt instrument at the maximum possible default-risk related loss. For a short position, that limit may be calculated as a change in value due to the instrument or, where relevant, the underlying names immediately becoming default risk-free.

Article 336

Own funds requirement for non-securitisation debt instruments

1 The institution shall assign its net positions in the trading book in instruments that are not securitisation positions as calculated in accordance with Article 327 to the appropriate categories in Table 1 on the basis of their issuer or obligor, external or internal credit assessment, and residual maturity, and then multiply them by the weightings shown in that table. It shall sum its weighted positions resulting from the application of this Article regardless of whether they are long or short in order to calculate its own funds requirement against specific risk.

TABLE 1

Categories	Specific risk own funds requirement
Debt securities which would receive a 0 % risk weight under the Standardised Approach for credit risk.	0 %
Debt securities which would receive a 20 % or 50 % risk weight under the Standardised Approach for credit risk and other qualifying items as defined in paragraph 4.	0,25 % (residual term to final maturity six months or less) 1,00 % (residual term to final maturity greater than six months and up to and including 24 months) 1,60 % (residual term to maturity exceeding 24 months)
Debt securities which would receive a 100 % risk weight under the Standardised Approach for credit risk.	8,00 %
Debt which would receive a 150 % risk weight under the Standardised Approach for credit risk.	12,00 %

2 For institutions which apply the IRB Approach to the exposure class of which the issuer of the debt instrument forms part, to qualify for a risk weight under the Standardised Approach for credit risk as referred to in paragraph 1, the issuer of the exposure shall have an internal rating with a PD equivalent to or lower than that associated with the appropriate credit quality step under the Standardised Approach.

3 Institutions may calculate the specific risk requirements for any bonds that qualify for a 10 % risk weight in accordance with the treatment set out in Article 129(4), (5) and (6) as half of the applicable specific risk own funds requirement for the second category in Table 1.

4 Other qualifying items are:

a long and short positions in assets for which a credit assessment by a nominated ECAI is not available and which meet all of the following conditions:

(i) they are considered by the institution concerned to be sufficiently liquid;

(ii) their investment quality is, according to the institution's own discretion, at least equivalent to that of the assets referred to under Table 1 second row;

(iii) they are listed on at least one regulated market in **[**[F702]the United Kingdom**]** or on a stock exchange in a third country provided that the exchange is recognised by the competent authorities of **[**[F703]the United Kingdom**]**;

b long and short positions in assets issued by institutions subject to the own funds requirements set out in this Regulation which are considered by the institution concerned to be sufficiently liquid and whose investment quality is, according to the institution's own discretion, at least equivalent to that of the assets referred to under Table 1 second row;

c securities issued by institutions that are deemed to be of equivalent, or higher, credit quality than those associated with credit quality step 2 under the Standardised Approach for credit risk of exposures to institutions and that are subject to supervisory and regulatory arrangements comparable to those under this Regulation and **[**[F704]Directive 2013/36/EU UK law**]**.

Institutions that make use of point (a) or (b) shall have a documented methodology in place to assess whether assets meet the requirements in those points and shall notify this methodology to the competent authorities.

Textual Amendments

F702 Words in Art. 336(4)(a)(iii) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **160(2)(a)(i)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F703 Words in Art. 336(4)(a)(iii) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **160(2)(a)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F704 Words in Art. 336(4)(c) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **160(2)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

[F74 *Article 337*

Own funds requirement for securitisation instruments

1 For instruments in the trading book that are securitisation positions, the institution shall weight the net positions as calculated in accordance with Article 327(1) with 8 % of the risk weight the institution would apply to the position in its non-trading book according to Section 3 of Chapter 5 of Title II.

2 When determining risk weights for the purposes of paragraph 1, estimates of PD and LGD may be determined based on estimates that are derived from an internal incremental default and migration risk model (IRC model) of an institution that has been granted permission to use an internal model for specific risk of debt instruments. The latter alternative may be used only subject to permission by the competent authorities, which shall be granted if those estimates meet the quantitative requirements for the IRB Approach set out in Chapter 3 of Title II.

F705 ...

3 For securitisation positions that are subject to an additional risk weight in accordance with Article 247(6), 8 % of the total risk weight shall be applied.

4 The institution shall sum its weighted positions resulting from the application of paragraphs 1, 2 and 3 regardless of whether they are long or short, in order to calculate its own funds requirement against specific risk, except for securitisation positions subject to Article 338(4).

5 Where an originator institution of a traditional securitisation does not meet the conditions for significant risk transfer set out in Article 244, the originator institution shall include the exposures underlying the securitisation in its calculation of own funds requirement as if those exposures had not been securitised.

Where an originator institution of a synthetic securitisation does not meet the conditions for significant risk transfer set out in Article 245, the originator institution shall include the exposures underlying the securitisation in its calculation of own funds requirements as if those exposures had not been securitised and shall ignore the effect of the synthetic securitisation for credit protection purposes.**]**

Textual Amendments

F74 Substituted by Regulation (EU) 2017/2401 of the European Parliament and of the Council of 12 December 2017 amending Regulation (EU) No 575/2013 on prudential requirements for credit institutions and investment firms.

F705 Words in Art. 337(2) omitted (31.12.2020) by virtue of The Securitisation (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/660), regs. 1(2), **53** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 338

Own funds requirement for the correlation trading portfolio

1 The correlation trading portfolio shall consist of securitisation positions and n-th-to-default credit derivatives that meet all of the following criteria:

a the positions are neither re-securitisation positions, nor options on a securitisation tranche, nor any other derivatives of securitisation exposures that do not provide a pro-rata share in the proceeds of a securitisation tranche;

b all reference instruments are either of the following:

(i) single-name instruments, including single-name credit derivatives, for which a liquid two-way market exists;

(ii) commonly-traded indices based on those reference entities.

A two-way market is deemed to exist where there are independent bona fide offers to buy and sell so that a price reasonably related to the last sales price or current bona fide competitive bid and offer quotations can be determined within one day and settled at such price within a relatively short time conforming to trade custom.

2 Positions which reference any of the following shall not be part of the correlation trading portfolio:

a an underlying that is capable of being assigned to the exposure class ‘ retail exposures ’ or to the exposure class ‘ exposures secured by mortgages on immovable property ’ under the Standardised Approach for credit risk in an institution's non-trading book;

b a claim on a special purpose entity, collateralised, directly or indirectly, by a position that would itself not be eligible for inclusion in the correlation trading portfolio in accordance with paragraph 1 and this paragraph.

3 An institution may include in the correlation trading portfolio positions which are neither securitisation positions nor n-th-to-default credit derivatives but which hedge other positions of that portfolio, provided that a liquid two-way market as described in the last subparagraph of paragraph 1 exists for the instrument or its underlyings.

4 An institution shall determine the larger of the following amounts as the specific risk own funds requirement for the correlation trading portfolio:

a the total specific risk own funds requirement that would apply just to the net long positions of the correlation trading portfolio;

b the total specific risk own funds requirement that would apply just to the net short positions of the correlation trading portfolio.

Sub-Section 2

General risk

Article 339

Maturity-based calculation of general risk

1 In order to calculate own funds requirements against general risk all positions shall be weighted according to maturity as explained in paragraph 2 in order to compute the amount of own funds required against them. This requirement shall be reduced when a weighted position is held alongside an opposite weighted position within the same maturity band. A reduction in the requirement shall also be made when the opposite weighted positions fall into different maturity bands, with the size of this reduction depending both on whether the two positions fall into the same zone, or not, and on the particular zones they fall into.

2 The institution shall assign its net positions to the appropriate maturity bands in column 2 or 3, as appropriate, in Table 2 in paragraph 4. It shall do so on the basis of residual maturity in the case of fixed-rate instruments and on the basis of the period until the interest rate is next set in the case of instruments on which the interest rate is variable before final maturity. It shall also distinguish between debt instruments with a coupon of 3 % or more and those with a coupon of less than 3 % and thus allocate them to column 2 or column 3 in Table 2. It shall then multiply each of them by the weighing for the maturity band in question in column 4 in Table 2.

3 The institution shall then work out the sum of the weighted long positions and the sum of the weighted short positions in each maturity band. The amount of the former which are matched by the latter in a given maturity band shall be the matched weighted position in that band, while the residual long or short position shall be the unmatched weighted position for the same band. The total of the matched weighted positions in all bands shall then be calculated.

4 The institution shall compute the totals of the unmatched weighted long positions for the bands included in each of the zones in Table 2 in order to derive the unmatched weighted long position for each zone. Similarly, the sum of the unmatched weighted short positions for each band in a particular zone shall be summed to compute the unmatched weighted short position for that zone. That part of the unmatched weighted long position for a given zone that is matched by the unmatched weighted short position for the same zone shall be the matched weighted position for that zone. That part of the unmatched weighted long or unmatched weighted short position for a zone that cannot be thus matched shall be the unmatched weighted position for that zone.

TABLE 2

Zone	**Maturity band**		**Weighting (in %)**	**Assumed interest rate change (in %)**
	Coupon of 3 % or more	**Coupon of less than 3 %**		
One	0 ≤ 1 month	0 ≤ 1 month	0,00	—
	> 1 ≤ 3 months	> 1 ≤ 3 months	0,20	1,00
	> 3 ≤ 6 months	> 3 ≤ 6 months	0,40	1,00
	> 6 ≤ 12 months	> 6 ≤ 12 months	0,70	1,00
Two	> 1 ≤ 2 years	> 1,0 ≤ 1,9 years	1,25	0,90
	> 2 ≤ 3 years	> 1,9 ≤ 2,8 years	1,75	0,80

	> 3 ≤ 4 years	> 2,8 ≤ 3,6 years	2,25	0,75
Three	> 4 ≤ 5 years	> 3,6 ≤ 4,3 years	2,75	0,75
	> 5 ≤ 7 years	> 4,3 ≤ 5,7 years	3,25	0,70
	> 7 ≤ 10 years	> 5,7 ≤ 7,3 years	3,75	0,65
	> 10 ≤ 15 years	> 7,3 ≤ 9,3 years	4,50	0,60
	> 15 ≤ 20 years	> 9,3 ≤ 10,6 years	5,25	0,60
	> 20 years	> 10,6 ≤ 12,0 years	6,00	0,60
		> 12,0 ≤ 20,0 years	8,00	0,60
		> 20 years	12,50	0,60

5 The amount of the unmatched weighted long or short position in zone one which is matched by the unmatched weighted short or long position in zone two shall then be the matched weighted position between zones one and two. The same calculation shall then be undertaken with regard to that part of the unmatched weighted position in zone two which is left over and the unmatched weighted position in zone three in order to calculate the matched weighted position between zones two and three.

6 The institution may reverse the order in paragraph 5 so as to calculate the matched weighted position between zones two and three before calculating that position between zones one and two.

7 The remainder of the unmatched weighted position in zone one shall then be matched with what remains of that for zone three after the latter's matching with zone two in order to derive the matched weighted position between zones one and three.

8 Residual positions, following the three separate matching calculations in paragraphs 5, 6 and 7 shall be summed.

9 The institution's own funds requirement shall be calculated as the sum of:

a 10 % of the sum of the matched weighted positions in all maturity bands;
b 40 % of the matched weighted position in zone one;
c 30 % of the matched weighted position in zone two;
d 30 % of the matched weighted position in zone three;
e 40 % of the matched weighted position between zones one and two and between zones two and three;
f 150 % of the matched weighted position between zones one and three;
g 100 % of the residual unmatched weighted positions.

Article 340

Duration-based calculation of general risk

1 Institutions may use an approach for calculating the own funds requirement for the general risk on debt instruments which reflects duration, instead of the approach set out in Article 339, provided that the institution does so on a consistent basis.

2 Under the duration-based approach referred to in paragraph 1, the institution shall take the market value of each fixed-rate debt instrument and hence calculate its yield to maturity, which is implied discount rate for that instrument. In the case of floating-rate instruments, the institution shall take the market value of each instrument and hence calculate its yield on the assumption that the principal is due when the interest rate can next be changed.

3 The institution shall then calculate the modified duration of each debt instrument on the basis of the following formula:

$$\text{modified duration} = \frac{D}{1+R}$$

where:

D = duration calculated according to the following formula:

$$D = \frac{\sum_{t=1}^{M} \frac{t \times C_t}{(1+R)^t}}{\sum_{t=1}^{M} \frac{C_t}{(1+R)^t}}$$

where:

R = yield to maturity;
C_t = cash payment in time t;
M = total maturity.

Correction shall be made to the calculation of the modified duration for debt instruments which are subject to prepayment risk. [F706]...

4 The institution shall then allocate each debt instrument to the appropriate zone in Table 3. It shall do so on the basis of the modified duration of each instrument.

TABLE 3

Zone	**Modified duration (in years)**	**Assumed interest (change in %)**
One	> 0 ≤ 1,0	1,0
Two	> 1,0 ≤ 3,6	0,85
Three	> 3,6	0,7

5 The institution shall then calculate the duration-weighted position for each instrument by multiplying its market price by its modified duration and by the assumed interest-rate change for an instrument with that particular modified duration (see column 3 in Table 3).

6 The institution shall calculate its duration-weighted long and its duration-weighted short positions within each zone. The amount of the former which are matched by the latter within each zone shall be the matched duration-weighted position for that zone.

The institution shall then calculate the unmatched duration-weighted positions for each zone. It shall then follow the procedures laid down for unmatched weighted positions in Article 339(5) to (8).

7 The institution's own funds requirement shall then be calculated as the sum of the following:

a 2 % of the matched duration-weighted position for each zone;
b 40 % of the matched duration-weighted positions between zones one and two and between zones two and three;
c 150 % of the matched duration-weighted position between zones one and three;
d 100 % of the residual unmatched duration-weighted positions.

Textual Amendments

F706 Words in Art. 340(3) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **161** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Section 3

Equities

Article 341

Net positions in equity instruments

1 The institution shall separately sum all its net long positions and all its net short positions in accordance with Article 327. The sum of the absolute values of the two figures shall be its overall gross position.

2 The institution shall calculate, separately for each market, the difference between the sum of the net long and the net short positions. The sum of the absolute values of those differences shall be its overall net position.

3 [F707The [F708PRA may] make technical standards] defining the term market referred to in paragraph 2.

F709 ...

Textual Amendments

F707 Words in Art. 341(3) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **222(1)(a)(2)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F708 Words in Art. 341(3) substituted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 47**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F709 Words in Art. 341(3) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **222(1)(b)(2)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 342

Specific risk of equity instruments

The institution shall multiply its overall gross position by 8 % in order to calculate its own funds requirement against specific risk.

Article 343

General risk of equity instruments

The own funds requirement against general risk shall be the institution's overall net position multiplied by 8 %.

Article 344

Stock indices

1 [F710The [F711PRA may] make technical standards] listing the stock indices for which the treatments set out in the second sentence of paragraph 4 is available.

F712...

F7132 . . . .

3 Stock-index futures, the delta-weighted equivalents of options in stock-index futures and stock indices collectively referred to hereafter as ‘ stock-index futures ’ , may be broken down into positions in each of their constituent equities. These positions may be treated as underlying positions in the equities in question, and may, be netted against opposite positions in the underlying equities themselves. Institutions shall notify the competent authority of the use they make of that treatment.

4 Where a stock-index future is not broken down into its underlying positions, it shall be treated as if it were an individual equity. However, the specific risk on this individual equity can be ignored if the stock-index future in question is exchange traded and represents a relevant appropriately diversified index.

Textual Amendments

F710 Words in Art. 344(1) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **222(1)(a)**(2) (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F711 Words in Art. 344(1) substituted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 47**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F712 Words in Art. 344(1) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **222(1)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F713 Art. 344(2) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **162** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Section 4

Underwriting

Article 345

Reduction of net positions

1 In the case of the underwriting of debt and equity instruments, an institution may use the following procedure in calculating its own funds requirements. The institution shall first calculate the net positions by deducting the underwriting positions which are subscribed or sub-underwritten by third parties on the basis of formal agreements. The institution shall then reduce the net positions by the reduction factors in Table 4 and calculate its own funds requirements using the reduced underwriting positions.

TABLE 4

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 %.

‘ Working day zero ’ shall be the working day on which the institution becomes unconditionally committed to accepting a known quantity of securities at an agreed price.

2 The institutions shall notify to the competent authorities the use they make of paragraph 1.

Section 5

Specific risk own funds requirements for positions hedged by credit derivatives

Article 346

Allowance for hedges by credit derivatives

1 An allowance shall be given for hedges provided by credit derivatives, in accordance with the principles set out in paragraphs 2 to 6.

2 Institutions shall treat the position in the credit derivative as one ‘ leg ’ and the hedged position that has the same nominal, or, where applicable, notional amount, as the other ‘ leg ’ .

3 Full allowance shall be given when the values of the two legs always move in the opposite direction and broadly to the same extent. This will be the case in the following situations:

a the two legs consist of completely identical instruments;

b a long cash position is hedged by a total rate of return swap (or vice versa) and there is an exact match between the reference obligation and the underlying exposure (i.e., the cash position). The maturity of the swap itself may be different from that of the underlying exposure.

In these situations, a specific risk own funds requirement shall not be applied to either side of the position.

4 An 80 % offset will be applied when the values of the two legs always move in the opposite direction and where there is an exact match in terms of the reference obligation, the maturity of both the reference obligation and the credit derivative, and the currency of the underlying exposure. In addition, key features of the credit derivative contract shall not cause the price movement of the credit derivative to materially deviate from the price movements of the cash position. To the extent that the transaction transfers risk, an 80 % specific risk offset will be applied to the side of the transaction with the higher own funds requirement, while the specific risk requirements on the other side shall be zero.

5 Partial allowance shall be given, absent the situations in paragraphs 3 and 4, in the following situations:

a the position falls under paragraph 3(b) but there is an asset mismatch between the reference obligation and the underlying exposure. However, the positions meet the following requirements:

(i) the reference obligation ranks pari passu with or is junior to the underlying obligation;

(ii) the underlying obligation and reference obligation share the same obligor and have legally enforceable cross-default or cross-acceleration clauses;

b the position falls under paragraph 3(a) or paragraph 4 but there is a currency or maturity mismatch between the credit protection and the underlying asset. Such currency mismatch shall be included in the own funds requirement for foreign exchange risk;

c the position falls under paragraph 4 but there is an asset mismatch between the cash position and the credit derivative. However, the underlying asset is included in the (deliverable) obligations in the credit derivative documentation.

In order to give partial allowance, rather than adding the specific risk own funds requirements for each side of the transaction, only the higher of the two own funds requirements shall apply.

6 In all situations not falling under paragraphs 3 to 5, an own funds requirement for specific risk shall be calculated for both sides of the positions separately.

Article 347

Allowance for hedges by first and nth-to default credit derivatives

In the case of first-to-default credit derivatives and nth-to-default credit derivatives, the following treatment applies for the allowance to be given in accordance with Article 346:

(a) where an institution obtains credit protection for a number of reference entities underlying a credit derivative under the terms that the first default among the assets shall trigger payment and that this credit event shall terminate the contract, the institution may offset specific risk for the reference entity to which the lowest specific risk percentage charge among the underlying reference entities applies in accordance with Table 1 in Article 336;

(b) where the nth default among the exposures triggers payment under the credit protection, the protection buyer may only offset specific risk if protection has also been obtained for defaults 1 to n-1 or when n-1 defaults have already occurred. In such cases, the methodology set out in point (a) for first-to-default credit derivatives shall be followed appropriately amended for nth-to-default products.

Section 6

Own funds requirements for CIUs

Article 348

Own funds requirements for CIUs

1 Without prejudice to other provisions in this Section, positions in CIUs shall be subject to an own funds requirement for position risk, comprising specific and general risk, of 32 %. Without prejudice to Article 353 taken together with the amended gold treatment set out in Article 352(4) and Article 367(2)(b) positions in CIUs shall be subject to an own funds requirement for position risk, comprising specific and general risk, and foreign-exchange risk of 40 %.

2 Unless noted otherwise in Article 350, no netting is permitted between the underlying investments of a CIU and other positions held by the institution.

Article 349

General criteria for CIUs

CIUs shall be eligible for the approach set out in Article 350, where all the following conditions are met:

(a) the CIU's prospectus or equivalent document shall include all of the following:

- (i) the categories of assets in which the CIU is authorised to invest;
- (ii) where investment limits apply, the relative limits and the methodologies to calculate them;
- (iii) where leverage is allowed, the maximum level of leverage;
- (iv) where concluding OTC financial derivatives transactions or repurchase transactions or securities borrowing or lending is allowed, a policy to limit counterparty risk arising from these transactions;

(b) the business of the CIU shall be reported in half-yearly and annual reports to enable an assessment to be made of the assets and liabilities, income and operations over the reporting period;

(c) the shares or units of the CIU shall be redeemable in cash, out of the undertaking's assets, on a daily basis at the request of the unit holder;

(d) investments in the CIU shall be segregated from the assets of the CIU manager;

(e) there shall be adequate risk assessment of the CIU, by the investing institution;

(f) CIUs shall be managed by persons supervised in accordance with [F714United Kingdom legislation which implemented Directive 2009/65/EC] or equivalent legislation.

Textual Amendments

F714 Words in Art. 349(f) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **163** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 350

Specific methods for CIUs

1 Where the institution is aware of the underlying investments of the CIU on a daily basis, the institution may look through to those underlying investments in order to calculate the own funds requirements for position risk, comprising specific and general risk. Under such an approach, positions in CIUs shall be treated as positions in the underlying investments of the CIU. Netting shall be permitted between positions in the underlying investments of the CIU and other positions held by the institution, provided that the institution holds a sufficient quantity of shares or units to allow for redemption/creation in exchange for the underlying investments.

2 Institutions may calculate the own funds requirements for position risk, comprising specific and general risk, for positions in CIUs by assuming positions representing those necessary to replicate the composition and performance of the externally generated index or fixed basket of equities or debt securities referred to in point (a), subject to the following conditions:

a the purpose of the CIU's mandate is to replicate the composition and performance of an externally generated index or fixed basket of equities or debt securities;

b a minimum correlation coefficient between daily returns on the CIU and the index or basket of equities or debt securities it tracks of 0,9 can be clearly established over a minimum period of six months.

3 Where the institution is not aware of the underlying investments of the CIU on a daily basis, the institution may calculate the own funds requirements for position risk, comprising specific and general risk, subject to the following conditions:

a it will be assumed that the CIU first invests to the maximum extent allowed under its mandate in the asset classes attracting the highest own funds requirement for specific and general risk separately, and then continues making investments in descending order until the maximum total investment limit is reached. The position in the CIU will be treated as a direct holding in the assumed position;

b institutions shall take account of the maximum indirect exposure that they could achieve by taking leveraged positions through the CIU when calculating their own funds requirement for specific and general risk separately, by proportionally increasing the position in the CIU up to the maximum exposure to the underlying investment items resulting from the mandate;

c if the own funds requirement for specific and general risk together in accordance with this paragraph exceed that set out in Article 348(1) the own funds requirement shall be capped at that level.

4 Institutions may rely on the following third parties to calculate and report own funds requirements for position risk for positions in CIUs falling under paragraphs 1 to 4, 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[F715]....

The correctness of the calculation shall be confirmed by an external auditor.

Textual Amendments

F715 Words in Art. 350(4)(b) omitted (1.1.2022) by virtue of The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/1376), regs. 1(3), **25(39)**

CHAPTER 3

Own funds requirements for foreign-exchange risk

Article 351

De minimis and weighting for foreign exchange risk

If the sum of an institution's overall net foreign-exchange position and its net gold position, calculated in accordance with the procedure set out in Article 352, including for any foreign exchange and gold positions for which own funds requirements are calculated using an internal model, exceeds 2 % of its total own funds, the institution shall calculate an own funds requirement for foreign exchange risk. The own funds requirement for foreign exchange risk shall be the sum of its overall net foreign-exchange position and its net gold position in the reporting currency, multiplied by 8 %.

Article 352

Calculation of the overall net foreign exchange position

1 The institution's net open position in each currency (including the reporting currency) and in gold shall be calculated as the sum of the following elements (positive or negative):

a the net spot position (i.e. all asset items less all liability items, including accrued interest, in the currency in question or, for gold, the net spot position in gold);

b the net forward position, which are all amounts to be received less all amounts to be paid under forward exchange and gold transactions, including currency and gold futures and the principal on currency swaps not included in the spot position;

c irrevocable guarantees and similar instruments that are certain to be called and likely to be irrecoverable;

d the net delta, or delta-based, equivalent of the total book of foreign-currency and gold options;

e the market value of other options.

The delta used for purposes of point (d) shall be that of the exchange concerned. For OTC options, or where delta is not available from the exchange concerned, the institution may calculate delta itself using an appropriate model, subject to permission by the competent authorities. Permission shall be granted if the model appropriately estimates the rate of change of the option's or warrant's value with respect to small changes in the market price of the underlying.

The institution may include net future income/expenses not yet accrued but already fully hedged if it does so consistently.

The institution may break down net positions in composite currencies into the component currencies in accordance with the quotas in force.

2 Any positions which an institution has deliberately taken in order to hedge against the adverse effect of the exchange rate on its ratios in accordance with Article 92(1) may, subject to permission by the competent authorities, be excluded from the calculation of net open currency positions. Such positions shall be of a non-trading or structural nature and any variation of the terms of their exclusion, subject to separate permission by the competent authorities. The same treatment subject to the same conditions may be applied to positions which an institution has which relate to items that are already deducted in the calculation of own funds.

3 An institution may use the net present value when calculating the net open position in each currency and in gold provided that the institution applies this approach consistently.

4 Net short and long positions in each currency other than the reporting currency and the net long or short position in gold shall be converted at spot rates into the reporting currency. They shall then be summed separately to form the total of the net short positions and the total of the net long positions respectively. The higher of these two totals shall be the institution's overall net foreign-exchange position.

5 Institutions shall adequately reflect other risks associated with options, apart from the delta risk, in the own funds requirements.

6 **[**[F716]The **[**[F717]PRA may**]** make technical standards**]** defining a range of methods to reflect in the own funds requirements other risks, apart from delta risk, in a manner proportionate to the scale and complexity of institutions' activities in options.

[F718]...

Textual Amendments

F716 Words in Art. 352(6) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **222(1)(a)**(2) (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F717 Words in Art. 352(6) substituted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 47**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F718 Words in Art. 352(6) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **222(1)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 353

Foreign exchange risk of CIUs

1 For the purposes of Article 352, in respect of CIUs the actual foreign exchange positions of the CIU shall be taken into account.

2 Institutions may rely on the following third parties' reporting of the foreign exchange positions in the CIU:

a the depository institution of the CIU provided that the CIU exclusively invests in securities and deposits all securities at this depository institution;

b for other CIUs, the CIU management company[F719]....

The correctness of the calculation shall be confirmed by an external auditor.

3 Where an institution is not aware of the foreign exchange positions in a CIU, it shall be assumed that the CIU is invested up to the maximum extent allowed under the CIU's mandate in foreign exchange and institutions shall, for trading book positions, take account of the maximum indirect exposure that they could achieve by taking leveraged positions through the CIU when calculating their own funds requirement for foreign exchange risk. This shall be done by proportionally increasing the position in the CIU up to the maximum exposure to the underlying investment items resulting from the investment mandate. The assumed position of the CIU in foreign exchange shall be treated as a separate currency according to the treatment of investments in gold, subject to the addition of the total long position to the total long open foreign exchange position and the total short position to the total short open foreign exchange position where the direction of the CIU's investment is available. There shall be no netting allowed between such positions prior to the calculation.

Textual Amendments

F719 Words in Art. 353(2)(b) omitted (1.1.2022) by virtue of The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/1376), regs. 1(3), **25(40)**

Article 354

Closely correlated currencies

1 Institutions may provide lower own funds requirements against positions in relevant closely correlated currencies. A pair of currencies is deemed to be closely correlated only if the likelihood of a loss — calculated on the basis of daily exchange-rate data for the preceding three or five years — occurring on equal and opposite positions in such currencies over the following 10 working days, which is 4 % or less of the value of the matched position in question (valued in terms of the reporting currency) has a probability of at least 99 %, when an observation period of three years is used, and 95 %, when an observation period of five years is used. The own-funds requirement on the matched position in two closely correlated currencies shall be 4 % multiplied by the value of the matched position.

2 In calculating the requirements of this Chapter, institutions may disregard positions in currencies, which are subject to a legally binding intergovernmental agreement to limit its variation relative to other currencies covered by the same agreement. Institutions shall calculate

their matched positions in such currencies and subject them to an own funds requirement no lower than half of the maximum permissible variation laid down in the intergovernmental agreement in question in respect of the currencies concerned.

3 [F720The [F721PRA may] make technical standards] listing the currencies for which the treatment set out in paragraph 1 is available.

F722...

F7234 . . . .

5 Only the unmatched positions in currencies referred to in this Article shall be incorporated into the overall net open position in accordance with Article 352(4).

6 Where daily exchange-rate data for the preceding three or five years — occurring on equal and opposite positions in a pair of currencies over the following 10 working days show that these two currencies are perfectly positively correlated and the institution always can face a zero bid/ask spread on the respective trades, the institution can, upon explicit permission by its competent authority, apply an own funds requirement of 0 % until the end of 2017.

Textual Amendments

F720 Words in Art. 354(3) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **222(1)(a)(2)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F721 Words in Art. 354(3) substituted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 47**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F722 Words in Art. 354(3) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **222(1)(b)(2)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F723 Art. 354(4) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **164** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

CHAPTER 4

Own funds requirements for commodities risk

Article 355

Choice of method for commodities risk

Subject to Articles 356 to 358, institutions shall calculate the own funds requirement for commodities risk with one of the methods set out in Article 359, 360 or 361.

Article 356

Ancillary commodities business

1 Institutions with ancillary agricultural commodities business may determine the own funds requirements for their physical commodity stock at the end of each year for the following year where all of the following conditions are met:

a at any time of the year it holds own funds for this risk which are not lower than the average own funds requirement for that risk estimated on a conservative basis for the coming year;
b it estimates on a conservative basis the expected volatility for the figure calculated under point (a);
c its average own funds requirement for this risk does not exceed 5 % of its own funds or EUR 1 million and, taking into account the volatility estimated in accordance with (b), the expected peak own funds requirements do not exceed 6,5 % of its own funds;
d the institution monitors on an ongoing basis whether the estimates carried out under points (a) and (b) still reflect the reality.

2 Institutions shall notify to the competent authorities the use they make of the option provided in paragraph 1.

Article 357

Positions in commodities

1 Each position in commodities or commodity derivatives shall be expressed in terms of the standard unit of measurement. The spot price in each commodity shall be expressed in the reporting currency.

2 Positions in gold or gold derivatives shall be considered as being subject to foreign-exchange risk and treated in accordance with Chapter 3 or 5, as appropriate, for the purpose of calculating commodities risk.

3 For the purpose of Article 360(1), the excess of an institution's long positions over its short positions, or vice versa, in the same commodity and identical commodity futures, options and warrants shall be its net position in each commodity. Derivative instruments shall be treated, as laid down in Article 358, as positions in the underlying commodity.

4 For the purposes of calculating a position in a commodity, the following positions shall be treated as positions in the same commodity:
a positions in different sub-categories of commodities in cases where the sub-categories are deliverable against each other;
b positions in similar commodities if they are close substitutes and where a minimum correlation of 0,9 between price movements can be clearly established over a minimum period of one year.

Article 358

Particular instruments

1 Commodity futures and forward commitments to buy or sell individual commodities shall be incorporated in the measurement system as notional amounts in terms of the standard unit of measurement and assigned a maturity with reference to expiry date.

2 Commodity swaps where one side of the transaction is a fixed price and the other the current market price shall be treated, as a series of positions equal to the notional amount of the contract, with, where relevant, one position corresponding with each payment on the swap and slotted into the maturity bands in Article 359(1). The positions shall be long positions if the institution is paying a fixed price and receiving a floating price and short positions if the institution is receiving a fixed price and paying a floating price. Commodity swaps where the

sides of the transaction are in different commodities are to be reported in the relevant reporting ladder for the maturity ladder approach.

3 Options and warrants on commodities or on commodity derivatives shall be treated as if they were positions equal in value to the amount of the underlying to which the option refers, multiplied by its delta for the purposes of this Chapter. The latter positions may be netted off against any offsetting positions in the identical underlying commodity or commodity derivative. The delta used shall be that of the exchange concerned. For OTC options, or where delta is not available from the exchange concerned the institution may calculate delta itself using an appropriate model, subject to permission by the competent authorities. Permission shall be granted if the model appropriately estimates the rate of change of the option's or warrant's value with respect to small changes in the market price of the underlying.

Institutions shall adequately reflect other risks associated with options, apart from the delta risk, in the own funds requirements.

4 [F724The [F725PRA may] make technical standards] defining a range of methods to reflect in the own funds requirements other risks, apart from delta risk, in a manner proportionate to the scale and complexity of institutions' activities in options.

F726 ...

5 Where an institution is either of the following, it shall include the commodities concerned in the calculation of its own funds requirement for commodities risk:

a the transferor of commodities or guaranteed rights relating to title to commodities in a repurchase agreement;
b the lender of commodities in a commodities lending agreement.

Textual Amendments

F724 Words in Art. 358(4) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **222(1)(a)**(2) (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F725 Words in Art. 358(4) substituted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 47**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F726 Words in Art. 358(4) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **222(1)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 359

Maturity ladder approach

1 The institution shall use a separate maturity ladder in line with Table 1 for each commodity. All positions in that commodity shall be assigned to the appropriate maturity bands. Physical stocks shall be assigned to the first maturity band between 0 and up to and including 1 month.

TABLE 1

Maturity band (1)	Spread rate (in %) (2)
$0 \leq 1$ month	1,50

> 1 ≤ 3 months	1,50
> 3 ≤ 6 months	1,50
> 6 ≤ 12 months	1,50
> 1 ≤ 2 years	1,50
> 2 ≤ 3 years	1,50
> 3 years	1,50

2 Positions in the same commodity may be offset and assigned to the appropriate maturity bands on a net basis for the following:

a positions in contracts maturing on the same date;

b positions in contracts maturing within 10 days of each other if the contracts are traded on markets which have daily delivery dates.

3 The institution shall then calculate the sum of the long positions and the sum of the short positions in each maturity band. The amount of the former which are matched by the latter in a given maturity band shall be the matched positions in that band, while the residual long or short position shall be the unmatched position for the same band.

4 That part of the unmatched long position for a given maturity band that is matched by the unmatched short position, or vice versa, for a maturity band further out shall be the matched position between two maturity bands. That part of the unmatched long or unmatched short position that cannot be thus matched shall be the unmatched position.

5 The institution's own funds requirement for each commodity shall be calculated on the basis of the relevant maturity ladder as the sum of the following:

a the sum of the matched long and short positions, multiplied by the appropriate spread rate as indicated in the second column of Table 1 for each maturity band and by the spot price for the commodity;

b the matched position between two maturity bands for each maturity band into which an unmatched position is carried forward, multiplied by 0,6 %, which is the carry rate and by the spot price for the commodity;

c the residual unmatched positions, multiplied by 15 % which is the outright rate and by the spot price for the commodity.

6 The institution's overall own funds requirement for commodities risk shall be calculated as the sum of the own funds requirements calculated for each commodity in accordance with paragraph 5.

Article 360

Simplified approach

1 The institution's own funds requirement for each commodity shall be calculated as the sum of the following:

a 15 % of the net position, long or short, multiplied by the spot price for the commodity;

b 3 % of the gross position, long plus short, multiplied by the spot price for the commodity.

2 The institution's overall own funds requirement for commodities risk shall be calculated as the sum of the own funds requirements calculated for each commodity in accordance with paragraph 1.

Article 361

Extended maturity ladder approach

Institutions may use the minimum spread, carry and outright rates set out in the following Table 2 instead of those indicated in Article 359 provided that the institutions:

(a) undertake significant commodities business;

(b) have an appropriately diversified commodities portfolio;

(c) are not yet in a position to use internal models for the purpose of calculating the own funds requirement for commodities risk.

TABLE 2

	Precious metals (except gold)	**Base metals**	**Agricultural products (softs)**	**Other, including energy products**
Spread rate (%)	1,0	1,2	1,5	1,5
Carry rate (%)	0,3	0,5	0,6	0,6
Outright rate (%)	8	10	12	15

Institutions shall notify the use they make of this Article to their competent authorities together with evidence of their efforts to implement an internal model for the purpose of calculating the own funds requirement for commodities risk.

CHAPTER 5

Use of internal models to calculate own funds requirements

Section 1

Permission and own funds requirements

Article 362

Specific and general risks

Position risk on a traded debt instrument or equity instrument or derivative thereof may be divided into two components for purposes of this Chapter. The first shall be its specific risk component and shall encompass the risk of a price change in the instrument concerned due to factors related to its issuer or, in the case of a derivative, the issuer of the underlying instrument. The general risk component shall encompass the risk of a price change in the instrument due in the case of a traded debt instrument or debt derivative to a change in the level of interest rates or in the case of an equity or equity derivative to a broad equity-market movement unrelated to any specific attributes of individual securities.

Article 363

Permission to use internal models

1 After having verified an institution's compliance with the requirements of Sections 2, 3 and 4 as relevant, competent authorities shall grant permission to institutions to calculate their own funds requirements for one or more of the following risk categories by using their internal models instead of or in combination with the methods in Chapters 2 to 4:

a general risk of equity instruments;
b specific risk of equity instruments;
c general risk of debt instruments;
d specific risk of debt instruments;
e foreign-exchange risk;
f commodities risk.

2 For risk categories for which the institution has not been granted the permission referred to in paragraph 1 to use its internal models, that institution shall continue to calculate own funds requirements in accordance with those Chapters 2, 3 and 4 as relevant. Permission by the competent authorities for the use of internal models shall be required for each risk category and shall be granted only if the internal model covers a significant share of the positions of a certain risk category.

3 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 use, in particular to additional risk categories, and the initial calculation of stressed value-at-risk in accordance with Article 365(2) 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.

4 **[**[F727]The **[**[F728]PRA may**]** make technical standards**]** to specify the following:

a the conditions for assessing materiality of extensions and changes to the use of internal models;
b the assessment methodology under which **[**[F729]it permits**]** institutions to use internal models;
c the conditions under which the share of positions covered by the internal model within a risk category shall be considered significant as referred to in paragraph 2.

[F730]
...

Textual Amendments

F727 Words in Art. 363(4) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **222(1)(a)**(2) (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F728 Words in Art. 363(4) substituted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 47**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F729 Words in Art. 363(4)(b) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **225(6)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F730 Words in Art. 363(4) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **222(1)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 364

Own funds requirements when using internal models

1 Each institution using an internal model shall fulfil, in addition to own funds requirements calculated in accordance with Chapters 2, 3 and 4 for those risk categories for which permission to use an internal model has not been granted, an own funds requirement expressed as the sum of points (a) and (b):

a the higher of the following values:

(i) its previous day's value-at-risk number calculated in accordance with Article 365(1) (VaR_{t-1});

(ii) an average of the daily value-at-risk numbers calculated in accordance with Article 365(1) on each of the preceding sixty business days (VaR_{avg}), multiplied by the multiplication factor (m_c) in accordance with Article 366;

b the higher of the following values:

(i) its latest available stressed-value-at-risk number calculated in accordance with Article 365(2) ($sVaR_{t-1}$); and

(ii) an average of the stressed value-at-risk numbers calculated in the manner and frequency specified in Article 365(2) during the preceding sixty business days ($sVaR_{avg}$), multiplied by the multiplication factor (m_s) in accordance with Article 366;

2 Institutions that use an internal model to calculate their own funds requirement for specific risk of debt instruments shall fulfil an additional own funds requirement expressed as the sum of the following points (a) and (b):

a the own funds requirement calculated in accordance with Article 337 and 338 for the specific risk of securitisation positions and nth to default credit derivatives in the trading book with the exception of those incorporated in an own funds requirement for the specific risk of the correlation trading portfolio in accordance with Section 5 and, where applicable, the own funds requirement for specific risk in accordance with Chapter 2, Section 6, for those positions in CIUs for which neither the conditions in Article 350(1) nor Article 350(2) are fulfilled;

b the higher of:

(i) the most recent risk number for the incremental default and migration risk calculated in accordance with Section 3;

(ii) the average of this number over the preceding 12 weeks.

3 Institutions that have a correlation trading portfolio, which meets the requirements in Article 338(1) to (3), may fulfil an own funds requirement on the basis of Article 377 instead of Article 338(4), calculated as the higher of the following:

a the most recent risk number for the correlation trading portfolio calculated in accordance with Section 5;
b the average of this number over the preceding 12-weeks;
c 8 % of the own funds requirement that would, at the time of calculation of the most recent risk number referred to in point (a), be calculated in accordance with Article 338(4) for all those positions incorporated into the internal model for the correlation trading portfolio.

Section 2

General requirements

Article 365

VaR and stressed VaR Calculation

1 The calculation of the value-at-risk number referred to in Article 364 shall be subject to the following requirements:
a daily calculation of the value-at-risk number;
b a 99th percentile, one-tailed confidence interval;
c a 10-day holding period;
d an effective historical observation period of at least one year except where a shorter observation period is justified by a significant upsurge in price volatility;
e at least monthly data set updates.

The institution may use value-at-risk numbers calculated according to shorter holding periods than 10 days scaled up to 10 days by an appropriate methodology that is reviewed periodically.

2 In addition, the institution shall at least weekly calculate a ' stressed value-at-risk ' of the current portfolio, in accordance with the requirements set out in the first paragraph, with value-at-risk model inputs calibrated to historical data from a continuous 12-month period of significant financial stress relevant to the institution's portfolio. The choice of such historical data shall be subject to at least annual review by the institution, which shall notify the outcome to the competent authorities. [F731]...

Textual Amendments
F731 Words in Art. 365(2) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **165** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 366

Regulatory back testing and multiplication factors

1 The results of the calculations referred to in Article 365 shall be scaled up by the multiplication factors (m_c) and (m_s).

2 Each of the multiplication factors (m_c) and (m_s) shall be the sum of at least 3 and an addend between 0 and 1 in accordance with Table 1. That addend 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 as set out in Article 365(1).

TABLE 1

Number of overshootings	**addend**
Fewer than 5	0,00
5	0,40
6	0,50
7	0,65
8	0,75
9	0,85
10 or more	1,00

3 The institutions shall count daily overshootings on the basis of back-testing on hypothetical and actual changes in the portfolio's value. An overshooting is a one-day change in the portfolio's value that exceeds the related one-day value-at-risk number generated by the institution's model. For the purpose of determining the addend the number of overshootings shall be assessed at least quarterly and shall be equal to the higher of the number of overshootings under hypothetical and actual changes in the value of the portfolio.

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.

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.

4 The competent authorities may in individual cases limit the addend 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.

5 In order to allow competent authorities to monitor the appropriateness of the multiplication factors 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.

Article 367

Requirements on risk measurement

1 Any internal model used to calculate capital requirements for position risk, foreign exchange risk, commodities risk and any internal model for correlation trading shall meet all of the following requirements:

a the model shall capture accurately all material price risks;

b the model shall capture a sufficient number of risk factors, depending on the level of activity of the institution in the respective markets. 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. The risk- measurement 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.

2 Any internal model used to calculate capital requirements for position risk, foreign exchange risk or commodities risk shall meet all of the following requirements:

a 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. The model shall also capture the risk of less than perfectly correlated movements between different yield curves;

b 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 and treated in accordance with Article 353(3);

c the model shall use a separate risk factor at least for each of the equity markets in which the institution holds significant positions;

d the model shall use a separate risk factor at least for each commodity in which the institution holds significant positions. The model shall also capture the risk of less than perfectly correlated movements between similar, but not identical, commodities and the exposure to changes in forward prices arising from maturity mismatches. It shall also take account of market characteristics, notably delivery dates and the scope provided to traders to close out positions;

e the institution's internal model shall conservatively assess the risk arising from less liquid positions and positions with limited price transparency under realistic market scenarios. In addition, the internal model shall meet minimum data standards. Proxies shall be appropriately conservative and shall be used only where available data is insufficient or is not reflective of the true volatility of a position or portfolio.

3 Institutions may, in any internal model used for purposes of this Chapter, use empirical correlations within risk categories and across risk categories only if the institution's approach for measuring correlations is sound and implemented with integrity.

Article 368

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 position risk, foreign exchange risk or commodities risk 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 position risk, foreign exchange risk and commodities risk, 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 are 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 and the results of these stress tests shall be reviewed by senior management and reflected in the policies and limits it sets. This process shall particularly address illiquidity of markets in stressed market conditions, concentration risk, one way markets, event and jump-to-default risks, non-linearity of products, deep out-of-the-money positions, positions subject to the gapping of prices and other risks that may not be captured appropriately in the internal models. The shocks applied shall reflect the nature of the portfolios and the time it could take to hedge out or manage risks under severe market conditions;

h the institution shall conduct, as part of its regular internal auditing process, an independent review of its internal models, and including those used for purposes of this Chapter.

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 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, and the accuracy of valuation and risk sensitivity calculations;

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 that is conducted to assess the models' accuracy.

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 369

Internal Validation

1 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. As techniques and best practices for internal validation evolve, institutions shall apply these advances. Internal model validation shall not be limited to back-testing, 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.

2 The institution shall perform back-testing on both actual and hypothetical changes in the portfolio's value.

Section 3

Requirements particular to specific risk modelling

Article 370

Requirements for modelling specific risk

An internal model used for calculating own funds requirements for specific risk and an internal model for correlation trading shall meet the following additional requirements:

(a) it explains the historical price variation in the portfolio;

(b) it captures concentration in terms of magnitude and changes of composition of the portfolio;

(c) it is robust to an adverse environment;

(d) it is validated through back-testing aimed at assessing whether specific risk is being accurately captured. If the institution performs such back-testing on the basis of relevant sub-portfolios, these shall be chosen in a consistent manner;

(e) it captures name-related basis risk and shall in particular be sensitive to material idiosyncratic differences between similar but not identical positions;

(f) it captures event risk.

Article 371

Exclusions from specific risk models

1 An institution may choose to exclude from the calculation of its specific risk own funds requirement using an internal model those positions for which it fulfils an own funds requirement for specific risk in accordance with Article 332(1)(e) or Article 337 with exception of those positions that are subject to the approach set out in Article 377.

2 An institution may choose not to capture default and migration risks for traded debt instruments in its internal model where it is capturing those risks through the requirements set out in Section 4.

Section 4

Internal model for incremental default and migration risk

Article 372

Requirement to have an internal IRC model

An institution that uses an internal model for calculating own funds requirements for specific risk of traded debt instruments shall also have an internal incremental default and migration risk (IRC) model in place to capture the default and migration risks of its trading book positions that are incremental to the risks captured by the value-at-risk measure as specified in Article 365(1). The institution shall demonstrate that its internal model meets the following standards under the assumption of a constant level of risk, and adjusted where appropriate to reflect the impact of liquidity, concentrations, hedging and optionality:

(a) the internal model provides a meaningful differentiation of risk and accurate and consistent estimates of incremental default and migration risk;

(b) the internal model's estimates for potential losses play an essential role in the risk management of the institution;

(c) the market and position data used for the internal model are up-to-date and subject to an appropriate quality assessment;

(d) the requirements in Article 367(3), Article 368, Article 369(1) and points (b), (c), (e) and (f) of Article 370 are met.

F732 ...

Textual Amendments

F732 Words in Art. 372 omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **166** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 373

Scope of the internal IRC model

The internal IRC model shall cover all positions subject to an own funds requirement for specific interest rate risk, including those subject to a 0 % specific risk capital charge under Article 336, but shall not cover securitisation positions and n-th-to-default credit derivatives.

The institution may, subject to permission by the competent authorities, choose to consistently include all listed equity positions and derivatives positions based on listed equities. The permission shall be granted if such inclusion is consistent with how the institution internally measures and manages risk.

Article 374

Parameters of the internal IRC model

1 Institutions shall use the internal model to calculate a number which measures losses due to default and internal or external ratings migration at the 99,9 % confidence interval over a time horizon of one year. Institutions shall calculate this number at least weekly.

2 Correlation assumptions shall be supported by analysis of objective data in a conceptually sound framework. The internal model shall appropriately reflect issuer concentrations. Concentrations that can arise within and across product classes under stressed conditions shall also be reflected.

3 The internal IRC model shall reflect the impact of correlations between default and migration events. The impact of diversification between, on the one hand, default and migration events and, on the other hand, other risk factors shall not be reflected.

4 The internal model shall be based on the assumption of a constant level of risk over the one-year time horizon, implying that given individual trading book positions or sets of positions that have experienced default or migration over their liquidity horizon are re-balanced at the end of their liquidity horizon to attain the initial level of risk. Alternatively, an institution may choose to consistently use a one-year constant position assumption.

5 The liquidity horizons shall be set according to the time required to sell the position or to hedge all material relevant price risks in a stressed market, having particular regard to the size of the position. Liquidity horizons shall reflect actual practice and experience during periods of both systematic and idiosyncratic stresses. The liquidity horizon shall be measured

under conservative assumptions and shall be sufficiently long that the act of selling or hedging, in itself, would not materially affect the price at which the selling or hedging would be executed.

6 The determination of the appropriate liquidity horizon for a position or set of positions is subject to a floor of three months.

7 The determination of the appropriate liquidity horizon for a position or set of positions shall take into account an institution's internal policies relating to valuation adjustments and the management of stale positions. When an institution determines liquidity horizons for sets of positions rather than for individual positions, the criteria for defining sets of positions shall be defined in a way that meaningfully reflects differences in liquidity. The liquidity horizons shall be greater for positions that are concentrated, reflecting the longer period needed to liquidate such positions. The liquidity horizon for a securitisation warehouse shall reflect the time to build, sell and securitise the assets, or to hedge the material risk factors, under stressed market conditions.

Article 375

Recognition of hedges in the internal IRC model

1 Hedges may be incorporated into an institution's internal model to capture the incremental default and migration 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. Institutions shall reflect the impact of material risks that could occur during the interval between the hedge's maturity and the liquidity 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.

2 For positions that are hedged via dynamic hedging strategies, a rebalancing of the hedge within the liquidity horizon of the hedged position may be recognised provided that the institution:

- a chooses to model rebalancing of the hedge consistently over the relevant set of trading book positions;
- b demonstrates that the inclusion of rebalancing results in a better risk measurement;
- c demonstrates that the markets for the instruments serving as hedges are liquid enough to allow for such rebalancing even during periods of stress. Any residual risks resulting from dynamic hedging strategies shall be reflected in the own funds requirement.

Article 376

Particular requirements for the internal IRC model

1 The internal model to capture the incremental default and migration risks shall reflect the nonlinear impact of options, structured credit derivatives and 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.

2 The internal model shall be based on data that are objective and up-to-date.

3 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.

4 The internal model shall be consistent with the institution's internal risk management methodologies for identifying, measuring, and managing trading risks.

5 Institutions shall document their internal models so that its correlation and other modelling assumptions are transparent to the competent authorities.

6 The internal model shall conservatively assess the risk arising from less liquid positions and positions with limited price transparency under realistic market scenarios. In addition, the internal model shall meet minimum data standards. Proxies shall be appropriately conservative and may be used only where available data is insufficient or is not reflective of the true volatility of a position or portfolio.

Section 5

Internal model for correlation trading

Article 377

Requirements for an internal model for correlation trading

1 Competent authorities shall grant permission to use an internal model for the own funds requirement for the correlation trading portfolio instead of the own funds requirement in accordance with Article 338 to institutions that are allowed to use an internal model for specific risk of debt instruments and that meet the requirements in paragraphs 2 to 6 of this Article and in Article 367(1) and (3), Article 368, Article 369(1) and points (a), (b), (c), (e) and (f) of Article 370.

2 Institutions shall use this internal model to calculate a number which adequately measures all price risks at the 99,9 % confidence interval over a time horizon of one year under the assumption of a constant level of risk, and adjusted where appropriate to reflect the impact of liquidity, concentrations, hedging and optionality. Institutions shall calculate this number at least weekly.

3 The following risks shall be adequately captured by the model referred to in paragraph 1:

- a the cumulative risk arising from multiple defaults, including different ordering of defaults, in tranched products;
- b credit spread risk, including the gamma and cross-gamma effects;
- c volatility of implied correlations, including the cross effect between spreads and correlations;

d basis risk, including both of the following:

(i) the basis between the spread of an index and those of its constituent single names;

(ii) the basis between the implied correlation of an index and that of bespoke portfolios;

e recovery rate volatility, as it relates to the propensity for recovery rates to affect tranche prices;

f to the extent the comprehensive risk measure incorporates benefits from dynamic hedging, the risk of hedge slippage and the potential costs of rebalancing such hedges;

g any other material price risks of positions in the correlation trading portfolio.

4 An institution shall use sufficient market data within the model referred to in paragraph 1 in order to ensure that it fully captures the salient risks of those exposures in its internal approach in accordance with the requirements set out in this Article. It shall be able to demonstrate to the competent authority through back testing or other appropriate means that its model can appropriately explain the historical price variation of those products.

The institution shall have appropriate policies and procedures in place in order to separate the positions for which it holds permission to incorporate them in the own funds requirement in accordance with this Article from other positions for which it does not hold such permission.

5 With regard to the portfolio of all the positions incorporated in the model referred to in paragraph 1, the institution shall regularly apply a set of specific, predetermined stress scenarios. Such stress scenarios shall examine the effects of stress to default rates, recovery rates, credit spreads, basis risk, correlations and other relevant risk factors on the correlation trading portfolio. The institution shall apply stress scenarios at least weekly and report at least quarterly to the competent authorities the results, including comparisons with the institution's own funds requirement in accordance with this Article. Any instances where the stress test results materially exceed the own funds requirement for the correlation trading portfolio shall be reported to the competent authorities in a timely manner. [F733]...

6 The internal model shall conservatively assess the risk arising from less liquid positions and positions with limited price transparency under realistic market scenarios. In addition, the internal model shall meet minimum data standards. Proxies shall be appropriately conservative and may be used only where available data is insufficient or is not reflective of the true volatility of a position or portfolio.

Textual Amendments

F733 Words in Art. 377(5) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **167** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

TITLE V

OWN FUNDS REQUIREMENTS FOR SETTLEMENT RISK

Article 378

Settlement/delivery risk

In the case of transactions in which debt instruments, equities, foreign currencies and commodities excluding repurchase transactions and securities or commodities lending and securities or commodities borrowing are unsettled after their due delivery dates, an institution shall calculate the price difference to which it is exposed.

The price difference is calculated as the difference between the agreed settlement price for the debt instrument, equity, foreign currency or commodity in question and its current market value, where the difference could involve a loss for the credit institution.

The institution shall multiply that price difference by the appropriate factor in the right column of the following Table 1 in order to calculate the institution's own funds requirement for settlement risk.

TABLE 1

Number of working days after due settlement date	**(%)**
5 — 15	8
16 — 30	50
31 — 45	75
46 or more	100

Article 379

Free deliveries

1 An institution shall be required to hold own funds, as set out in Table 2, where the following occurs:

(a) it has paid for securities, foreign currencies or commodities before receiving them or it has delivered securities, foreign currencies or commodities before receiving payment for them;

(b) in the case of cross-border transactions, one day or more has elapsed since it made that payment or delivery.

TABLE 2

Capital treatment for free deliveries

Column 1	**Column 2**	**Column 3**	**Column 4**

Transaction Type	Up to first contractual payment or delivery leg	From first contractual payment or delivery leg up to four days after second contractual payment or delivery leg	From 5 business days post second contractual payment or delivery leg until extinction of the transaction
Free delivery	No capital charge	Treat as an exposure	Treat as an exposure risk weighted at 1 250 %

2 In applying a risk weight to free delivery exposures treated according to Column 3 of Table 2, an institution using the Internal Ratings Based approach set out in Part Three, Title II, Chapter 3 may assign PDs to counterparties, for which it has no other non-trading book exposure, on the basis of the counterparty's external rating. Institutions using own estimates of ‘ LGDs ’ may apply the LGD set out in Article 161(1) to free delivery exposures treated according to Column 3 of Table 2 provided that they apply it to all such exposures. Alternatively, an institution using the Internal Ratings Based approach set out in Part Three, Title II, Chapter 3 may apply the risk weights of the Standardised Approach, as set out in Part Three, Title II, Chapter 2 [F734 of this Regulation and Articles 132a to 132c of Chapter 3 of the Standardised Approach and Internal Ratings Based Approach to Credit Risk (CRR) Part of the PRA Rulebook] provided that it applies them to all such exposures or may apply a 100 % risk weight to all such exposures.

If the amount of positive exposure resulting from free delivery transactions is not material, institutions may apply a risk weight of 100 % to these exposures, except where a risk weight of 1 250 % in accordance with Column 4 of Table 2 in paragraph 1 is required.

3 As an alternative to applying a risk weight of 1 250 % to free delivery exposures according to Column 4 of Table 2 in paragraph 1, institutions may deduct the value transferred plus the current positive exposure of those exposures from Common Equity Tier 1 items in accordance with point (k) of Article 36(1).

Textual Amendments

F734 Words in Art. 379(2) inserted (1.1.2022) by The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/1376), regs. 1(3), **25(41)**

Article 380

Waiver

Where a system wide failure of a settlement system, a clearing system or a CCP occurs, competent authorities may waive the own funds requirements calculated as set out in Articles 378 and 379 until the situation is rectified. In this case, the failure of a counterparty to settle a trade shall not be deemed a default for purposes of credit risk.

TITLE VI

OWN FUNDS REQUIREMENTS FOR CREDIT VALUATION ADJUSTMENT RISK

Article 381

Meaning of credit valuation adjustment

For the purposes of this Title [F735, Chapter 6 of Title II of this Regulation and Sections 3 to 5 of Chapter 3 of the Counterparty Credit Risk (CRR) Part of the PRA Rulebook], ' credit valuation adjustment ' or ' CVA ' means an adjustment to the mid-market valuation of the portfolio of transactions with a counterparty. That adjustment reflects the current market value of the credit risk of the counterparty to the institution, but does not reflect the current market value of the credit risk of the institution to the counterparty.

Textual Amendments

F735 Words in Art. 381 substituted (1.1.2022) by The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/1376), regs. 1(3), **25(42)**

Article 382

Scope

1 An institution shall calculate the own funds requirements for CVA risk in accordance with this Title for all OTC derivative instruments in respect of all of its business activities, other than credit derivatives recognised to reduce risk-weighted exposure amounts for credit risk.

2 An institution shall include securities financing transactions in the calculation of own funds required by paragraph 1 if the competent authority determines that the institution's CVA risk exposures arising from those transactions are material.

3 Transactions with a qualifying central counterparty and a client's transactions with a clearing member, when the clearing member is acting as an intermediary between the client and a qualifying central counterparty and the transactions give rise to a trade exposure of the clearing member to the qualifying central counterparty, are excluded from the own funds requirements for CVA risk.

4 The following transactions shall be excluded from the own funds requirements for CVA risk:

- a transactions with non-financial counterparties as defined in point (9) of Article 2 of Regulation (EU) No 648/2012, or with non-financial counterparties established in a third country, where those transactions do not exceed the clearing threshold as specified in Article 10(3) and (4) of that Regulation;
- b intragroup transactions as provided for in Article 3 of Regulation (EU) No 648/2012 [F736, unless the competent authority requires intragroup transactions between structurally separated [F737entities] to be included in the own funds requirements;]
- c transactions with counterparties referred to in point (10) of Article 2 of Regulation (EU) No 648/2012 and subject to the transitional provisions set out in Article 89(1) of that Regulation until those transitional provisions cease to apply;

d transactions with counterparties referred to in Article 1(4) and (5) of Regulation (EU) No 648/2012 and transactions with counterparties for which Article 114(4) and Article 115(2) of this Regulation specifies a risk weight of 0 % for exposures to those counterparties.

The exemption from the CVA risk charge for those transactions referred to in point (c) of this paragraph) which are entered into during the transitional period laid down in Article 89(1) of Regulation (EU) No 648/2012 shall apply for the length of the contract of that transaction.

In regard to point (a), where an institution ceases to be exempt through crossing the exemption threshold or due to a change in the exemption threshold, outstanding contracts shall remain exempt until the date of their maturity.

5 F738...

[F739The [F740PRA may] make technical standards] to specify the procedures for excluding transactions with non-financial counterparties established in a third country from the own funds requirement for CVA risk charge.

F741...

Textual Amendments

F736 Words in Art. 382(4)(b) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **168(2)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F737 Word in Art. 382(4)(b) substituted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 39**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F738 Words in Art. 382(5) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **168(3)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F739 Words in Art. 382(5) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **224(8)(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F740 Words in Art. 382(5) substituted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 47**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F741 Words in Art. 382(5) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **224(8)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 383

Advanced method

1 An institution which has permission to use an internal model for the specific risk of debt instruments in accordance with point (d) of Article 363 (1) shall, for all transactions for which it has permission to use the IMM for determining the exposure value for the associated counterparty credit risk exposure in accordance with Article 283, determine the own funds requirements for CVA risk by modelling the impact of changes in the counterparties' credit spreads on the CVAs of all counterparties of those transactions, taking into account CVA hedges that are eligible in accordance with Article 386.

An institution shall use its internal model for determining the own funds requirements for the specific risk associated with traded debt positions and shall apply a 99 % confidence interval and a 10-day equivalent holding period. The internal model shall be used in such way that it simulates changes in the credit spreads of counterparties, but does not model the sensitivity of CVA to changes in other market factors, including changes in the value of the reference asset, commodity, currency or interest rate of a derivative.

The own funds requirements for CVA risk for each counterparty shall be calculated in accordance with the following formula:

$$\mathrm{CVA} = \mathrm{LGD}_{\mathrm{MKT}} \times \sum_{i=1}^{T} \max\left\{0, \exp\left(-\frac{s_{i-1} \times t_{i-1}}{\mathrm{LGD}_{\mathrm{MKT}}}\right) - \exp\left(-\frac{s_i \times t_i}{\mathrm{LGD}_{\mathrm{MKT}}}\right)\right\} \times \frac{\mathrm{EE}_{i-1} \times D_{i-1} + \mathrm{EE}_i \times D_i}{2}$$

where:

t_i	=	the time of the i-th revaluation, starting from $t_0 = 0$;
t_T	=	the longest contractual maturity across the netting sets with the counterparty;
s_i	=	is the credit spread of the counterparty at tenor ti, used to calculate the CVA of the counterparty. Where the credit default swap spread of the counterparty is available, an institution shall use that spread. Where such a credit default swap spread is not available, an institution shall use a proxy spread that is appropriate having regard to the rating, industry and region of the counterparty;
$\mathrm{LGD}_{\mathrm{MKT}}$	=	the LGD of the counterparty that shall be based on the spread of a market instrument of the counterparty if a counterparty instrument is available. Where a counterparty instrument is not available, it shall be based on the proxy spread that is appropriate having regard to the rating, industry and region of the counterparty.

The first factor within the sum represents an approximation of the market implied marginal probability of a default occurring between times t_{i-1} and t_i ;

EE_i	=	the expected exposure to the counterparty at revaluation time ti, where exposures of different netting sets for such counterparty are added, and where the longest maturity of each netting set is given by the longest contractual maturity inside the netting set; An institution shall apply the treatment set out in paragraph 3 in the case of margined trading, if the institution uses the EPE measure referred to in point (a) or (b) of Article 285(1) for margined trades;
D_i	=	the default risk-free discount factor at time ti, where $D_0 = 1$.

2 When calculating the own funds requirements for CVA risk for a counterparty, an institution shall base all inputs into its internal model for specific risk of debt instruments on the following formulae (whichever is appropriate):

- a where the model is based on full repricing, the formula in paragraph 1 shall be used directly;
- b where the model is based on credit spread sensitivities for specific tenors, an institution shall base each credit spread sensitivity ('Regulatory CS01') on the following formula:

$$\text{Regulatory CS01}_i = 0.0001 \times t_i \times \exp\left(-\frac{s_i \times t_i}{\mathrm{LGD}_{\mathrm{MKT}}}\right) \times \frac{\mathrm{EE}_{i-1} \times D_{i-1} - \mathrm{EE}_{i+1} \times D_{i+1}}{2}$$

For the final time bucket i=T, the corresponding formula is

$$\text{Regulatory CS01}_T = 0.0001 \times t_T \times \exp\left(-\frac{s_T \times t_T}{\text{LGD}_{\text{MKT}}}\right) \times \frac{\text{EE}_{T-1} \times D_{T-1} + \text{EE}_T \times D_T}{2}$$

c where the model uses credit spread sensitivities to parallel shifts in credit spreads, an institution shall use the following formula:

$$\text{Regulatory CS01} = 0.0001 \times \sum_{i=1}^{T} \left(t_i \times \exp\left(-\frac{s_i \times t_i}{\text{LGD}_{\text{MKT}}}\right) - t_{i-1} \times \exp\left(-\frac{s_{i-1} \times t_{i-1}}{\text{LGD}_{\text{MKT}}}\right)\right) \times \frac{\text{EE}_{i-1} \times D_{i-1} + \text{EE}_i \times D_i}{2}$$

d where the model uses second-order sensitivities to shifts in credit spreads (spread gamma), the gammas shall be calculated based on the formula in paragraph 1.

3 An institution using the EPE measure for collateralised OTC derivatives referred to in point (a) or (b) of Article 285(1) shall, when determining the own funds requirements for CVA risk in accordance with paragraph 1, do both of the following:

a assume a constant EE profile;

b set EE equal to the effective expected exposure as calculated under Article 285(1)(b) for a maturity equal to the greater of the following:

(i) half of the longest maturity occurring in the netting set;

(ii) the notional weighted average maturity of all transactions inside the netting set.

4 An institution which is permitted by the competent authority in accordance with Article 283 to use IMM to calculate exposure values in relation to the majority of its business, but which uses the methods set out in [F742 Section 3, Section 4 or Section 5 of Chapter 3 of the Counterparty Credit Risk (CRR) Part of the PRA Rulebook] for smaller portfolios, and which has permission to use the market risk internal model for the specific risk of debt instruments in accordance with point (d) of Article 363(1) may, subject to permission from the competent authorities, calculate the own funds requirements for CVA risk in accordance with paragraph 1 for the non-IMM netting sets. Competent authorities shall grant this permission only if the institution uses the methods set out in [F742 Section 3, Section 4 or Section 5 of Chapter 3 of the Counterparty Credit Risk (CRR) Part of the PRA Rulebook] for a limited number of smaller portfolios.

For the purposes of a calculation under the preceding subparagraph and where the IMM model does not produce an expected exposure profile, an institution shall do both of the following:

a assume a constant EE profile;

b set EE equal to the exposure value as computed under the methods set out in [F743 Section 3, Section 4 or Section 5 of Chapter 3 of the Counterparty Credit Risk (CRR) Part of the PRA Rulebook], or IMM for a maturity equal to the greater of:

(i) half of the longest maturity occurring in the netting set;

(ii) the notional weighted average maturity of all transactions inside the netting set.

5 An institution shall determine the own funds requirements for CVA risk in accordance with Article 364(1) and Articles 365 and 367 as the sum of non-stressed and stressed value-at-risk, which shall be calculated as follows:

a for the non-stressed value-at-risk, current parameter calibrations for expected exposure as set out in the first subparagraph of Article 292(2), shall be used;

b for the stressed value-at-risk, future counterparty EE profiles using a stressed calibration as set out in the second subparagraph of Article 292(2) shall be used. The period of stress for the credit spread parameters shall be the most severe one-year stress period contained within the three-year stress period used for the exposure parameters;

c the three-times multiplication factor used in the calculation of own funds requirements based on a value-at-risk and a stressed value-at-risk in accordance with 364(1) will apply to these calculations. [F744]...;

d the calculation shall be carried out on at least a monthly basis and the EE that is used shall be calculated on the same frequency. If lower than a daily frequency is used, for the purpose of the calculation specified in points (a)(ii) and (b)(ii) of Article 364(1) institutions shall take the average over three months.

6 For exposures to a counterparty, for which the institution's approved internal model for the specific risk of debt instruments does not produce a proxy spread that is appropriate with respect to the criteria of rating, industry and region of the counterparty, the institution shall use the method set out in Article 384 to calculate the own funds requirement for CVA risk.

7 [[F745]The [[F746]PRA may] make technical standards] to specify in greater detail:

a how a proxy spread is to be determined by the institution's approved internal model for the specific risk of debt instruments for the purposes of identifying si and LGDMKT referred to in paragraph 1;

b the number and size of portfolios that fulfil the criterion of a limited number of smaller portfolios referred to in paragraph 4.

[F747]...

Textual Amendments

F742 Words in Art. 383(4) substituted (1.1.2022) by The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/1376), regs. 1(3), **25(43)(a)**

F743 Words in Art. 383(4)(b) substituted (1.1.2022) by The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/1376), regs. 1(3), **25(43)(b)**

F744 Words in Art. 383(5)(c) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **169** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F745 Words in Art. 383(7) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **222(1)(a)**(2) (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F746 Words in Art. 383(7) substituted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 47**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F747 Words in Art. 383(7) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **222(1)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Status: *Point in time view as at 01/01/2022.*
Changes to legislation: *There are currently no known outstanding effects for the Regulation (EU) No 575/2013 of the European Parliament and of the Council. (See end of Document for details)*

Article 384

Standardised method

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:

$$K = 2.33 \times \sqrt{h} \times \sqrt{\left(\sum_i 0.5 \times w_i \times \left(M_i \times \mathrm{EAD}^i_{\mathrm{total}} - M^i_{\mathrm{hedge}} B_i\right) - \sum_{\mathrm{ind}} w_{\mathrm{ind}} \times M_{\mathrm{ind}} \times B_{\mathrm{ind}}\right)^2 + \sum_i 0.75 \times w_i^2 \times \left(M_i \times \mathrm{EAD}^i_{\mathrm{total}} - M^i_{\mathrm{hedge}} B_i\right)^2}$$

where:

h = the one-year risk horizon (in units of a year); h = 1;

w_i = the weight applicable to counterparty ' i ' .

Counterparty ' i ' shall be mapped to one of the six weights wi based on an external credit assessment by a nominated ECAI, as set out in Table 1. For a counterparty for which a credit assessment by a nominated ECAI is not available:

(a) an institution using the approach in Title II, Chapter 3 shall map the internal rating of the counterparty to one of the external credit assessment;

(b) an institution using the approach in Title II, Chapter 2 [F748of this Regulation and Articles 132a to 132c of Chapter 3 of the Standardised Approach and Internal Ratings Based Approach to Credit Risk (CRR) Part of the PRA Rulebook] shall assign wi=1,0 % to this counterparty. However, if an institution uses Article 128 to risk weight counterparty credit risk exposures to this counterparty, wi=3,0 % shall be assigned;

$\mathrm{EAD}^i_{\mathrm{total}}$ = 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 [F749Sections 3 to 5 of Chapter 3 of the Counterparty Credit Risk (CRR) Part of the PRA Rulebook and Section 6 of this Chapter] as applicable to the calculation of the own funds requirements for counterparty credit risk for that counterparty. F750...

B_i = the notional of purchased single name credit default swap hedges (summed if more than one position) referencing counterparty ' i ' and used to hedge CVA risk.

That notional amount shall be discounted by applying the following factor:

$$\frac{1 - e^{-0.05 \times M^i_{\mathrm{hedge}}}}{0.05 \times M^i_{\mathrm{hedge}}}$$

B_{ind} = is the full notional of one or more index credit default swap of purchased protection used to hedge CVA risk.

That notional amount shall be discounted by applying the following factor:

$$\frac{1-e^{-0.05\times M_{ind}}}{0.05\times M_{ind}}$$

w_{ind} = is the weight applicable to index hedges.

An institution shall determine w_{ind} by calculating a weighted average of wi that are applicable to the individual constituents of the index;

M_i = the effective maturity of the transactions with counterparty i.

For an institution using the method set out in Section 6 of Title II, Chapter 6, M_i shall be calculated in accordance with Article 162(2)(g). However, for that purpose, M_i shall not be capped at five years but at the longest contractual remaining maturity in the netting set.

For an institution not using the method set out in Section 6 of Title II, Chapter 6, M_i is the average notional weighted maturity as referred to in point (b) of Article 162(2). However, for that purpose, M_i shall not be capped at five years but at the longest contractual remaining maturity in the netting set.

M^i_{hedge} = the maturity of the hedge instrument with notional B_i (the quantities M^i_{hedge} B_i are to be summed if these are several positions);

M_{ind} = the maturity of the index hedge.

In the case of more than one index hedge position, M_{ind} is the notional-weighted maturity.

2 Where a counterparty is included in an index on which a credit default swap used for hedging counterparty credit risk is based, the institution may subtract the notional amount attributable to that counterparty in accordance with its reference entity weight from the index CDS notional amount and treat it as a single name hedge (B_i) of the individual counterparty with maturity based on the maturity of the index.

TABLE 1

Credit quality step	Weight w_i
1	0,7 %
2	0,8 %
3	1,0 %
4	2,0 %
5	3,0 %
6	10,0 %

Textual Amendments

F748 Words in Art. 384(1) inserted (1.1.2022) by The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/1376), regs. 1(3), **25(44)(a)**

F749 Words in Art. 384(1) substituted (1.1.2022) by The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/1376), regs. 1(3), **25(44)(b)**

F750 Words in Art. 384(1) omitted (1.1.2022) by virtue of Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 4 para. 11(b)**; S.I. 2021/671, reg. 5(1)(c) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F751 Article 385

Alternative to using CVA methods to calculating own funds requirements

. . . .

Textual Amendments

F751 Art. 385 omitted (1.1.2022) by virtue of The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **6(5)** (with reg. 15) (as amended by S.I. 2021/1376, reg. 32(8))

Article 386

Eligible hedges

1 Hedges shall be 'eligible hedges' for the purposes of the calculation of own funds requirements for CVA risk in accordance with Articles 383 and 384 only where they are used for the purpose of mitigating CVA risk and managed as such, and are one of the following:

- a single-name credit default swaps or other equivalent hedging instruments referencing the counterparty directly;
- b index credit default swaps, provided that the basis between any individual counterparty spread and the spreads of index credit default swap hedges is reflected, to the satisfaction of the competent authority, in the value-at-risk and the stressed value-at-risk.

The requirement in point (b) that the basis between any individual counterparty spread and the spreads of index credit default swap hedges is reflected in the value-at-risk and the stressed value-at-risk shall also apply to cases where a proxy is used for the spread of a counterparty.

For all counterparties for which a proxy is used, an institution shall use reasonable basis time series out of a representative group of similar names for which a spread is available.

If the basis between any individual counterparty spread and the spreads of index credit default swap hedges is not reflected to the satisfaction of the competent authority, then an institution shall reflect only 50 % of the notional amount of index hedges in the value-at-risk and the stressed value-at-risk.

Over-hedging of the exposures with single name credit default swaps under the method laid out in Article 383 is not allowed.

2 An institution shall not reflect other types of counterparty risk hedges in the calculation of the own funds requirements for CVA risk. In particular, tranched or nth-to-default credit default swaps and credit linked notes are not eligible hedges for the purposes the calculation of the own funds requirements for CVA risk.

3 Eligible hedges that are included in the calculation of the own funds requirements for CVA risk shall not be included in the calculation of the own funds requirements for specific risk as set out in Title IV or treated as credit risk mitigation other than for the counterparty credit risk of the same portfolio of transaction.

PART FOUR

LARGE EXPOSURES

F752 *Article 387*

Subject matter

. . . .

Textual Amendments

F752 Arts. 387-390 omitted (1.1.2022) by virtue of The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **7(a)** (with regs. 14, 15) (as amended by S.I. 2021/1376, reg. 32(8))

F752 *Article 388*

Negative Scope

. . . .

Textual Amendments

F752 Arts. 387-390 omitted (1.1.2022) by virtue of The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **7(a)** (with regs. 14, 15) (as amended by S.I. 2021/1376, reg. 32(8))

F752 *Article 389*

Definition

. . . .

Textual Amendments

F752 Arts. 387-390 omitted (1.1.2022) by virtue of The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **7(a)** (with regs. 14, 15) (as amended by S.I. 2021/1376, reg. 32(8))

F752 Article 390

Calculation of the exposure value

. . . .

Textual Amendments

F752 Arts. 387-390 omitted (1.1.2022) by virtue of The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **7(a)** (with regs. 14, 15) (as amended by S.I. 2021/1376, reg. 32(8))

Article 391

Definition of an institution for large exposures purposes

F753 . . . .

[F64For the purposes of [F754provision in CRR rules that governs the calculation of large exposures in respect of institutions authorised in third countries which apply prudential supervisory and regulatory requirements at least equivalent to those applied in the United Kingdom], the [F755Treasury may by regulations determine] whether a third country applies prudential supervisory and regulatory requirements at least equivalent to those applied in the [F756United Kingdom].]

[F757A country or territory listed in Annex I, II or III of Commission Implementing Decision 2014/908/EU of 12 December 2014 on the equivalence of the supervisory and regulatory requirements of certain third countries and territories for the purposes of the treatment of exposures according to Regulation (EU) No 575/2013 of the European Parliament and of the Council is to be treated as equivalent for the purposes of the rules mentioned in the preceding paragraph of this Article until regulations made under that paragraph come into force as respects that country.]

Textual Amendments

F64 Inserted by Regulation (EU) 2019/876 of the European Parliament and of the Council of 20 May 2019 amending Regulation (EU) No 575/2013 as regards the leverage ratio, the net stable funding ratio, requirements for own funds and eligible liabilities, counterparty credit risk, market risk, exposures to central counterparties, exposures to collective investment undertakings, large exposures, reporting and disclosure requirements, and Regulation (EU) No 648/2012 (Text with EEA relevance).

F753 Words in Art. 391 omitted (1.1.2022) by virtue of The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **7(b)(i)**

F754 Words in Art. 391 substituted (1.1.2022) by The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **7(b)(ii)**

F755 Words in Art. 391 substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **65(2)**; 2020 c. 1, Sch. 5 para. 1(1)
F756 Words in Art. 391 substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **65(3)**; 2020 c. 1, Sch. 5 para. 1(1)
F757 Words in Art. 391 inserted (1.1.2022) by The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **7(b)(iii)**

[F758] *Article 392*

Definition of a large exposure

. . . .

Textual Amendments
F758 Arts. 392-403 omitted (1.1.2022) by virtue of The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **7(a)**

[F758] *Article 393*

Capacity to identify and manage large exposures

. . . .

Textual Amendments
F758 Arts. 392-403 omitted (1.1.2022) by virtue of The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **7(a)**

[F758] *Article 394*

Reporting requirements

. . . .

Textual Amendments
F758 Arts. 392-403 omitted (1.1.2022) by virtue of The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **7(a)**

[F758] *Article 395*

Limits to large exposures

. . . .

Textual Amendments

F758 Arts. 392-403 omitted (1.1.2022) by virtue of The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **7(a)**

[F758] *Article 396*

Compliance with large exposures requirements

. . . .

Textual Amendments

F758 Arts. 392-403 omitted (1.1.2022) by virtue of The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **7(a)**

[F758] *Article 397*

Calculating additional own funds requirements for large exposures in the trading book

. . . .

Textual Amendments

F758 Arts. 392-403 omitted (1.1.2022) by virtue of The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **7(a)**

[F758] *Article 398*

Procedures to prevent institutions from avoiding the additional own funds requirement

. . . .

Textual Amendments

F758 Arts. 392-403 omitted (1.1.2022) by virtue of The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **7(a)**

[F758] *Article 399*

Eligible credit mitigation techniques

. . . .

Textual Amendments

F758 Arts. 392-403 omitted (1.1.2022) by virtue of The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **7(a)**

F758 *Article 400*

Exemptions

. . . .

Textual Amendments

F758 Arts. 392-403 omitted (1.1.2022) by virtue of The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **7(a)**

F758 *Article 401*

Calculating the effect of the use of credit risk mitigation techniques

. . . .

Textual Amendments

F758 Arts. 392-403 omitted (1.1.2022) by virtue of The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **7(a)**

F758 *Article 402*

Exposures arising from mortgage lending

. . . .

Textual Amendments

F758 Arts. 392-403 omitted (1.1.2022) by virtue of The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **7(a)**

F758 *Article 403*

Substitution approach

. . . .

Textual Amendments

F758 Arts. 392-403 omitted (1.1.2022) by virtue of The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **7(a)**

[F482] PART FIVE

[[F482] EXPOSURES TO TRANSFERRED CREDIT RISK

[F482] TITLE I

GENERAL PROVISIONS FOR THIS PART

[F482] Article 404

Scope of application

. . . .

[F482] TITLE II

REQUIREMENTS FOR INVESTOR INSTITUTIONS

[F482] Article 405

Retained interest of the issuer

. . . .

[F482] Article 406

Due diligence

. . . .

[F482] Article 407

Additional risk weight

. . . .

F482TITLE III

REQUIREMENTS FOR SPONSOR AND ORIGINATOR INSTITUTIONS

F482Article 408

Criteria for credit granting

. . . .

F482Article 409

Disclosure to investors

. . . .

F482Article 410

Uniform condition of application]

. . . .

PART SIX

LIQUIDITY

TITLE I

DEFINITIONS AND LIQUIDITY COVERAGE REQUIREMENT

F759 Article 411

Definitions

. . . .

Textual Amendments

F759 Arts. 411-428 omitted (1.1.2022) by virtue of The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **8** (with regs. 14, 15) (as amended by S.I. 2021/1376, reg. 32(8))

F759 Article 412

Liquidity coverage requirement

. . . .

Textual Amendments

F759 Arts. 411-428 omitted (1.1.2022) by virtue of The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **8** (with regs. 14, 15) (as amended by S.I. 2021/1376, reg. 32(8))

F759 *Article 413*

Stable Funding

. . . .

Textual Amendments

F759 Arts. 411-428 omitted (1.1.2022) by virtue of The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **8** (with regs. 14, 15) (as amended by S.I. 2021/1376, reg. 32(8))

F759 *Article 414*

Compliance with liquidity requirements

. . . .

Textual Amendments

F759 Arts. 411-428 omitted (1.1.2022) by virtue of The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **8** (with regs. 14, 15) (as amended by S.I. 2021/1376, reg. 32(8))

TITLE II

LIQUIDITY REPORTING

F759 *Article 415*

Reporting obligation and reporting format

. . . .

Textual Amendments

F759 Arts. 411-428 omitted (1.1.2022) by virtue of The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **8** (with regs. 14, 15) (as amended by S.I. 2021/1376, reg. 32(8))

[F759] *Article 416*

Reporting on liquid assets

. . . .

Textual Amendments

F759 Arts. 411-428 omitted (1.1.2022) by virtue of The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **8** (with regs. 14, 15) (as amended by S.I. 2021/1376, reg. 32(8))

[F759] *Article 417*

Operational requirements for holdings of liquid assets

. . . .

Textual Amendments

F759 Arts. 411-428 omitted (1.1.2022) by virtue of The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **8** (with regs. 14, 15) (as amended by S.I. 2021/1376, reg. 32(8))

[F759] *Article 418*

Valuation of liquid assets

. . . .

Textual Amendments

F759 Arts. 411-428 omitted (1.1.2022) by virtue of The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **8** (with regs. 14, 15) (as amended by S.I. 2021/1376, reg. 32(8))

[F759] *Article 419*

Currencies with constraints on the availability of liquid assets

. . . .

Textual Amendments

F759 Arts. 411-428 omitted (1.1.2022) by virtue of The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **8** (with regs. 14, 15) (as amended by S.I. 2021/1376, reg. 32(8))

F759 *Article 420*

Liquidity outflows

. . . .

Textual Amendments

F759 Arts. 411-428 omitted (1.1.2022) by virtue of The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **8** (with regs. 14, 15) (as amended by S.I. 2021/1376, reg. 32(8))

F759 *Article 421*

Outflows on retail deposits

. . . .

Textual Amendments

F759 Arts. 411-428 omitted (1.1.2022) by virtue of The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **8** (with regs. 14, 15) (as amended by S.I. 2021/1376, reg. 32(8))

F759 *Article 422*

Outflows on other liabilities

. . . .

Textual Amendments

F759 Arts. 411-428 omitted (1.1.2022) by virtue of The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **8** (with regs. 14, 15) (as amended by S.I. 2021/1376, reg. 32(8))

F759 *Article 423*

Additional outflows

. . . .

Textual Amendments

F759 Arts. 411-428 omitted (1.1.2022) by virtue of The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **8** (with regs. 14, 15) (as amended by S.I. 2021/1376, reg. 32(8))

F759 *Article 424*

Outflows from credit and liquidity facilities

. . . .

Textual Amendments

F759 Arts. 411-428 omitted (1.1.2022) by virtue of The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **8** (with regs. 14, 15) (as amended by S.I. 2021/1376, reg. 32(8))

F759 *Article 425*

Inflows

. . . .

Textual Amendments

F759 Arts. 411-428 omitted (1.1.2022) by virtue of The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **8** (with regs. 14, 15) (as amended by S.I. 2021/1376, reg. 32(8))

F759 *Article 426*

Updating Future liquidity requirements

. . . .

Textual Amendments

F759 Arts. 411-428 omitted (1.1.2022) by virtue of The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **8** (with regs. 14, 15) (as amended by S.I. 2021/1376, reg. 32(8))

TITLE III

REPORTING ON STABLE FUNDING

F759 *Article 427*

Items providing stable funding

. . . .

Textual Amendments

F759 Arts. 411-428 omitted (1.1.2022) by virtue of The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **8** (with regs. 14, 15) (as amended by S.I. 2021/1376, reg. 32(8))

F759 *Article 428*

Items requiring stable funding

. . . .

Textual Amendments

F759 Arts. 411-428 omitted (1.1.2022) by virtue of The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **8** (with regs. 14, 15) (as amended by S.I. 2021/1376, reg. 32(8))

PART SEVEN

LEVERAGE

F760 *Article 429*

Calculation of the leverage ratio

. . . .

Textual Amendments

F760 Art. 429 omitted (1.1.2022) by The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), **reg. 8A** (as inserted by S.I. 2021/1376, regs. 1(2), **32(3)**)

F761 *Article 429a*

Exposure value of derivatives

. . . .

Textual Amendments

F761 Art. 429a omitted (1.1.2022) by The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **8A** (with reg. 15) (as inserted by S.I. 2021/1376, regs. 1(2), **32(3)(8)**)

F762 *Article 429b*

Counterparty credit risk add-on for repurchase transactions, securities or commodities lending or borrowing transactions, long settlement transactions and margin lending transactions

. . . .

Textual Amendments

F762 Art. 429b omitted (1.1.2022) by The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), **reg. 8A** (as inserted by S.I. 2021/1376, regs. 1(2), **32(3)**)

[F64PART SEVEN A

REPORTING REQUIREMENTS]

Article 430

Reporting on prudential requirements and financial information

F763 1 . . . .

F764 2 . . . .

F765 7 . . . .

F766 8 . . . .

Textual Amendments

F763 Art. 430(1) omitted (1.1.2022) by The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), **reg. 8A** (as inserted by S.I. 2021/1376), regs. 1(2), 32(3))

F764 Art. 430(2) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **71(2)**; 2020 c. 1, Sch. 5 para. 1(1)

F765 Art. 430(7) omitted (1.1.2022) by virtue of The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **9**

F766 Art. 430(8) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **71(4)**; 2020 c. 1, Sch. 5 para. 1(1)

[F767] *Article 430b*

Specific reporting requirements for market risk

. . . .

Textual Amendments

F767 Art. 430b omitted (1.1.2022) by virtue of The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **9**

[F768] *Article 430c*

Feasibility report on the integrated reporting system

. . . .

Textual Amendments

F768 Art. 430c omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **73**; 2020 c. 1, Sch. 5 para. 1(1)

[F769]PART EIGHT

DISCLOSURE BY INSTITUTIONS

TITLE I

GENERAL PRINCIPLES

Article 431

Scope of disclosure requirements

. . . .

Article 432

Non-material, proprietary or confidential information

. . . .

Article 433

Frequency of disclosure

. . . .

Article 434

Means of disclosures

. . . .

Article 434a

Uniform disclosure formats

. . . .

TITLE II

TECHNICAL CRITERIA ON TRANSPARENCY AND DISCLOSURE

Article 435

Risk management objectives and policies

. . . .

Article 436

Scope of application

. . . .

Article 437

Own funds

. . . .

Article 438

Capital requirements

. . . .

Article 439

Exposure to counterparty credit risk

. . . .

Article 440

Capital buffers

. . . .

Article 441

Indicators of global systemic importance

. . . .

Article 442

Credit risk adjustments

. . . .

Article 443

Unencumbered assets

. . . .

Article 444

Use of ECAIs

. . . .

Article 445

Exposure to market risk

. . . .

Article 446

Operational risk

. . . .

Article 447

Exposures in equities not included in the trading book

. . . .

Article 448

Exposure to interest rate risk on positions not included in the trading book

. . . .

Article 449

Exposure to securitisation positions

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Article 450

Remuneration policy

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Article 451

Leverage

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TITLE III

QUALIFYING REQUIREMENTS FOR THE USE OF PARTICULAR INSTRUMENTS OR METHODOLOGIES

Article 452

Use of the IRB Approach to credit risk

. . . .

Article 453

Use of credit risk mitigation techniques

. . . .

Article 454

Use of the Advanced Measurement Approaches to operational risk

. . . .

Article 455

Use of Internal Market Risk Models

. . . .

Textual Amendments

F769 Pt. 8 omitted (1.1.2022) by The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **10** (as substituted by S.I. 2021/1376, regs. 1(2), **32(4)**)

PART NINE

[F770 Regulations, enhanced prudential measures and technical standards]

Article 456

[F771 Regulations modifying this Regulation]

1 [F772 The Treasury may make regulations] concerning the following matters:

a clarification of the definitions set out in Articles 4, 5, 142, 153, 192, 242, 272 [F773 and 381]F774 ...;

b clarification of the definitions set out in Articles 4, 5, 142, 153, 192, 242, 272 [F775 and 381] 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;

F776 f . . . .

F777 g . . . .

h amendment of the own funds requirements as set out in F778... 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;

F779 i . . . .

F779 j . . . .

2 [F780 The Treasury may by regulations amend Articles 381, 382(1) to (3) [F781, 383, 384 and 386] concerning—]

a the treatment of CVA risk as a stand-alone charge versus an integrated component of the market risk framework;
b the scope of the CVA risk charge including the exemption in Article 482;
c eligible hedges;
d calculation of capital requirements of CVA risk.

F782 ...

Textual Amendments

F771 Art. 456 heading substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **221(2)(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F772 Words in Art. 456(1) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **221(2)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F773 Words in Art. 456(1)(a) substituted (1.1.2022) by The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **11(2)(a)(i)**

F774 Words in Art. 456(1)(a) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **221(2)(c)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F775 Words in Art. 456(1)(b) substituted (1.1.2022) by The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **11(2)(a)(ii)**

F776 Art. 456(1)(f) omitted (1.1.2022) by virtue of Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 42**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F777 Art. 456(1)(g) omitted (1.1.2022) by virtue of Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 42**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F778 Words in Art. 456(1)(h) omitted (1.1.2022) by virtue of The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **11(2)(a)(iii)**

F779 Art. 456(1)(i)(j) omitted (1.1.2022) by S.I. 2021/1078, **reg. 11(2)(a)(iv)** (as substituted by The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/1376), regs. 1(2), **32(5)(a)**)

F780 Words in Art. 456(2) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **221(2)(d)(i)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F781 Words in Art. 456(2) substituted (1.1.2022) by The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **11(2)(b)**

F782 Words in Art. 456(2) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **221(2)(d)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 457

Technical adjustments and corrections

[F783The Treasury may by regulations] make technical adjustment and corrections of non-essential elements in the following provisions in order to take account of developments in new financial products or activities, to make adjustments taking into account developments [F784after IP completion day in the law of the United Kingdom, or any part of it,**]** on financial services and accounting **[**[F785]including UK-adopted international accounting standards**]**:

(a) the own funds requirements for credit risk laid down in **[**[F786]Articles 111 to 127, 129 to 131, 133, 134, 143 to 151, 153 to 157 and 159 to 191**]**;

(b) the effects of credit risk mitigation in accordance with Articles 193 to 241;

(c) **[**[F74]the own funds requirements for securitisation laid down in Articles 242 to 270a;**]**

(d) the own funds requirements for counterparty credit risks in accordance with Articles 272 **[**[F787]and 283 to 299**]**;

(e) the own funds requirements for operational risk laid down in **[**[F788]Articles 315 and 317 to 324**]**;

(f) the own funds requirements for market risk laid down in Articles 325 to 377;

(g) the own funds requirements for settlement risk laid down in Articles 378 and 379;

(h) the own funds requirements for credit valuation adjustment risk laid down in Articles 383, 384 and 386;

(i) Part Two [F789]... only as a result of developments in accounting standards or requirements which take account of **[**[F790]the law of the United Kingdom, or any part of it**]**.

Textual Amendments

F74 Substituted by Regulation (EU) 2017/2401 of the European Parliament and of the Council of 12 December 2017 amending Regulation (EU) No 575/2013 on prudential requirements for credit institutions and investment firms.

F783 Words in Art. 457 substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **221(3)(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F784 Words in Art. 457 substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **221(3)(b)** (with savings in S.I. 2019/680, reg. 11 and as amended (**30**.12.2020) by S.I. 2020/1301, regs. 1, 3, **Sch. para. 11(i)**); 2020 c. 1, **Sch. 5 para. 1(1)**

F785 Words in Art. 457 substituted (31.12.2020) by The Financial Services (Miscellaneous) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/710), regs. 1(3), **27(6)**; 2020 c. 1, Sch. 5 para. 1(1)

F786 Words in Art. 457(a) substituted (1.1.2022) by The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **11(3)(a)**

F787 Words in Art. 457(d) substituted (1.1.2022) by The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **11(3)(b)**

F788 Words in Art. 457(e) substituted (1.1.2022) by The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **11(3)(c)**

F789 Words in Art. 457(i) omitted (1.1.2022) by virtue of The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **11(3)(d)**

F790 Words in Art. 457(i) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **221(3)(c)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

[F791 *Article 458*

Enhanced prudential measures directions & recommendations: Interpretation

1. In this Article and in Articles 458A to 458C—

‘enhanced prudential measures direction’ means a direction of the Financial Policy Committee under section 9H of the 1998 Act to a competent authority describing stricter measures in relation to a relevant prudential area than are required by this Regulation or any legislation made under it;

‘enhanced prudential measures recommendation’ means a recommendation of the Financial Policy Committee under section 9Q of the 1998 Act to a competent authority, describing stricter measures in relation to a relevant prudential area than are required by this Regulation or any legislation made under it;

‘enhanced prudential implementation action’ means action to comply with an enhanced prudential measures direction or enhanced prudential measures recommendation;

‘FPC’ means the Financial Policy Committee;

‘regulated person’ has the meaning given in section 9H(2) of the 1998 Act;

‘relevant prudential area’ means—

i the level of own funds provided for in Article 92,

ii F792...

iii F792...

iv F792...

v risk weights for targeting asset bubbles in the residential and commercial property sector, or

vi intra financial sector exposures.

‘the 1998 Act’ means the Bank of England Act 1998;

F793...

Textual Amendments

F791 Arts. 458-458C substituted for Art. 458 (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **201** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F792 Words in Art. 458(1) omitted (1.1.2022) by S.I. 2021/1078, **reg. 11(4)(a)** (as substituted by The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/1376), regs. 1(2), **32(5)(b)**)

F793 Words in Art. 458(1) omitted (1.1.2022) by virtue of The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **11(4)(b)**

Article 458A

Enhanced prudential measures

1. Where the FPC issues an enhanced prudential measure direction or enhanced prudential measure recommendation, the competent authority may exercise its functions to introduce an enhanced prudential implementation action.

2. An enhanced prudential implementation action shall have effect notwithstanding any provision to the contrary in this Regulation or any legislation made under it.

Textual Amendments

F791 Arts. 458-458C substituted for Art. 458 (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **201** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 458B

Enhanced prudential measures: effect of revocation

1. Paragraph 2 applies where—

a the FPC revokes an enhanced prudential measures direction in accordance with section 9J of the 1998 Act; or

b the FPC withdraws an enhanced prudential measures recommendation and notifies the competent authority of that withdrawal.

2 A competent authority which has introduced an enhanced prudential implementation action must consider whether it is appropriate to cease to implement that action.

Textual Amendments

F791 Arts. 458-458C substituted for Art. 458 (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **201** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 458C

Enhanced prudential measures: publication and application

1 Once the Bank has published the relevant information concerning the enhanced prudential measure direction or enhanced prudential measure recommendation in accordance with section 9U and, where relevant, section 9V(3) of the 1998 Act, a competent authority must publish on its website the following information—

a the fact that it has introduced an enhanced prudential implementation action;

b any requirements of this Regulation or any delegated legislation made under it that the competent authority considered inconsistent with the enhanced prudential implementation action; and c a statement that the relevant enhanced prudential implementation action shall have effect notwithstanding any provision to the contrary in this Regulation or any legislation made under it.

2. Until the Bank has published the relevant information concerning the enhanced prudential measure direction or enhanced prudential measure recommendation in accordance with section 9U and, where relevant, section 9V(3) of the 1998 Act, the competent authority must take reasonable steps to bring the enhanced prudential implementation action to the attention of the regulated persons subject to it.

3. A failure by the competent authority to publish information as required by paragraph 1 does not affect the validity, continuing operation or enforcement of the enhanced prudential implementation action to which the requirement to publish relates.**]**

Textual Amendments

F791 Arts. 458-458C substituted for Art. 458 (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **201** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 459

Prudential requirements

[[F794]The Treasury may by regulations impose**]**, for a period of one year, stricter prudential requirements for exposures where this is necessary to address changes in the intensity of microprudential and macroprudential risks which arise from market developments **[**[F795]in the United Kingdom or outside the United Kingdom**]**, and where the instruments of this Regulation and **[**[F796]Directive 2013/36/EU UK law**]** are not sufficient to address these risks [F797]... concerning:

(a) the level of own funds laid down in Article 92;

(b) [F798]...

(c) [F798]...

[F799]...

Textual Amendments

F794 Words in Art. 459 substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **221(4)(a)(i)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F795 Words in Art. 459 substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **221(4)(a)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F796 Words in Art. 459 substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **221(4)(a)(iii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F797 Words in Art. 459 omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **221(4)(a)(iv)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F798 Art. 459(b)(c) omitted (1.1.2022) by The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **11(5)** (as substituted by S.I. 2021/1376, regs. 1(2), **32(5)(c)**)
F799 Words in Art. 459 omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **221(4)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F800 *Article 460*

Liquidity

. . . .

Textual Amendments
F800 Art. 460 omitted (1.1.2022) by virtue of The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **11(6)**

F801 *Article 461*

Review of the phasing-in of the liquidity coverage requirement

. . . .

Textual Amendments
F801 Art. 461 omitted (1.1.2022) by virtue of The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **11(7)**

F802 *Article 461a*

Alternative standardised approach for market risk

. . . .

Textual Amendments
F802 Art. 461a omitted (1.1.2022) by virtue of The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/1376), regs. 1(3), **25(45)**

F803 *Article 462*

Exercise of the delegation

. . . .

Textual Amendments

F803 Art. 462 omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **202** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F804 *Article 463*

Objections to regulatory technical standards

. . . .

Textual Amendments

F804 Art. 463 omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **203** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F805 *Article 464*

European Banking Committee

. . . .

Textual Amendments

F805 Art. 464 omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **204** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

[F806 *Article 464A*

Regulations: general provisions

1. Any power to make regulations conferred on the Treasury by this Regulation, is exercisable by statutory instrument.

2. Such regulations may—

   a contain incidental, supplemental, consequential and transitional provision, and
   b may make different provision for different purposes.

3. A statutory instrument containing regulations made under Article 456 of this Regulation may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.

4. A statutory instrument containing regulations made under any other provision of this Regulation is subject to annulment in pursuance of a resolution of either House of Parliament.

Textual Amendments

F806 Arts. 464A, 464B inserted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **205** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 464B

Power to make technical standards

F807 1. . . . .

2. In addition to the powers to make technical standards set out elsewhere in this Regulation, [F808 the PRA may] make technical standards for the following purposes—

a to specify—

i the information to be provided to the relevant competent authority in the application for authorisation of a credit institution under Part 4A of FSMA;

ii the requirements applicable to shareholders and members with qualifying holdings; and

iii obstacles which may prevent effective exercise of the supervisory functions of the competent authority;

b to define what is meant by 'exposures to specific risk which are material in absolute terms' and the thresholds for large numbers of material counterparties and positions in debt instruments of different issuers;

c to specify—

i the procedure for sharing assessments of the quality of institutions' internal approaches for calculating own funds requirements between competent authorities;

ii the standards for the assessment of the quality of institutions' internal approaches for calculating own funds requirements by competent authorities;

d to specify—

i the template, the definitions and the IT-solutions to be applied in the UK for institutions to report the results of the calculations of their internal approaches for their exposures or positions that are included in their benchmark portfolios;

ii the benchmark portfolio or portfolios which institutions must report;

e to specify the classes of instruments that can be fully converted to Common Equity Tier 1 instruments or written down, and qualitative and appropriate quantitative criteria to identify categories of staff whose professional activities have a material impact on the institution's risk profile;

f to specify the method for the identification of the geographical location of an institution's credit exposures for the purposes of calculating institution-specific countercyclical capital buffer rates.

3. In addition to the powers to make technical standards set out elsewhere in this Regulation, the PRA F809 ... may make technical standards to specify—

a the methodology in accordance with which the PRA shall identify a UK parent institution or UK parent financial holding company or UK parent mixed financial holding company as a global systemically important institution ('G-SII'); and b the methodology for the definition of the sub-categories and the allocation of G-SIIs in sub-categories based on their systemic significance; taking into account any international agreed standards.]

Textual Amendments

F806 Arts. 464A, 464B inserted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **205** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F807 Art. 464B(1) omitted (1.1.2022) by virtue of Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 43(2)**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F808 Words in Art. 464B(2) substituted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 43(3)**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F809 Word in Art. 464B(3) omitted (1.1.2022) by virtue of Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 43(4)**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

Textual Amendments

F770 Pt. 9 heading substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **200** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

PART TEN

TRANSITIONAL PROVISIONS, REPORTS, REVIEWS AND AMENDMENTS

TITLE I

TRANSITIONAL PROVISIONS

CHAPTER 1

Own funds requirements, unrealised gains and losses measured at fair value and deductions

Section 1

Own funds requirements

Article 465

Own funds requirements

1 By way of derogation from points (a) and (b) of Article 92(1) the following own funds requirements shall apply during the period from 1 January 2014 to 31 December 2014:

a a Common Equity Tier 1 capital ratio of a level that falls within a range of 4 % to 4,5 %;
b a Tier 1 capital ratio of a level that falls within a range of 5,5 % to 6 %.

2 Competent authorities shall determine and publish the levels of the Common Equity Tier 1 and Tier 1 capital ratios in the ranges specified in paragraph 1 that institutions shall meet or exceed.

Article 466

First time application of International Financial Reporting Standards

By way of derogation from Article 24(2), competent authorities shall grant institutions which are required to effect the valuation of assets and off-balance sheet items and the determination of own funds in accordance with the **[**[F810]UK-adopted international accounting standards**]** for the first time a lead time of 24 months for the implementation of the necessary internal processes and technical requirements.

Textual Amendments

F810 Words in Art. 466 substituted (31.12.2020) by The Financial Services (Miscellaneous) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/710), regs. 1(3), **27(7)**; 2020 c. 1, Sch. 5 para. 1(1)

Section 2

Unrealised gains and losses measured at fair value

[F402]*Article 467*

[[F402]**Unrealised losses measured at fair value]**

. . . .

Textual Amendments

F402 Deleted by Regulation (EU) 2020/873 of the European Parliament and of the Council of 24 June 2020 amending Regulations (EU) No 575/2013 and (EU) 2019/876 as regards certain adjustments in response to the COVID-19 pandemic (Text with EEA relevance).

[[F233] *Article 468*

Temporary treatment of unrealised gains and losses measured at fair value through other comprehensive income in view of the COVID-19 pandemic

1 By way of derogation from Article 35, during the period from 1 January 2020 to 31 December 2022 (the ‘ period of temporary treatment ’), institutions may remove from the calculation of their Common Equity Tier 1 items the amount A, determined in accordance with the following formula:

$$A = a \cdot f$$

where:

a	=	the amount of unrealised gains and losses accumulated since 31 December 2019 accounted for as ' fair value changes of debt instruments measured at fair value through other comprehensive income ' in the balance sheet, corresponding to exposures to central governments, to regional governments or to local authorities referred to in Article 115(2) of this Regulation and to public sector entities referred to in Article 116(4) of this Regulation, excluding those financial assets that are credit-impaired as defined in Appendix A to the Annex to Commission Regulation (EC) No 1126/2008 (' Annex relating to IFRS 9 '); and
f	=	the factor applicable for each reporting year during the period of temporary treatment in accordance with paragraph 2.

2 Institutions shall apply the following factors f to calculate the amount A referred in paragraph 1:

- a 1 during the period from 1 January 2020 to 31 December 2020;
- b 0,7 during the period from 1 January 2021 to 31 December 2021;
- c 0,4 during the period from 1 January 2022 to 31 December 2022.

3 Where an institution decides to apply the temporary treatment set out in paragraph 1, it shall inform the competent authority of its decision at least 45 days before the remittance date for the reporting of the information based on that treatment. Subject to the prior permission of the competent authority, the institution may reverse its initial decision once during the period of temporary treatment. Institutions shall publicly disclose if they apply that treatment.

4 Where an institution removes an amount of unrealised losses from its Common Equity Tier 1 items in accordance with paragraph 1 of this Article, it shall recalculate all requirements laid down in this Regulation and in Directive 2013/36/EU **[**[F811]UK law**]** that are calculated using any of the following items:

- a the amount of deferred tax assets that is deducted from Common Equity Tier 1 items in accordance with point (c) of Article 36(1) or risk weighted in accordance with Article 48(4);
- b the amount of specific credit risk adjustments.

When recalculating the relevant requirement, the institution shall not take into account the effects that the expected credit loss provisions relating to exposures to central governments, to regional governments or to local authorities referred to in Article 115(2) of this Regulation and to public sector entities referred to in Article 116(4) of this Regulation, excluding those financial assets that are credit-impaired as defined in Appendix A to the Annex relating to IFRS 9, have on those items.

5 During the periods set out in paragraph 2 of this Article, in addition to disclosing the information required in **[**[F812]the Disclosure (CRR) Part of the PRA Rulebook**]**, institutions that have decided to apply the temporary treatment set out in paragraph 1 of this Article shall disclose the amounts of own funds, Common Equity Tier 1 capital and Tier 1 capital, the total capital ratio, the Common Equity Tier 1 capital ratio, the Tier 1 capital ratio, and the leverage ratio they would have in case they were not to apply that treatment.**]**

Textual Amendments

F233 Substituted by Regulation (EU) 2020/873 of the European Parliament and of the Council of 24 June 2020 amending Regulations (EU) No 575/2013 and (EU) 2019/876 as regards certain adjustments in response to the COVID-19 pandemic (Text with EEA relevance).

F811 Words in Art. 468(4) inserted (31.12.2020) by The Securities Financing Transactions, Securitisation and Miscellaneous Amendments (EU Exit) Regulations 2020 (S.I. 2020/1385), regs. 1(3), **74(6)**

F812 Words in Art. 468(5) substituted (1.1.2022) by The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/1376), regs. 1(3), **25(46)**

Section 3

Deductions

Sub-Section 1

Deductions from Common Equity Tier 1 items

[F813] *Article 469*

Deductions from Common Equity Tier 1 items

Textual Amendments

F813 Art. 469 omitted (1.1.2022) by virtue of The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **12(2)**

[[F232] *Article 469a*

Derogation from deductions from Common Equity Tier 1 items for non-performing exposures

By way of derogation from point (m) Article 36(1), institutions shall not deduct from Common Equity Tier 1 items the applicable amount of insufficient coverage for non-performing exposures where the exposure was originated prior to 26 April 2019.

Where the terms and conditions of an exposure which was originated prior to 26 April 2019 are modified by the institution in a way that increases the institution's exposure to the obligor, the exposure shall be considered as having been originated on the date when the modification applies and shall cease to be subject to the derogation provided for in the first subparagraph.**]**

Textual Amendments

F232 Inserted by Regulation (EU) 2019/630 of the European Parliament and of the Council of 17 April 2019 amending Regulation (EU) No 575/2013 as regards minimum loss coverage for non-performing exposures (Text with EEA relevance).

[F814] *Article 470*

Exemption from deduction from Common Equity Tier 1 items

Textual Amendments

F814 Art. 470 omitted (1.1.2022) by virtue of The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/1376), regs. 1(3), **25(47)**

Article 471

Exemption from Deduction of Equity Holdings in Insurance Companies from Common Equity Tier 1 Items

[[F1]1 By way of derogation from Article 49(1), during the period from 31 December 2018 to 31 December 2024, institutions may choose not to deduct equity holdings in insurance undertakings, reinsurance undertakings and insurance holding companies where the following conditions are met:

a the conditions set out in points (a), and (e) of Article 49(1);

b the competent authorities are satisfied with the level of risk control and financial analysis procedures specifically adopted by the institution in order to supervise the investment in the undertaking or holding company;

c the equity holdings of the institution in the insurance undertaking, reinsurance undertaking or insurance holding company do not exceed 15 % of the Common Equity Tier 1 instruments issued by that insurance entity as at 31 December 2012 and during the period from 1 January 2013 to 31 December 2024;

d the amount of the equity holding which is not deducted does not exceed the amount held in the Common Equity Tier 1 instruments in the insurance undertaking, reinsurance undertaking or insurance holding company as at 31 December 2012.**]**

2 The equity holdings which are not deducted pursuant to paragraph 1 shall qualify as exposures and be risk weighted at 370 %.

Textual Amendments

F1 Substituted by Regulation (EU) 2019/876 of the European Parliament and of the Council of 20 May 2019 amending Regulation (EU) No 575/2013 as regards the leverage ratio, the net stable funding ratio, requirements for own funds and eligible liabilities, counterparty credit risk, market risk, exposures to central counterparties, exposures to collective investment undertakings, large exposures, reporting and disclosure requirements, and Regulation (EU) No 648/2012 (Text with EEA relevance).

[F815] Article 472

Items not deducted from Common Equity Tier 1

Textual Amendments

F815 Art. 472 omitted (1.1.2022) by virtue of The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/1376), regs. 1(3), **25(48)**

Article 473

Introduction of amendments to IAS 19

1 By way of derogation from Article 481 during the period from 1 January 2014 until 31 December 2018 , competent authorities may permit institutions that prepare their accounts in conformity with the **[**[F816]UK-adopted international accounting standards**]** to add to their Common Equity Tier 1 capital the applicable amount in accordance with paragraph 2 or 3 of this Article, as applicable, multiplied by the factor applied in accordance with paragraph 4.

2 The applicable amount shall be calculated by deducting from the sum derived in accordance with point (a) the sum derived in accordance with point (b):

a institutions shall determine the values of the assets of their defined benefit pension funds or plans, as applicable, in accordance with Regulation (EC) No 1126/2008 [(22)] as amended by Regulation (EU) No 1205/2011 [(23)] . Institutions shall then deduct from the values of these assets the values of the obligations under the same funds or plans determined according to the same accounting rules;

b institutions shall determine the values of the assets of their defined pension funds or plans, as applicable, in accordance with the rules set out in Regulation (EC) No 1126/2008. Institutions shall then deduct from the values of those assets, the values of the obligations under the same funds or plans determined in accordance with the same accounting rules.

3 The amount determined in accordance with paragraph 2 shall be limited to the amount not required to be deducted from own funds, prior to 1 January 2014 , under national transposition measures of Directive 2006/48/EC, insofar as those national transposition measures would be eligible for the treatment set out in Article 481 of this Regulation in the Member State concerned.

4 The following factors apply:

a 1 in the period from 1 January 2014 to 31 December 2014 ;

b 0,8 in the period from 1 January 2015 to 31 December 2015 ;

c 0,6 in the period from 1 January 2016 to 31 December 2016 ;

d 0,4 in the period from 1 January 2017 to 31 December 2017 ;

e 0,2 in the period from 1 January 2018 to 31 December 2018 .

5 Institutions shall disclose the values of assets and liabilities in accordance with paragraph 2 in their published financial statements.

Textual Amendments

F816 Words in Art. 473(1) substituted (31.12.2020) by The Financial Services (Miscellaneous) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/710), regs. 1(3), **27(9)**; 2020 c. 1, Sch. 5 para. 1(1)

[F817 *Article 473a*

Introduction of IFRS 9

[F233 1 By way of derogation from Article 50 and until the end of the transitional periods set out in paragraphs 6 and 6a of this Article, the following may include in their Common Equity Tier 1 capital the amount calculated in accordance with this paragraph:]

- a institutions that prepare their accounts in conformity with the [F818 UK-adopted international accounting standards];
- b institutions that, pursuant to Article 24(2) of this Regulation, effect the valuation of assets and off-balance sheet items and the determination of own funds in conformity with the [F818 UK-adopted international accounting standards];
- c institutions that effect the valuation of assets and off-balance sheet items in conformity with accounting standards under [F819 Directive 86/635/EEC UK law] and that use an expected credit loss model that is the same as the one used in [F818 UK-adopted international accounting standards].

[F233 The amount referred to in the first subparagraph shall be calculated as the sum of the following:

(a) for exposures which are subject to risk weighting in accordance with Chapter 2 of Title II of Part Three, the amount (AB_{SA}) calculated in accordance with the following formula:

$$AB_{SA} = (A_{2,SA} - t_1) \cdot f_1 + (A_{4,SA} - t_2) \cdot f_2 + (A_{SA}^{old} - t_3) \cdot f_1$$

where:

$A_{2,SA}$ = the amount calculated in accordance with paragraph 2;

$A_{4,SA}$ = the amount calculated in accordance with paragraph 4 based on the amounts calculated in accordance with paragraph 3;

$$A_{SA}^{old} = \max\{P_{1.1.2020}^{SA} - P_{1.1.2018}^{SA}; 0\};$$

$P_{1.1.2020}^{SA}$ = the sum of the 12-month expected credit losses determined in accordance with paragraph 5.5.5 of the Annex relating to IFRS 9 and the amount of the loss allowance for lifetime expected credit losses determined in accordance with paragraph 5.5.3 of the Annex relating to IFRS 9, excluding the loss allowance for lifetime expected credit losses for financial assets that are credit-impaired as defined in Appendix A to the Annex relating to IFRS 9, on 1 January 2020;

$P_{1.1.2018}^{SA}$ = the sum of the 12-month expected credit losses determined in accordance with paragraph 5.5.5 of the Annex relating to IFRS 9 and the amount of the loss allowance for lifetime expected credit losses determined in accordance with paragraph 5.5.3 of the Annex relating to IFRS 9, excluding the loss allowance for lifetime expected credit losses for financial assets that are credit-impaired as defined in Appendix A to the Annex relating to IFRS 9, on 1 January 2018 or on the date of the initial application of IFRS 9, whichever is later;

f_1 = the applicable factor laid down in paragraph 6;

f_2 = the applicable factor laid down in paragraph 6a;

t_1 = the increase of Common Equity Tier 1 capital that is due to tax deductibility of the amount $A_{2,SA}$;

t_2 = the increase of Common Equity Tier 1 capital that is due to tax deductibility of the amount $A_{4,SA}$;

t_3 = the increase of Common Equity Tier 1 capital that is due to tax deductibility of the amount A_{SA}^{old};

(b) for exposures which are subject to risk weighting in accordance with Chapter 3 of Title II of Part Three, the amount (AB_{IRB}) calculated in accordance with the following formula:

$$AB_{IRB} = (A_{2,IRB} - t_1) \cdot f_1 + (A_{4,IRB} - t_2) \cdot f_2 + (A_{IRB}^{old} - t_3) \cdot f_1$$

where:

$A_{2,IRB}$ = the amount calculated in accordance with paragraph 2 which is adjusted in accordance with point (a) of paragraph 5;

$A_{4,IRB}$ = the amount calculated in accordance with paragraph 4 based on the amounts calculated in accordance with paragraph 3 which are adjusted in accordance with points (b) and (c) of paragraph 5;

$$A_{IRB}^{old} = \max\{P_{1.1.2020}^{IRB} - P_{1.1.2018}^{IRB}; 0\};$$

$P_{1.1.2020}^{IRB}$ = the sum of the 12-month expected credit losses determined in accordance with paragraph 5.5.5 of the Annex relating to IFRS 9 and the amount of the loss allowance for lifetime expected credit losses determined in accordance with paragraph 5.5.3 of the Annex relating to IFRS 9, excluding the loss allowance for lifetime expected credit losses for financial assets that are credit-impaired, as defined in Appendix A to the Annex relating to IFRS 9, reduced by the sum of related expected loss amounts for the same exposures calculated in accordance with Article 158(5), (6) and (10) of this Regulation, on 1 January 2020 . Where the calculation results in a negative number, the institution shall set the value of $P_{1.1.2020}^{IRB}$ to zero;

$P_{1.1.2018}^{IRB}$ = the sum of the 12-month expected credit losses determined in accordance with paragraph 5.5.5 of the Annex relating to IFRS 9 and the amount of the loss allowance for lifetime expected credit losses determined in accordance with paragraph 5.5.3 of the Annex relating to IFRS 9, excluding the loss allowance for lifetime expected credit losses for financial assets that are credit-impaired, as defined in Appendix A to the Annex relating to IFRS 9, on 1 January 2018 or on the date of the initial application of IFRS 9, whichever is later, reduced by the sum of related expected loss amounts for the same exposures calculated in accordance with Article 158(5), (6) and (10) of this Regulation. Where the calculation results in a negative number, the institution shall set the value of $P_{1.1.2018}^{IRB}$ as equal to zero;

f_1 = the applicable factor laid down in paragraph 6;

f_2 = the applicable factor laid down in paragraph 6a;

t_1	=	the increase of Common Equity Tier 1 capital that is due to tax deductibility of the amount $A_{2,IRB}$;
t_2	=	the increase of Common Equity Tier 1 capital that is due to tax deductibility of the amount $A_{4,IRB}$;
t_3	=	the increase of Common Equity Tier 1 capital that is due to tax deductibility of the amount A_{IRB}^{old}.]

2 Institutions shall calculate the amounts $A_{2,SA}$ and $A_{2,IRB}$ referred to, respectively, in points (a) and (b) of the second subparagraph of paragraph 1 as the greater of the amounts referred to in points (a) and (b) of this paragraph separately for their exposures which are subject to risk weighting in accordance with Chapter 2 of Title II of Part Three and for their exposures which are subject to risk weighting in accordance with Chapter 3 of Title II of Part Three:

a zero;

b the amount calculated in accordance with point (i) reduced by the amount calculated in accordance with point (ii):

(i) the sum of the 12-month expected credit losses determined in accordance with paragraph 5.5.5 of IFRS 9 as set out in the Annex to Commission Regulation (EC) No 1126/2008 (' Annex relating to IFRS 9 ') and the amount of the loss allowance for lifetime expected credit losses determined in accordance with paragraph 5.5.3 of the Annex relating to IFRS 9 as of 1 January 2018 or on the date of initial application of IFRS 9;

(ii) the total amount of impairment losses on financial assets classified as loans and receivables, held-to-maturity investments and available-for-sale financial assets, as defined in paragraph 9 of IAS 39, other than equity instruments and units or shares in collective investment undertakings, determined in accordance with paragraphs 63, 64, 65, 67, 68 and 70 of IAS 39 as set out in the Annex to Regulation (EC) No 1126/2008 as of 31 December 2017 or the day before the date of initial application of IFRS 9.

3 Institutions shall calculate the amount by which the amount referred to in point (a) exceeds the amount referred to in point (b) separately for their exposures which are subject to risk weighting in accordance with Chapter 2 of Title II of Part Three and for their exposures which are subject to risk weighting in accordance with Chapter 3 of Title II of Part Three:

[F233 a the sum of the 12-month expected credit losses determined in accordance with paragraph 5.5.5 of the Annex relating to IFRS 9 and the amount of the loss allowance for lifetime expected credit losses determined in accordance with paragraph 5.5.3 of the Annex relating to IFRS 9, excluding the loss allowance for lifetime expected credit losses for financial assets that are credit-impaired as defined in Appendix A to the Annex relating to IFRS 9, on the reporting date and, where Article 468 of this Regulation applies, excluding expected credit losses determined for exposures measured at fair value through other comprehensive income in accordance with paragraph 4.1.2 A of the Annex relating to IFRS 9;

b the sum of the 12-month expected credit losses determined in accordance with paragraph 5.5.5 of the Annex relating to IFRS 9 and the amount of the loss allowance for lifetime expected credit losses determined in accordance with paragraph 5.5.3 of the Annex relating to IFRS 9, excluding the loss allowance for lifetime expected credit losses for financial assets that are credit-impaired as defined in Appendix A to the Annex relating to IFRS 9 and, where Article 468 of this Regulation applies, excluding expected credit losses determined for exposures measured at fair value through other comprehensive income in accordance with paragraph 4.1.2 A of the Annex relating to

IFRS 9, on 1 January 2020 or on the date of the initial application of IFRS 9, whichever is later.]

4 For exposures which are subject to risk weighting in accordance with Chapter 2 of Title II of Part Three, where the amount specified in accordance with point (a) of paragraph 3 exceeds the amount specified in point (b) of paragraph 3, institutions shall set $A_{4,SA}$ as equal to the difference between those amounts, otherwise they shall set $A_{4,SA}$ as equal to zero.

For exposures which are subject to risk weighting in accordance with Chapter 3 of Title II of Part Three, where the amount specified in accordance with point (a) of paragraph 3, after applying point (b) of paragraph 5, exceeds the amount for these exposures as specified in point (b) of paragraph 3, after applying point (c) of paragraph 5, institutions shall set $A_{4,IRB}$ as equal to the difference between those amounts, otherwise they shall set $A_{4,IRB}$ as equal to zero.

5 For exposures which are subject to risk weighting in accordance with Chapter 3 of Title II of Part Three, institutions shall apply paragraphs 2 to 4 as follows:

a for the calculation of $A_{2,IRB}$ institutions shall reduce each of the amounts calculated in accordance with points (b)(i) and (ii) of paragraph 2 of this Article by the sum of expected loss amounts calculated in accordance with Article 158(5), (6) and (10) as of 31 December 2017 or the day before the date of initial application of IFRS 9. Where for the amount referred to in point (b)(i) of paragraph 2 of this Article the calculation results in a negative number, the institution shall set the value of that amount as equal to zero. Where for the amount referred to in point (b)(ii) of paragraph 2 of this Article the calculation results in a negative number, the institution shall set the value of that amount as equal to zero;

[F233 b institutions shall replace the amount calculated in accordance with point (a) of paragraph 3 of this Article with the sum of the 12-month expected credit losses determined in accordance with paragraph 5.5.5 of the Annex relating to IFRS 9 and the amount of the loss allowance for lifetime expected credit losses determined in accordance with paragraph 5.5.3 of the Annex relating to IFRS 9, excluding the loss allowance for lifetime expected credit losses for financial assets that are credit-impaired, as defined in Appendix A to the Annex relating to IFRS 9, and, where Article 468 of this Regulation applies, excluding expected credit losses determined for exposures measured at fair value through other comprehensive income in accordance with paragraph 4.1.2 A of the Annex relating to IFRS 9, reduced by the sum of related expected loss amounts for the same exposures calculated in accordance with Article 158(5), (6) and (10) of this Regulation on the reporting date. Where the calculation results in a negative number, the institution shall set the value of the amount referred to in point (a) of paragraph 3 of this Article as equal to zero;

c institutions shall replace the amount calculated in accordance with point (b) of paragraph 3 of this Article with the sum of the 12-month expected credit losses determined in accordance with paragraph 5.5.5 of the Annex relating to IFRS 9 and the amount of the loss allowance for lifetime expected credit losses determined in accordance with paragraph 5.5.3 of the Annex relating to IFRS 9, excluding the loss allowance for lifetime expected credit losses for financial assets that are credit-impaired, as defined in Appendix A to the Annex relating to IFRS 9, and, where Article 468 of this Regulation applies, excluding expected credit losses determined for exposures measured at fair value through other comprehensive income in accordance with paragraph 4.1.2 A of the Annex relating to IFRS 9, on 1 January 2020 or on the date of the initial application of IFRS 9, whichever is later, reduced by the sum of related expected loss amounts for the same exposures calculated in accordance with Article 158(5), (6) and (10) of this Regulation on 1 January 2020 or on the date of the initial application of IFRS 9, whichever is later. Where the calculation results in a negative number, the institution shall set the value of the amount referred to in point (b) of paragraph 3 of this Article as equal to zero.]

[[F233] 6 Institutions shall apply the following factors f_1 to calculate the amounts AB_{SA} and AB_{IRB} referred to in points (a) and (b) of the second subparagraph of paragraph 1 respectively:

a 0,7 during the period from 1 January 2020 to 31 December 2020;

b 0,5 during the period from 1 January 2021 to 31 December 2021;

c 0,25 during the period from 1 January 2022 to 31 December 2022;

d 0 during the period from 1 January 2023 to 31 December 2024.

Institutions whose financial year commences after 1 January 2020 but before 1 January 2021 shall adjust the dates in points (a) to (d) of the first subparagraph so that they correspond to their financial year, shall report the adjusted dates to their competent authority and shall publicly disclose them.

Institutions which start to apply accounting standards as referred to in paragraph 1 on or after 1 January 2021 shall apply the relevant factors in accordance with points (b) to (d) of the first subparagraph starting with the factor corresponding to the year of the first application of those accounting standards.]

[[F820] 6a Institutions shall apply the following factors f_2 to calculate the amounts AB_{SA} and AB_{IRB} referred to in points (a) and (b) of the second subparagraph of paragraph 1 respectively:

a 1 during the period from 1 January 2020 to 31 December 2020;

b 1 during the period from 1 January 2021 to 31 December 2021;

c 0,75 during the period from 1 January 2022 to 31 December 2022;

d 0,5 during the period from 1 January 2023 to 31 December 2023;

e 0,25 during the period from 1 January 2024 to 31 December 2024.

Institutions whose financial year commences after 1 January 2020 but before 1 January 2021 shall adjust the dates in points (a) to (e) of the first subparagraph so that they correspond to their financial year, shall report the adjusted dates to their competent authority and shall publicly disclose them.

Institutions which start to apply accounting standards as referred to in paragraph 1 on or after 1 January 2021 shall apply the relevant factors in accordance with points (b) to (e) of the first subparagraph starting with the factor corresponding to the year of the first application of those accounting standards.]

7 Where an institution includes in its Common Equity Tier 1 capital an amount in accordance with paragraph 1 of this Article, it shall recalculate all requirements [[F821]imposed by or under this Regulation or Directive 2013/36/EU UK law] that use any of the following items by not taking into account the effects that the expected credit loss provisions that it included in its Common Equity Tier 1 capital have on those items:

a the amount of deferred tax assets that is deducted from Common Equity Tier 1 capital in accordance with point (c) of Article 36(1) or risk weighted in accordance with Article 48(4);

b the exposure value as determined in accordance with Article 111(1) whereby the specific credit risk adjustments by which the exposure value shall be reduced shall be multiplied by the following scaling factor (sf):

$$sf = 1 - (AB_{SA}/RA_{SA})$$

where:

AB_{SA}	=	the amount calculated in accordance with point (a) of the second subparagraph of paragraph 1;
RA_{SA}	=	the total amount of specific credit risk adjustments;

c the amount of Tier 2 items calculated in accordance with point (d) of Article 62.

[F820 7a By way of derogation from point (b) of paragraph 7 of this Article, when recalculating the requirements laid down in this Regulation and in Directive 2013/36/EU [F822 UK law], institutions may assign a risk weight of 100 % to the amount AB_{SA} referred to in point (a) of the second subparagraph of paragraph 1 of this Article. For the purposes of calculating the total exposure measure referred to in Article 429(4) of this Regulation, institutions shall add the amounts AB_{SA} and AB_{IRB} referred to in points (a) and (b) of the second subparagraph of paragraph 1 of this Article to the total exposure measure.

Institutions may choose only once whether to use the calculation set out in point (b) of paragraph 7 or the calculation set out in the first subparagraph of this paragraph. Institutions shall disclose their decision.]

[F233 8 During the periods set out in paragraphs 6 and 6a of this Article, in addition to disclosing the information required in [F823 the Disclosure (CRR) Part of the PRA Rulebook], institutions that have decided to apply the transitional arrangements set out in this Article shall report to competent authorities and shall disclose the amounts of own funds, Common Equity Tier 1 capital and Tier 1 capital, the Common Equity Tier 1 capital ratio, the Tier 1 capital ratio, the total capital ratio and the leverage ratio they would have in case they were not to apply this Article.]

[F233 9 An institution shall decide whether to apply the arrangements set out in this Article during the transitional period and shall inform the competent authority of its decision by 1 February 2018 . Where an institution has received the prior permission of the competent authority, it may reverse its decision during the transitional period. Institutions shall publicly disclose any decision taken in accordance with this subparagraph.

An institution that has decided to apply the transitional arrangements set out in this Article may decide not to apply paragraph 4 in which case it shall inform the competent authority of its decision by 1 February 2018 . In such a case, the institution shall set $A_{4,SA}$, $A_{4,IRB}$, A_{SA}^{old} , A_{IRB}^{old} , t_2 and t_3 referred to in paragraph 1 as equal to zero. Where an institution has received the prior permission of the competent authority, it may reverse its decision during the transitional period. Institutions shall publicly disclose any decision taken in accordance with this subparagraph.]

[F820 An institution that has decided to apply the transitional arrangements set out in this Article may decide not to apply paragraph 2 in which case it shall inform the competent authority of its decision without delay. In such a case, the institution shall set $A_{2,SA}$, $A_{2,IRB}$ and t_1 referred to in paragraph 1 as equal to zero. An institution may reverse its decision during the transitional period provided it has received the prior permission of the competent authority.

F824 ...]

F825 10 . . . .]

Textual Amendments

F233 Substituted by Regulation (EU) 2020/873 of the European Parliament and of the Council of 24 June 2020 amending Regulations (EU) No 575/2013 and (EU) 2019/876 as regards certain adjustments in response to the COVID-19 pandemic (Text with EEA relevance).

F817 Inserted by Regulation (EU) 2017/2395 of the European Parliament and of the Council of 12 December 2017 amending Regulation (EU) No 575/2013 as regards transitional arrangements for mitigating the impact of the introduction of IFRS 9 on own funds and for the large exposures treatment of certain public sector exposures denominated in the domestic currency of any Member State (Text with EEA relevance).

F818 Words in Art. 473a(1) substituted (31.12.2020) by The Financial Services (Miscellaneous) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/710), regs. 1(3), **27(10)**; 2020 c. 1, Sch. 5 para. 1(1)

F819 Words in Art. 473a(1)(c) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **206(2)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F820 Inserted by Regulation (EU) 2020/873 of the European Parliament and of the Council of 24 June 2020 amending Regulations (EU) No 575/2013 and (EU) 2019/876 as regards certain adjustments in response to the COVID-19 pandemic (Text with EEA relevance).

F821 Words in Art. 473a(7) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **206(3)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F822 Words in Art. 473a(7a) inserted (31.12.2020) by The Securities Financing Transactions, Securitisation and Miscellaneous Amendments (EU Exit) Regulations 2020 (S.I. 2020/1385), regs. 1(3), **74(7)(a)**

F823 Words in Art. 473a(8) substituted (1.1.2022) by The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/1376), regs. 1(3), **25(49)**

F824 Words in Art. 473a(9) omitted (31.12.2020) by virtue of The Securities Financing Transactions, Securitisation and Miscellaneous Amendments (EU Exit) Regulations 2020 (S.I. 2020/1385), regs. 1(3), **74(7)(b)**

F825 Art. 473a(10) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **206(4)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Sub-Section 2

Deductions from Additional Tier 1 items

Article 474

Deductions from Additional Tier 1 items

By way of derogation from Article 56, during the period from 1 January 2014 to 31 December 2017, the following shall apply:

(a) institutions shall deduct from Additional Tier 1 items the applicable percentage specified in Article 478 of the amounts required to be deducted pursuant to Article 56;

(b) institutions shall apply the requirements laid down in Article 475 to the residual amounts of the items required to be deducted pursuant to Article 56.

[F826] Article 475

Items not deducted from Additional Tier 1 items

Textual Amendments

F826 Art. 475 omitted (1.1.2022) by virtue of The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/1376), regs. 1(3), **25(50)**

Sub-Section 3

Deductions from Tier 2 items

Article 476

Deductions from Tier 2 items

By way of derogation from Article 66, during the period from 1 January 2014 to 31 December 2017, the following shall apply:

(a) institutions shall deduct from Tier 2 items the applicable percentage specified in Article 478 of the amounts required to be deducted pursuant to Article 66;

(b) institutions shall apply the requirements laid down in Article 477 to the residual amounts required to be deducted pursuant to Article 66.

[F827] Article 477

Deductions from Tier 2 items

Textual Amendments

F827 Art. 477 omitted (1.1.2022) by virtue of The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/1376), regs. 1(3), **25(51)**

Sub-Section 4

Applicable percentages for deduction

[F828] Article 478

Applicable percentages for deduction from Common Equity Tier 1, Additional Tier 1 and Tier 2 items

Textual Amendments

F828 Art. 478 omitted (1.1.2022) by virtue of The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/1376), regs. 1(3), **25(52)**

Section 4

minority interest and additional Tier 1 and Tier 2 instruments issued by subsidiaries

Article 479

Recognition in consolidated Common Equity Tier 1 capital of instruments and items that do not qualify as minority interests

1 By way of derogation from Title II of Part Two, during the period from 1 January 2014 to 31 December 2017, recognition in consolidated own funds of the items that would qualify as consolidated reserves in accordance with national transposition measures for Article 65 of Directive 2006/48/EC that do not qualify as consolidated Common Equity Tier 1 capital for any of the following reasons shall be determined by the competent authorities in accordance with paragraphs 2 and 3 of this Article:

a the instrument does not qualify as a Common Equity Tier 1 instrument, and the related retained earnings and share premium accounts consequently do not qualify as consolidated Common Equity Tier 1 items;

b the items do not qualify as a result of Article 81(2);

c the items do not qualify because the subsidiary is not an institution or an entity that is subject by virtue of applicable national law to the requirements of this Regulation and Directive 2013/36/EU;

d the items do not qualify because the subsidiary is not included fully in the consolidation pursuant to Chapter 2 of Title II of Part One.

2 The applicable percentage of the items referred to in paragraph 1 that would have qualified as consolidated reserves in accordance with the national transposition measures for Article 65 of Directive 2006/48/EC shall qualify as consolidated Common Equity Tier 1 capital.

3 For the purposes of paragraph 2, the applicable percentages shall fall within the following ranges:

a 0 % to 80 % for the period from 1 January 2014 to 31 December 2014;

b 0 % to 60 % for the period from 1 January 2015 to 31 December 2015;

c 0 % to 40 % for the period from 1 January 2016 to 31 December 2016;

d 0 % to 20 % for the period from 1 January 2017 to 31 December 2017.

4 Competent authorities shall determine and publish the applicable percentage in the ranges specified in paragraph 3.

Article 480

Recognition in consolidated own funds of minority interests and qualifying Additional Tier 1 and Tier 2 capital

1 By way of derogation from point (b) of Article 84(1), point (b) of Article 85(1) and point (b) of Article 87(1), during the period from 1 January 2014 to 31 December 2017, the percentages referred to in those Articles shall be multiplied by an applicable factor.

2 For the purposes of paragraph 1, the applicable factor shall fall within the following ranges:

a 0,2 to 1 in the period from 1 January 2014 to 31 December 2014;

b 0,4 to 1 in the period from 1 January 2015 to 31 December 2015;

c 0,6 to 1 in the period from 1 January 2016 to 31 December 2016; and

d 0,8 to 1 in the period from 1 January 2017 to 31 December 2017.

3 Competent authorities shall determine and publish the value of the applicable factor in the ranges specified in paragraph 2.

Section 5

Additional filters and deductions

[F829] *Article 481*

Additional filters and deductions

Textual Amendments

F829 Art. 481 omitted (1.1.2022) by virtue of The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/1376), regs. 1(3), **25(53)**

Article 482

Scope of application for derivatives transactions with pension funds

In respect of those transactions referred to in Article 89 of Regulation (EU) No 648/2012 and entered into with a pension scheme arrangement as defined in Article 2 of that Regulation, institutions shall not calculate own funds requirements for CVA risk as provided for in Article 382(4)(c) of this Regulation.

CHAPTER 2

Grandfathering of capital instruments

Section 1

Instruments constituting State aid

Article 483

Grandfathering of State aid instruments

1 By way of derogation from Articles 26 to 29, 51, 52, 62 and 63, during the period from 1 January 2014 to 31 December 2017 this Article applies to capital instruments and items where the following conditions are met:

a the instruments were issued prior to 1 January 2014 ;
b the instruments were issued within the context of recapitalisation measures pursuant to [F830European Union] State aid rules. Insofar as part of the instruments are privately subscribed, they must be issued prior to 30 June 2012 and in conjunction with those parts that are subscribed by the Member State [F831or the United Kingdom];
c the instruments were considered compatible with the internal market by the [F832European] Commission under Article 107 TFEU.

Where the instruments are subscribed by both the Member State [F833or the United Kingdom] and private investors and there is a partial redemption of the instruments subscribed by the Member State [F833or the United Kingdom], a corresponding share of the privately subscribed part of the instruments shall be grandfathered in accordance with Article 484. When all the instruments subscribed by the Member State [F833or the United Kingdom] have been redeemed, the remaining instruments subscribed by private investors shall be grandfathered in accordance with Article 484.

2 Instruments that qualified in accordance with the national transposition measures for point (a) of Article 57 of Directive 2006/48/EC shall qualify as Common Equity Tier 1 instruments notwithstanding either of the following:

a the conditions laid down in Article 28 of this Regulation are not met;
b the instruments were issued by an undertaking referred to in Article 27 of this Regulation and the conditions laid down in Article 28 of this Regulation or, where applicable, Article 29 of this Regulation are not met.

3 Instruments referred to in point (c) of paragraph 1 of this Article that do not qualify under national transposition measures for point (a) of Article 57 of Directive 2006/48/EC shall qualify as Common Equity Tier 1 instruments notwithstanding the fact that the requirements of point (a) or (b) of paragraph 2 of this Article are not met, provided that the requirements of paragraph 8 of this Article are met.

Instruments that qualify as Common Equity Tier 1 pursuant to the first subparagraph shall not qualify as Additional Tier 1 instruments or Tier 2 instruments under paragraph 5 or 7.

4 Instruments that qualified in accordance with the national transposition measures for point (ca) of Article 57 and for Article 66(1) of Directive 2006/48/EC shall qualify as

Additional Tier 1 instruments notwithstanding that the conditions laid down in Article 52(1) of this Regulation are not met.

5 Instruments referred to in point (c) of paragraph 1 of this Article that do not qualify under the national transposition measures for point (ca) of Article 57 of Directive 2006/48/EC shall qualify as Additional Tier 1 instruments notwithstanding that the conditions laid down in Article 52(1) of this Regulation are not met, provided that the requirements of paragraph 8 of this Article are met.

Instruments that qualify as Additional Tier 1 instruments pursuant to the first subparagraph shall not qualify as Common Equity Tier 1 instruments or Tier 2 instruments under paragraph 3 or 7.

6 Items that qualified in accordance with national transposition measures for points (f), (g) or (h) of Article 57 and for Article 66(1) of Directive 2006/48/EC shall qualify as Tier 2 instruments notwithstanding that the items are not referred to in Article 62 of this Regulation or that the conditions laid down in Article 63 of this Regulation are not met.

7 Instruments referred to in point (c) of paragraph 1 of this Article that do not qualify under the national transposition measures for point (f), (g) or (h) of Article 57 and for Article 66(1) of Directive 2006/48/EC shall qualify as Tier 2 instruments notwithstanding that the items are not referred to in Article 62 of this Regulation or that the conditions laid down in Article 63 of this Regulation are not met, provided that the conditions in paragraph 8 of this Article are met.

Instruments that qualify as Tier 2 instruments pursuant to the first subparagraph shall not qualify as Common Equity Tier 1 instruments or Additional Tier 1 instruments under paragraph 3 or 5.

8 Instruments referred to paragraphs 3, 5 and 7 may qualify as own funds instruments referred to in those paragraphs only where the condition in point (a) of paragraph 1 is met and where they are issued by institutions that are incorporated in a Member State that is subject to an Economic Adjustment Programme, and the issuance of those instruments is agreed or eligible under that programme.

Textual Amendments

F830 Words in Art. 483(1)(b) inserted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **207(a)(i)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F831 Words in Art. 483(1)(b) inserted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **207(a)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F832 Word in Art. 483(1)(c) inserted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **207(c)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F833 Words in Art. 483(1) inserted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **207(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Section 2

Instruments not constituting State aid

Sub-Section 1

Grandfathering eligibility and limits

Article 484

Eligibility for grandfathering of items that qualified as own funds under national transposition measures for Directive 2006/48/EC

1 This Article shall apply only to instruments and items that were issued on or prior to 31 December 2011 and that were eligible as own funds on 31 December 2011 and are not those referred to in Article 483(1).

2 By way of derogation from Articles 26 to 29, 51, 52, 62 and 63, this Article shall apply from 1 January 2014 to 31 December 2021 .

3 Subject to Article 485 of this Regulation and to the limit specified in Article 486(2) thereof, **[**[F834]capital, which for these purposes comprises all amounts, regardless of their actual designations, which, in accordance with the legal structure of the institution concerned, are regarded under the applicable law of the United Kingdom, or any part of it, or of a third country, as equity capital subscribed by the shareholders or other proprietors**]**, and the related share premium accounts, that qualified as original own funds under the national transposition measures for point (a) of Article 57 of Directive 2006/48/EC shall qualify as Common Equity Tier 1 items notwithstanding that the conditions laid down in Article 28 or, where applicable, Article 29 of this Regulation are not met.

4 Subject to the limit specified Article 486(3) of this Regulation, instruments, and the related share premium accounts, that qualified as original own funds under national transposition measures for point (ca) of Article 57 and Article 154(8) and (9) of Directive 2006/48/EC shall qualify as Additional Tier 1 items, notwithstanding that the conditions laid down in Article 52 of this Regulation are not met.

5 Subject to the limits specified in Article 486(4) of this Regulation, items, and the related share premium accounts, that qualified under national transposition measures for points (e), (f), (g) or (h) of Article 57 of Directive 2006/48/EC shall qualify as Tier 2 items, notwithstanding that those items are not included in Article 62 of this Regulation or that the conditions laid down in Article 63 of this Regulation are not met.

Textual Amendments

F834 Words in Art. 484(3) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **208** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 485

Eligibility for inclusion in the Common Equity Tier 1 of share premium accounts related to items that qualified as own funds under national transposition measures for Directive 2006/48/EC

1 This Article shall apply only to instruments that were issued prior to 31 December 2010 and are not those referred to in Article 483(1).

2 Share premium accounts related to **[**[F835]capital, which for these purposes comprises all amounts, regardless of their actual designations, which, in accordance with the legal structure of the institution concerned, are regarded under the applicable law of the United Kingdom, or any part of it, or of a third country, as equity capital subscribed by the shareholders or other proprietors**]** that qualified as original own funds under the national transposition measures for point (a) of Article 57 of Directive 2006/48/EC shall qualify as Common Equity Tier 1 items if they meet the conditions laid down in points (i) and (j) of Article 28 of this Regulation.

Textual Amendments

F835 Words in Art. 485(2) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **209** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 486

Limits for grandfathering of items within Common Equity Tier 1, Additional Tier 1 and Tier 2 items

1 From 1 January 2014 to 31 December 2021, the extent to which instruments and items referred to in Article 484 shall qualify as own funds shall be limited in accordance with this Article.

2 The amount of items referred to in Article 484(3) that shall qualify as Common Equity Tier 1 items is limited to the applicable percentage of the sum of the amounts specified in points (a) and (b) of this paragraph:

- a the nominal amount of capital referred to in Article 484(3) that were in issue on 31 December 2012;
- b the share premium accounts related to the items referred to in point (a).

3 The amount of items referred to in Article 484(4) that shall qualify as Additional Tier 1 items is limited to the applicable percentage multiplied by the result of subtracting from the sum of the amounts specified in points (a) and (b) of this paragraph the sum of the amounts specified in points (c) to (f) of this paragraph:

- a the nominal amount of instruments referred to in Article 484(4), that remained in issue on 31 December 2012;
- b the share premium accounts related to the instruments referred to in point (a);
- c the amount of instruments referred to in Article 484(4) which on 31 December 2012 exceeded the limits specified in the national transposition measures for point (a) of Article 66(1) and Article 66(1a) of Directive 2006/48/EC;
- d the share premium accounts related to the instruments referred to in point (c);

- e the nominal amount of instruments referred to Article 484(4) that were in issue on 31 December 2012 but do not qualify as Additional Tier 1 instruments pursuant to Article 489(4);
- f the share premium accounts related to the instruments referred to in point (e).

4 The amount of items referred to in Article 484(5) that shall qualify as Tier 2 items is limited to the applicable percentage of the result of subtracting from the sum of the amounts specified in points (a) to (d) of this paragraph the sum of amounts specified in points (e) to (h) of this paragraph:

- a the nominal amount of instruments referred to in Article 484(5) that remained in issue on 31 December 2012;
- b the share premium accounts related to the instruments referred to in point (a);
- c the nominal amount of subordinated loan capital that remained in issue on 31 December 2012, reduced by the amount required pursuant to national transposition measures for point (c) of Article 64(3) of Directive 2006/48/EC;
- d the nominal amount of items referred to in Article 484(5), other than the instruments and subordinated loan capital referred to in points (a) and (c) of this paragraph, that were in issue on 31 December 2012;
- e the nominal amount of instruments and items referred to in Article 484(5) that were in issue on 31 December 2012 that exceeded the limits specified in the national transposition measures for point (a) of Article 66(1) of Directive 2006/48/EC;
- f the share premium accounts related to the instruments referred to in point (e);
- g the nominal amount of instruments referred to in Article 484(5) that were in issue on 31 December 2012 that do not qualify as Tier 2 items pursuant to Article 490(4);
- h the share premium accounts related to the instruments referred to in point (g).

5 For the purposes of this Article, the applicable percentages referred to in paragraphs 2 to 4 shall fall within the following ranges:

- a 60 % to 80 % during the period from 1 January 2014 to 31 December 2014;
- b 40 % to 70 % during the period from 1 January 2015 to 31 December 2015;
- c 20 % to 60 % during the period from 1 January 2016 to 31 December 2016;
- d 0 % to 50 % during the period from 1 January 2017 to 31 December 2017;
- e 0 % to 40 % during the period from 1 January 2018 to 31 December 2018;
- f 0 % to 30 % during the period from 1 January 2019 to 31 December 2019;
- g 0 % to 20 % during the period from 1 January 2020 to 31 December 2020;
- h 0 % to 10 % during the period from 1 January 2021 to 31 December 2021.

6 Competent authorities shall determine and publish the applicable percentages in the ranges specified in paragraph 5.

Article 487

Items excluded from grandfathering in Common Equity Tier 1 or Additional Tier 1 items in other elements of own funds

1 From 1 January 2014 to 31 December 2021 , institutions may, by way of derogation from Articles 51, 52, 62 and 63, treat as items referred to in Article 484(4), capital, and the related share premium accounts, referred to in Article 484(3) that are excluded from Common Equity Tier 1 items because they exceed the applicable percentage specified in Article 486(2),

to the extent that the inclusion of that capital and the related share premium accounts, does not exceed the applicable percentage limit referred to in Article 486(3).

2 From 1 January 2014 to 31 December 2021 , institutions may, by way of derogation from Articles 51, 52, 62 and 63, treat the following as items referred to in Article 484(5), to the extent that their inclusion does not exceed the applicable percentage limit referred to in Article 486(4):

- a capital, and the related share premium accounts, referred to in Article 484(3) that are excluded from Common Equity Tier 1 items because they exceed the applicable percentage specified in Article 486(2);
- b instruments, and the related share premium accounts, referred to in Article 484(4) that exceed the applicable percentage referred to in Article 486(3).

3 **[**[F836]The **[**[F837]PRA may**]** make technical standards**]** to specify the conditions for treating own funds instruments referred to in paragraphs 1 and 2 as falling under Article 486(4) or (5) during the period from 1 January 2014 to 31 December 2021.

F838 ...

Textual Amendments

F836 Words in Art. 487(3) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **222(1)(a)**(2) (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F837 Words in Art. 487(3) substituted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 47**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F838 Words in Art. 487(3) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **222(1)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 488

Amortisation of items grandfathered as Tier 2 items

The items referred to in Article 484(5) that qualify as Tier 2 items referred to in Article 484(5) or Article 486(4) shall be subject to the requirements laid down in Article 64.

Sub-Section 2

Inclusion of instruments with a call and incentive to redeem in additional Tier 1 and Tier 2 items

Article 489

Hybrid instruments with a call and incentive to redeem

1 From 1 January 2014 to 31 December 2021, instruments referred to in Article 484(4) that include in their terms and conditions a call with an incentive for them to be redeemed by the institution shall, by way of derogation from Articles 51 and 52, be subject to this Article.

2 The instruments shall qualify as Additional Tier 1 instruments provided that the following conditions are met:

- a the institution was able to exercise a call with an incentive to redeem only prior to 1 January 2013;
- b the institution did not exercise the call;
- c the conditions laid down in Article 52 are met from 1 January 2013.

3 The instruments shall qualify as Additional Tier 1 instruments with their recognition reduced in accordance with Article 484(4) until the date of their effective maturity and thereafter shall qualify as Additional Tier 1 items without limit provided that:

- a the institution was able to exercise a call with an incentive to redeem only on or after 1 January 2013;
- b the institution did not exercise the call on the date of the effective maturity of the instruments;
- c the conditions laid down in Article 52 are met from the date of the effective maturity of the instruments.

4 The instruments shall not qualify as Additional Tier 1 instruments, and shall not be subject to Article 484(4), from 1 January 2014 where the following conditions are met:

- a the institution was able to exercise a call with an incentive to redeem between 31 December 2011 and 1 January 2013;
- b the institution did not exercise the call on the date of the effective maturity of the instruments;
- c the conditions laid down in Article 52 are not met from the date of the effective maturity of the instruments.

5 The instruments shall qualify as Additional Tier 1 instruments with their recognition reduced in accordance with Article 484(4) until the date of their effective maturity, and shall not qualify as Additional Tier 1 instruments thereafter, where the following conditions are met:

- a the institution was able to exercise a call with an incentive to redeem on or after 1 January 2013;
- b the institution did not exercise the call on the date of the effective maturity of the instruments;
- c the conditions laid down in Article 52 are not met from the date of the effective maturity of the instruments.

6 The instruments shall qualify as Additional Tier 1 instruments in accordance with Article 484(4) where the following conditions are met:

- a the institution was able to exercise a call with an incentive to redeem only prior to or on 31 December 2011;
- b the institution did not exercise the call on the date of the effective maturity of the instruments;
- c the conditions laid down in Article 52 were not met from the date of the effective maturity of the instruments.

Article 490

Tier 2 items with an incentive to redeem

1 By way of derogation from Articles 62 and 63, during the period from 1 January 2014 to 31 December 2021, items referred to in Article 484(5) that qualified under the national

transposition measures for point (f) or (h) of Article 57 of Directive 2006/48/EC and include in their terms and conditions a call with an incentive for them to be redeemed by the institution shall be subject to this Article.

2 The items shall qualify as Tier 2 instruments provided that:

a the institution was able to exercise a call with an incentive to redeem only prior to 1 January 2013;

b the institution did not exercise the call;

c from 1 January 2013 the conditions laid down in Article 63 are met.

3 The items shall qualify as Tier 2 items in accordance with Article 484(5) until the date of their effective maturity, and shall qualify thereafter as Tier 2 items without limit, provided that the following conditions are met:

a the institution was able to exercise a call with an incentive to redeem only on or after 1 January 2013;

b the institution did not exercise the call on the date of the effective maturity of the items;

c the conditions laid down in Article 63 are met from the date of the effective maturity of the items.

4 The items shall not qualify as Tier 2 items from 1 January 2014 where the following conditions are met:

a the institution was able to exercise a call with an incentive to redeem only between 31 December 2011 and 1 January 2013;

b the institution did not exercise the call on the date of the effective maturity of the items;

c the conditions laid down in Article 63 are not met from the date of the effective maturity of the items.

5 The items shall qualify as Tier 2 items with their recognition reduced in accordance with Article 484(5) until the date of their effective maturity, and shall not qualify as Tier 2 items thereafter, where:

a the institution was able to exercise a call with an incentive to redeem on or after 1 January 2013;

b the institution did not exercise the call on the date of their effective maturity;

c the conditions set out in Article 63 are not met from the date of effective maturity of the items.

6 The items shall qualify as Tier 2 items in accordance with Article 484(5) where:

a the institution was able to exercise a call with an incentive to redeem only prior to or on 31 December 2011;

b the institution did not exercise the call on the date of the effective maturity of the items;

c the conditions laid down in Article 63 are not met from the date of the effective maturity of the items.

Article 491

Effective maturity

For the purposes of Articles 489 and 490, effective maturity shall be determined as follows:

(a) for the items referred to in paragraphs 3 and 5 of those Articles, the date of the first call with an incentive to redeem occurring on or after 1 January 2013;

(b) for the items referred to in paragraph 4 of those Articles, the date of the first call with an incentive to redeem occurring between 31 December 2011 and 1 January 2013;

(c) for the items referred to in paragraph 6 of those Articles, the date of the first call with an incentive to redeem prior to 31 December 2011.

CHAPTER 3

Transitional provisions for disclosure of own funds

[F839] *Article 492*

Disclosure of own funds

. . . .

Textual Amendments

F839 Art. 492 omitted (1.1.2022) by virtue of The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **12(3)**

CHAPTER 4

Large exposures, own funds requirements, leverage and the Basel I Floor

[F840] *Article 493*

Transitional provisions for large exposures

. . . .

Textual Amendments

F840 Art. 493 omitted (1.1.2022) by virtue of The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **12(4)**

[[F1] *Article 494*

Transitional provisions concerning the requirement for own funds and eligible liabilities

1 By way of derogation from Article 92a, as from 27 June 2019 until 31 December 2021, institutions identified as resolution entities that are G-SIIs or part of a G-SII shall at all times satisfy the following requirements for own funds and eligible liabilities:

a a risk-based ratio of 16 %, representing the own funds and eligible liabilities of the institution expressed as a percentage of the total risk exposure amount calculated in accordance with Article 92(3) and (4);

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

2 By way of derogation from Article 72b(3), as from 27 June 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 Article 92(3) and (4).

3 By way of derogation from Article 72b(3), until the resolution authority assesses for the first time the compliance with the condition set out in point (c) of that paragraph, liabilities shall qualify as eligible liabilities instruments up to an aggregate amount that does not exceed, until 31 December 2021, 2,5 % and, after that date, 3,5 % of the total risk exposure amount calculated in accordance with Article 92(3) and (4), provided that they meet the conditions set out in points (a) and (b) of Article 72b(3).**]**

Textual Amendments

F1 Substituted by Regulation (EU) 2019/876 of the European Parliament and of the Council of 20 May 2019 amending Regulation (EU) No 575/2013 as regards the leverage ratio, the net stable funding ratio, requirements for own funds and eligible liabilities, counterparty credit risk, market risk, exposures to central counterparties, exposures to collective investment undertakings, large exposures, reporting and disclosure requirements, and Regulation (EU) No 648/2012 (Text with EEA relevance).

[F64 Article 494a

Grandfathering of issuances through special purpose entities

1 By way of derogation from Article 52, capital instruments not issued directly by an institution shall qualify as Additional Tier 1 instruments until 31 December 2021 only where all the following conditions are met:

a the conditions set out in Article 52(1), except for the condition requiring that the instruments are directly issued by the institution;

b the instruments are issued through an entity within the consolidation pursuant to Chapter 2 of Title II of Part One;

c the proceeds are immediately available to the institution without limitation and in a form that satisfies the conditions set out in this paragraph.

2 By way of derogation from Article 63, capital instruments not issued directly by an institution shall qualify as Tier 2 instruments until 31 December 2021 only where all the following conditions are met:

a the conditions set out in Article 63(1), except for the condition requiring that the instruments are directly issued by the institution;

b the instruments are issued through an entity within the consolidation pursuant to Chapter 2 of Title II of Part One;

c the proceeds are immediately available to the institution without limitation and in a form that satisfies the conditions set out in this paragraph.

Textual Amendments

F64 Inserted by Regulation (EU) 2019/876 of the European Parliament and of the Council of 20 May 2019 amending Regulation (EU) No 575/2013 as regards the leverage ratio, the net stable funding ratio, requirements for own funds and eligible liabilities, counterparty credit risk, market risk, exposures to central counterparties, exposures to collective investment undertakings, large exposures, reporting and disclosure requirements, and Regulation (EU) No 648/2012 (Text with EEA relevance).

Article 494b

Grandfathering of own funds instruments and eligible liabilities instruments

1 By way of derogation from Articles 51 and 52, instruments issued prior to 27 June 2019 shall qualify as Additional Tier 1 instruments at the latest until 28 June 2025, where they meet the conditions set out in Articles 51 and 52, except for the conditions referred to in points (p), (q) and (r) of Article 52(1).

2 By way of derogation from Articles 62 and 63, instruments issued prior to 27 June 2019 shall qualify as Tier 2 instruments at the latest until 28 June 2025, where they meet the conditions set out in Articles 62 and 63, except for the conditions referred to in points (n), (o) and (p) of Article 63.

3 By way of derogation from point (a) of Article 72a(1), liabilities issued prior to 27 June 2019 shall qualify as eligible liabilities items where they meet the conditions set out in Article 72b, except for the conditions referred to in point (b)(ii) and points (f) to (m) of Article 72b(2).**]**

Textual Amendments

F64 Inserted by Regulation (EU) 2019/876 of the European Parliament and of the Council of 20 May 2019 amending Regulation (EU) No 575/2013 as regards the leverage ratio, the net stable funding ratio, requirements for own funds and eligible liabilities, counterparty credit risk, market risk, exposures to central counterparties, exposures to collective investment undertakings, large exposures, reporting and disclosure requirements, and Regulation (EU) No 648/2012 (Text with EEA relevance).

F841 *Article 495*

Treatment of equity exposures under the IRB Approach

. . . .

Textual Amendments

F841 Art. 495 omitted (1.1.2022) by virtue of The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/1376), regs. 1(3), **25(54)**

Article 496

Own funds requirements for covered bonds

1 [F842Competent authorities may waive in full or in part the 10 % limit for senior units issued by French Fonds Communs de Créances or by securitisation entities which are equivalent to French Fonds Communs de Créances laid down in points (d) and (f) of Article 129(1), provided that both of the following conditions are fulfilled:]

a the securitised residential property or commercial immovable property exposures were originated by a member of the same consolidated group of which the issuer of the covered bonds is a member, or by an entity affiliated to the same central body to which the issuer of the covered bonds is affiliated, where that common group membership or affiliation shall be determined at the time the senior units are made collateral for covered bonds;

b a member of the same consolidated group of which the issuer of the covered bonds is a member, or an entity affiliated to the same central body to which the issuer of the covered bonds is affiliated, retains the whole first loss tranche supporting those senior units.

2 Until 31 December 2014, for the purposes of point (c) of Article 129(1), the senior unsecured exposures of institutions which qualified for a 20 % risk weight under national law before 28 June 2013 shall be considered to qualify for credit quality step 1.

3 Until 31 December 2014, for the purposes of Article 129(5), the senior unsecured exposures of institutions which qualified for a 20 % risk weight under national law before 28 June 2013shall be considered to qualify for a 20 % risk weight.

Textual Amendments

F842 Substituted by Commission Delegated Regulation (EU) 2017/2188 of 11 August 2017 amending Regulation (EU) No 575/2013 of the European Parliament and of the Council as regards the waiver on own funds requirements for certain covered bonds (Text with EEA relevance).

[F1 Article 497

Own funds requirements for exposures to CCPs

1 Where a third-country CCP applies for recognition in accordance with Article 25 of Regulation (EU) No 648/2012, institutions may consider that CCP as a QCCP from the date on which it submitted its application for recognition to [F843the Bank] and until one of the following dates:

a where the [F844Treasury have made regulations under] Article 25(6) of Regulation (EU) No 648/2012 in relation to the third country in which the CCP is established and that implementing act has entered into force, two years after the date of submission of the application;

b where the [F845Treasury have not yet made regulations under] Article 25(6) of Regulation (EU) No 648/2012 in relation to the third country in which the CCP is established or where that implementing act has not yet entered into force, the earlier of the following dates:

(i) two years after the date of entry into force of the **[**[F846]regulations**]**;

(ii) for CCPs that submitted the application after 27 June 2019 , two years after the date of submission of the application;

(iii) for those CCPs that submitted the application before 27 June 2019 , 28 June 2021.

2 Until the expiration of the deadline referred to in paragraph 1 of this Article, where a CCP referred to in that paragraph does not have a default fund and does not have in place a binding arrangement with its clearing members that allows it to use all or part of the initial margin received from its clearing members as if they were pre-funded contributions, the institution shall substitute the formula for calculating the own funds requirement in Article 308(2) with the following one:

$$K_{CM_i} = \max\left\{K_{CCP} \times \frac{IM_i}{DF_{CCP} + IM}; 8\,\% \times 2\,\% \times IM_i\right\}$$

where:

K_{CM_i}	=	the own funds requirement;
K_{CCP}	=	the hypothetical capital of the QCCP communicated to the institution by the QCCP in accordance with Article 50c of Regulation (EU) No 648/2012;
DF_{CCP}	=	the pre-funded financial resources of the CCP communicated to the institution by the CCP in accordance with Article 50c of Regulation (EU) No 648/2012;
i	=	the index denoting the clearing member;
IM_i	=	the initial margin posted with the CCP by clearing member i; and
IM	=	the total amount of initial margin communicated to the institution by the CCP in accordance with Article 89(5a) of Regulation (EU) No 648/2012.

3 In exceptional circumstances, where it is necessary and proportionate in order to avoid disruption to international financial markets, the **[**[F847]Treasury may by regulations**]** extend **[**[F848]by 12 months on each occasion**]** the transitional provisions set out in paragraph 1 of this Article.**]**

Textual Amendments

F1 Substituted by Regulation (EU) 2019/876 of the European Parliament and of the Council of 20 May 2019 amending Regulation (EU) No 575/2013 as regards the leverage ratio, the net stable funding ratio, requirements for own funds and eligible liabilities, counterparty credit risk, market risk, exposures to central counterparties, exposures to collective investment undertakings, large exposures, reporting and disclosure requirements, and Regulation (EU) No 648/2012 (Text with EEA relevance).

F843 Words in Art. 497(1) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **77(2)(a)**; 2020 c. 1, Sch. 5 para. 1(1)

F844 Words in Art. 497(1)(a) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **77(2)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

F845 Words in Art. 497(1)(b) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **77(2)(c)(i)**; 2020 c. 1, Sch. 5 para. 1(1)

F846 Word in Art. 497(1)(b)(i) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **77(2)(c)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)

F847 Words in Art. 497(3) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **221(6)(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F848 Words in Art. 497(3) substituted (1.1.2022) by The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **12(5)**

[F849[X4 Article 498

Exemption for Commodities dealers

Until [F8501 January 2022], the provisions on own funds requirements as set out in this Regulation shall not apply to investment firms the main business of which consists exclusively of the provision of investment services or activities in relation to the financial instruments set out in [F851paragraphs 5, 6, 7, 9, 10 and 11 of Part 1 of Schedule 2 to the Regulated Activities Order] and to which Directive 2004/39/EC did not apply on 31 December 2006.]]

Editorial Information

X4 Substituted by Corrigendum to Regulation (EU) 2019/2033 of the European Parliament and of the Council of 27 November 2019 on the prudential requirements of investment firms and amending Regulations (EU) No 1093/2010, (EU) No 575/2013, (EU) No 600/2014 and (EU) No 806/2014 (Official Journal of the European Union L 314 of 5 December 2019).

Textual Amendments

F849 Substituted by Regulation (EU) 2019/2033 of the European Parliament and of the Council of 27 November 2019 on the prudential requirements of investment firms and amending Regulations (EU) No 1093/2010, (EU) No 575/2013, (EU) No 600/2014 and (EU) No 806/2014 (Text with EEA relevance).

F850 Words in Art. 498 substituted (1.6.2021) by The Capital Requirements Regulation (Amendment) (EU Exit) Regulations 2021 (S.I. 2021/558), regs. 1(2), **2(3)(a)**

F851 Words in Art. 498 substituted (1.6.2021) by The Capital Requirements Regulation (Amendment) (EU Exit) Regulations 2021 (S.I. 2021/558), regs. 1(2), **2(3)(b)**

F852 Article 499

Leverage

. . . .

Textual Amendments

F852 Art. 499 omitted (1.1.2022) by The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **12(5A)** (as inserted by S.I. 2021/1376, regs. 1(2), **32(6)**)

[F1 Article 500

Adjustment for massive disposals

1 By way of derogation from point (a) of Article 181(1), an institution may adjust its LGD estimates by partly or fully offsetting the effect of massive disposals of defaulted exposures on realised LGDs up to the difference between the average estimated LGDs for comparable exposures in default that have not been finally liquidated and the average realised LGDs including on the basis of the losses realised due to massive disposals, as soon as all the following conditions are met:

a the institution has notified the **[**F853PRA**]** of a plan providing the scale, composition and the dates of the disposals of defaulted exposures;

b the dates of the disposals of defaulted exposures are after 23 November 2016 but not later than 28 June 2022 ;

c the cumulative amount of defaulted exposures disposed of since the date of the first disposal in accordance with the plan referred to in point (a) has surpassed 20 % of the cumulative amount of all observed defaults as of the date of the first disposal referred to in points (a) and (b).

The adjustment referred to in the first subparagraph may only be carried out until 28 June 2022 and its effects may last for as long as the corresponding exposures are included in the institution's own LGD estimates.

2 Institutions shall notify the **[**F853PRA**]** without delay when the condition set out in point (c) of paragraph 1 has been met.**]**

Textual Amendments

F1 Substituted by Regulation (EU) 2019/876 of the European Parliament and of the Council of 20 May 2019 amending Regulation (EU) No 575/2013 as regards the leverage ratio, the net stable funding ratio, requirements for own funds and eligible liabilities, counterparty credit risk, market risk, exposures to central counterparties, exposures to collective investment undertakings, large exposures, reporting and disclosure requirements, and Regulation (EU) No 648/2012 (Text with EEA relevance).

F853 Word in Art. 500 substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **78**; 2020 c. 1, Sch. 5 para. 1(1)

F854 Article 500a

Temporary treatment of public debt issued in the currency of another Member State

. . . .

Textual Amendments

F854 Art. 500a omitted (31.12.2020) by virtue of The Securities Financing Transactions, Securitisation and Miscellaneous Amendments (EU Exit) Regulations 2020 (S.I. 2020/1385), regs. 1(3), **74(8)**

[F855] Article 500b

Temporary exclusion of certain exposures to central banks from the total exposure measure in view of the COVID-19 pandemic

. . . .

Textual Amendments

F855 Art. 500b omitted (1.1.2022) by The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **12(5A)** (as inserted by S.I. 2021/1376, regs. 1(2), **32(6)**)

[[F820] Article 500c

Exclusion of overshootings from the calculation of the back-testing addend in view of the COVID-19 pandemic

By way of derogation from Article 366(3), competent authorities may, in exceptional circumstances and in individual cases, permit institutions to exclude the overshootings evidenced by the institution's back-testing on hypothetical or actual changes from the calculation of the addend set out in Article 366(3), provided that those overshootings do not result from deficiencies in the internal model and provided that they occurred between 1 January 2020 and 31 December 2021.**]**

Textual Amendments

F820 Inserted by Regulation (EU) 2020/873 of the European Parliament and of the Council of 24 June 2020 amending Regulations (EU) No 575/2013 and (EU) 2019/876 as regards certain adjustments in response to the COVID-19 pandemic (Text with EEA relevance).

[F857] Article 500d

[F856]... Calculation of the exposure value of regular-way purchases and sales awaiting settlement in view of the COVID-19 pandemic

. . . .

Textual Amendments

F856 Word in Art. 500d heading omitted (26.6.2021) by virtue of Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 4 para. 12(2)**; S.I. 2021/671, reg. 3(b)

F857 Art. 500d omitted (1.1.2022) by The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **12(5A)** (as inserted by S.I. 2021/1376, regs. 1(2), **32(6)**)

[F1 *Article 501*

Adjustment of risk-weighted non-defaulted SME exposures

1 Institutions shall adjust the risk-weighted exposure amounts for non-defaulted exposures to an SME (RWEA), which are calculated in accordance with Chapter 2 or 3 of Title II of Part Three [F858of this Regulation and Articles 132a to 132c of Chapter 3 of the Standardised Approach and Internal Ratings Based Approach to Credit Risk (CRR) Part of the PRA Rulebook], as applicable, in accordance with the following formula:

$$\mathrm{RWEA}^{*} = \mathrm{RWEA} \times \frac{\min\left\{E^{*};\ \mathrm{EUR}2500000\right\} \times 0{,}7619 + \max\left\{E^{*} - \mathrm{EUR}\ 2500000;\ 0\right\} \times 0{,}85}{E^{*}}$$

where:

RWEA*	=	the RWEA adjusted by an SME supporting factor; and
E*	=	the total amount owed to the institution, its subsidiaries, its parent undertakings and other subsidiaries of those parent undertakings, including any exposure in default, but excluding claims or contingent claims secured on residential property collateral, by the SME or the group of connected clients of the SME.

2 For the purposes of this Article:

a the exposure to an SME shall be included either in the retail or in the corporates or secured by mortgages on immovable property classes;

[F859b an SME is defined as set out in Article 4(1)(128D) of this Regulation, save that in Article 2 of the Annex to Commission Recommendation 2003/361/EC only the annual turnover shall be taken into account;]

c institutions shall take reasonable steps to correctly determine E* and obtain the information required under point (b).]

Textual Amendments

F1 Substituted by Regulation (EU) 2019/876 of the European Parliament and of the Council of 20 May 2019 amending Regulation (EU) No 575/2013 as regards the leverage ratio, the net stable funding ratio, requirements for own funds and eligible liabilities, counterparty credit risk, market risk, exposures to central counterparties, exposures to collective investment undertakings, large exposures, reporting and disclosure requirements, and Regulation (EU) No 648/2012 (Text with EEA relevance).

F858 Words in Art. 501(1) inserted (1.1.2022) by The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/1376), regs. 1(3), **25(55)**

F859 Art. 501(2)(b) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **213** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

[F64 *Article 501a*

Adjustment to own funds requirements for credit risk for exposures to entities that operate or finance physical structures or facilities, systems and networks that provide or support essential public services

[F64 Own funds requirements for credit risk calculated in accordance with Title II of Part III shall be multiplied by a factor of 0,75, provided that the exposure complies with all the following criteria:

a the exposure is included either in the corporate exposure class or in the specialised lending exposures class, with the exclusion of exposures in default;

b the exposure is to an entity which was created specifically to finance or operate physical structures or facilities, systems and networks that provide or support essential public services;

c the source of repayment of the obligation is represented for not less than two thirds of its amount by the income generated by the assets being financed, rather than the independent capacity of a broader commercial enterprise, or by subsidies, grants or funding provided by one or more of the entities listed in points (b)(i) and (b)(ii) of paragraph 2;

d the obligor can meet its financial obligations even under severely stressed conditions that are relevant for the risk of the project;

e the cash flows that the obligor generates are predictable and cover all future loan repayments during the duration of the loan;

f the re-financing risk of the exposure is low or adequately mitigated, taking into account any subsidies, grants or funding provided by one or more of the entities listed in points (b)(i) and (b)(ii) of paragraph 2;

g the contractual arrangements provide lenders with a high degree of protection including the following:

(i) where the revenues of the obligor are not funded by payments from a large number of users, the contractual arrangements shall include provisions that effectively protect lenders against losses resulting from the termination of the project by the party which agrees to purchase the goods or services provided by the obligor;

(ii) the obligor has sufficient reserve funds fully funded in cash or other financial arrangements with highly rated guarantors to cover the contingency funding and working capital requirements over the lifetime of the assets referred to in point (b) of this paragraph;

(iii) the lenders have a substantial degree of control over the assets and the income generated by the obligor;

(iv) the lenders have the benefit of security to the extent permitted by applicable law in assets and contracts critical to the infrastructure business or have alternative mechanisms in place to secure their position;

(v) equity is pledged to lenders such that they are able to take control of the entity upon default;

(vi) the use of net operating cash flows after mandatory payments from the project for purposes other than servicing debt obligations is restricted;

(vii) there are contractual restrictions on the ability of the obligor to perform activities that may be detrimental to lenders, including the restriction that new debt cannot be issued without the consent of existing debt providers;

h the obligation is senior to all other claims other than statutory claims and claims from derivatives counterparties;

i where the obligor is in the construction phase, the following criteria shall be fulfilled by the equity investor, or where there is more than one equity investor, the following criteria shall be fulfilled by a group of equity investors as a whole:

(i) the equity investors have a history of successfully overseeing infrastructure projects, the financial strength and the relevant expertise;

(ii) the equity investors have a low risk of default, or there is a low risk of material losses for the obligor as a result of their default;

(iii) there are adequate mechanisms in place to align the interest of the equity investors with the interests of lenders;

j the obligor has adequate safeguards to ensure completion of the project according to the agreed specification, budget or completion date; including strong completion guarantees or the involvement of an experienced constructor and adequate contract provisions for liquidated damages;

k where operating risks are material, they are properly managed;

l the obligor uses tested technology and design;

m all necessary permits and authorisations have been obtained;

n the obligor uses derivatives only for risk-mitigation purposes;

o the obligor has carried out an assessment whether the assets being financed contribute to the following environmental objectives:

(i) climate change mitigation;

(ii) climate change adaptation;

(iii) sustainable use and protection of water and marine resources;

(iv) transition to a circular economy, waste prevention and recycling;

(v) pollution prevention and control;

(vi) protection of healthy ecosystems.

2 For the purposes of point (e) of paragraph 1, the cash flows generated shall not be considered predictable unless a substantial part of the revenues satisfies the following conditions:

a one of the following criteria is met:

(i) the revenues are availability-based;

(ii) the revenues are subject to a rate-of-return regulation;

(iii) the revenues are subject to a take-or-pay contract;

(iv) the level of output or the usage and the price shall independently meet one of the following criteria:

— it is regulated,
— it is contractually fixed,

— it is sufficiently predictable as a result of low demand risk;

b where the revenues of the obligor are not funded by payments from a large number of users, the party which agrees to purchase the goods or services provided by the obligor shall be one of the following:

(i) a central bank, a central government, a regional government or a local authority, provided that they are assigned a risk weight of 0 % in accordance with Articles 114 and 115 or are assigned an ECAI rating with a credit quality step of at least 3;

(ii) a public sector entity, provided that it is assigned a risk weight of 20 % or below in accordance with Article 116 or is assigned an ECAI rating with a credit quality step of at least 3;

(iii) a multilateral development bank referred to in Article 117(2);

(iv) an international organisation referred to in Article 118;

(v) a corporate entity which has been assigned an ECAI rating with a credit quality step of at least 3;

(vi) an entity that is replaceable without a significant change in the level and timing of revenues.

3 Institutions shall report to competent authorities every six months on the total amount of exposures to infrastructure project entities calculated in accordance with paragraph 1 of this Article.**]**

4 The Commission shall, by 28 June 2022 report on the impact of the own funds requirements laid down in this Regulation on lending to infrastructure project entities and shall submit that report to the European Parliament and to the Council, together with a legislative proposal, if appropriate.

5 For the purposes of paragraph 4, EBA shall report on the following to the Commission:

a an analysis of the evolution of the trends and conditions in markets for infrastructure lending and project finance over the period referred to in paragraph 4;

b an analysis of the effective riskiness of entities referred to in point (b) of paragraph 1 over a full economic cycle;

c the consistency of own funds requirements laid down in this Regulation with the outcomes of the analysis under points (a) and (b) of this paragraph.**]**

Textual Amendments

F64 Inserted by Regulation (EU) 2019/876 of the European Parliament and of the Council of 20 May 2019 amending Regulation (EU) No 575/2013 as regards the leverage ratio, the net stable funding ratio, requirements for own funds and eligible liabilities, counterparty credit risk, market risk, exposures to central counterparties, exposures to collective investment undertakings, large exposures, reporting and disclosure requirements, and Regulation (EU) No 648/2012 (Text with EEA relevance).

F860 Article 501b

Derogation from reporting requirements

. . . .

Textual Amendments

F860 Art. 501b omitted (1.1.2022) by virtue of The Capital Requirements Regulation (Amendment) Regulations 2021 (S.I. 2021/1078), regs. 1(1), **12(6)**

F861TITLE II

REPORTS AND REVIEWS

Article 501c

Prudential treatment of exposures related to environmental and/or social objectives

F861 . . . .

Article 502

Cyclicality of capital requirements

F861 . . . .

Article 503

Own funds requirements for exposures in the form of covered bonds

F861 . . . .

Article 504

Capital instruments subscribed by public authorities in emergency situations

F861 . . . .

Article 504a

Holdings of eligible liabilities instruments

F861 . . . .

Article 505

Review of long-term financing

F861 . . . .

Article 506

Credit risk — definition of default

F861 . . . .

Article 507

Large exposures

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Level of application

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Article 509

Liquidity requirements

F861 . . . .

Article 510

Net Stable Funding Requirements

F861 . . . .

Article 511

Leverage

F861 . . . .

Article 512

Exposures to transferred credit risk

F861 . . . .

Article 513

Macroprudential rules

F861 . . . .

Article 514

Method for the calculation of the exposure value of derivative transactions

F861 . . . .

Article 515

Monitoring and evaluation

F861 . . . .

Article 516

Long-term financing

F861 . . . .

Article 517

Definition of eligible capital

F861 . . . .

Article 518

Review of capital instruments which may be written down or converted at the point of non-viability

F861 . . . .

Article 518a

Review of cross-default provisions

F861 . . . .

Article 518b

Report on overshootings and supervisory powers to limit distributions

F861 . . . .

Article 519

Deduction of defined benefit pension fund assets from Common Equity Tier 1 items

F861 . . . .

Article 519a

Reporting and review

F861 . . . .

Article 519b

Own funds requirements for market risk

F861 . . . .

Textual Amendments

F861 Pt. 10 Title 2 omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **214** (as amended by S.I. 2019/1232, regs. 1(2), 3(2) and with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

[F64 TITLE IIA

IMPLEMENTATION OF RULES]

F862 *Article 519c*

Compliance tool

. . . .

Textual Amendments

F862 Art. 519c omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **81**; 2020 c. 1, Sch. 5 para. 1(1)

TITLE III

AMENDMENTS

Article 520

Amendment of Regulation (EU) No 648/2012

Regulation (EU) No 648/2012 is amended as follows:

(1) the following Chapter is added in Title IV:

CHAPTER 4

Calculations and reporting for the purposes of Regulation (EU) No 575/2013

Article 50a

Calculation of K_{CCP}

1 For the purposes of Article 308 of 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[24], a CCP shall calculate K_{CCP} as specified in paragraph 2 of this Article for all contracts and transactions it clears for all its clearing members falling within the coverage of the given default fund.

2 A CCP shall calculate the hypothetical capital (K_{CCP}) as follows:

$$K_{CCP} = \sum_i \max\{\mathrm{EBRM}_i - \mathrm{IM}_i - \mathrm{DF}_i; 0\} \times \mathrm{RW} \times \text{captial ratio}$$

where:

EBRM_i	=	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 pre-funded contribution of clearing member i;
RW	=	a risk weight of 20 %;
capital ratio	=	8 %.

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.

3 A CCP shall undertake the calculation required by paragraph 2 at least quarterly or more frequently where required by the competent authorities of those of its clearing members which are institutions.

4 For the purpose of paragraph 3, EBA shall develop draft implementing technical standards to specify the following:

- a the frequency and dates of the calculation laid down in paragraph 2;
- b the situations in which the competent authority of an institution acting as a clearing member may require higher frequencies of calculation and reporting than those referred to in point (a).

EBA shall submit those draft implementing technical standards to the Commission by 1 January 2014.

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

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:

(i) for exposures arising from contracts and transactions listed in Article 301(1)(a) and (d) of Regulation (EU) No 575/2013 it shall calculate them in accordance with the mark-to-market method laid down in Article 274 thereof;

(ii) for exposures arising from contracts and transactions listed in Article 301(1)(b), (c) and (e) of Regulation (EU) No 575/2013 it shall calculate them in accordance with the Financial Collateral Comprehensive Method specified in Article 223 of that Regulation with supervisory volatility adjustments, specified in Articles 223 and 224 of that Regulation. The exception set out in point (a) of Article 285(3) of that Regulation, shall not apply;

(iii) for exposures arising from transactions not listed in Article 301(1) of Regulation (EU) No 575/2013 and which entails settlement risk only it shall calculate them in accordance with Part Three, Title V of that Regulation;

(b) for institutions that fall under the scope of Regulation (EU) No 575/2013 the netting sets are the same as those defined in Part Three, Title II of that Regulation;

(c) when calculating the values referred to in point (a), the CCP shall subtract from its exposures the collateral posted by its clearing members, appropriately reduced by the supervisory volatility adjustments in accordance with the Financial Collateral Comprehensive Method specified in Article 224 of Regulation (EU) No 575/2013;

(e) 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};

(f) 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;

(h) when applying the Mark-to-Market Method as set out in Article 274 of Regulation (EU) No 575/2013, a CCP shall replace the formula in point (c) (ii) of Article 298(1) of that Regulation with the following:

$$PCE_{red} = 0.15 \times PCE_{gross} + 0.85 \times NGR \times PCE_{gross}$$

where the numerator of NGR is calculated in accordance with Article 274(1) of that Regulation and just before the variation margin is actually exchanged at the end of the settlement period, and the denominator is gross replacement cost;

(i) where a CCP cannot calculate the value of NGR as set out in point (c)(ii) of Article 298(1) of Regulation (EU) No 575/2013, it shall:

(i) notify those of its clearing members which are institutions and their competent authorities about its inability to calculate NGR and the reasons why it is unable to carry out the calculation;

(ii) for a period of three months, it may use a value of NGR of 0,3 to perform the calculation of PCE_{red} specified in point (h) of this Article;

(j) where, at the end of the period specified in point (ii) of point (i), the CCP would still be unable to calculate the value of NGR, it shall do the following:

(i) stop calculating K_{CCP};

(ii) notify those of its clearing members which are institutions and their competent authorities that it has stopped calculating K_{CCP};

(k) for the purpose of calculating the potential future exposure for options and swaptions in accordance with the Mark-to-Market Method specified in Article 274 of Regulation (EU) No 575/2013, a CCP shall multiply the notional amount of the contract by the absolute value of the option's delta

$$(\delta V / \delta p)$$

as set out in point (a) of Article 280(1) of that Regulation;

(l) where a CCP has more than one default fund, it shall carry out the calculation laid down in Article 50a(2) for each default fund separately.

Article 50c

Reporting of information

1 For the purposes of Article 308 of Regulation (EU) No 575/2013, a CCP shall report the following information to those of its clearing members which are institutions and to their competent authorities:

a the hypothetical capital (K_{CCP});

b the sum of pre-funded contributions (DF_{CM});

c the amount of its pre-funded financial resources that it is required to use — by law or due to a contractual agreement with its clearing members — to cover its losses following the default of one or more of its clearing members before using the default fund contributions of the remaining clearing members (DF_{CCP});

d the total number of its clearing members (N);

e the concentration factor (β), as set out in Article 50d.

Where the CCP has more than one default fund, it shall report the information in the first subparagraph for each default fund separately.

2 The CCP shall notify those of its clearing members which are institutions at least quarterly or more frequently where required by the competent authorities of those clearing members.

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

a the uniform template for the purpose of the reporting specified in paragraph 1;
b the frequency and dates of the reporting specified in paragraph 2;
c the situations in which the competent authority of an institution acting as a clearing member may require higher frequencies of reporting than those referred to in point (b).

EBA shall submit those draft implementing technical standards to the Commission by 1 January 2014.

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

Article 50d

Calculation of specific items to be reported by the CCP

For the purposes of Article 50c, the following shall apply:

(a) where the rules of a CCP provide that it use part or all of its financial resources in parallel to the pre-funded contributions of its clearing members in a manner that makes those resources equivalent to pre-funded contributions of a clearing member in terms of how they absorb the losses incurred by the CCP in the case of the default or insolvency of one or more of its clearing members, the CCP shall add the corresponding amount of those resources to DF_{CM};

(b) where the rules of a CCP provide that it use part or all of its financial resources to cover its losses due to the default of one or more of its clearing members after it has depleted its default fund, but before it calls on the contractually committed contributions of its clearing members, the CCP shall add the corresponding amount of those additional financial resources

$$(DF_a^{CCP})$$

to the total amount of pre-funded contributions (DF) as follows:

$$DF = DF_{CCP} + DF_{CM} + DF_a^{CCP}$$

.

(c) a CCP shall calculate the concentration factor (β) in accordance with the following formula:

$$\beta = \frac{PCE_{red,1} + PCE_{red,2}}{\sum_i PCE_{red,i}}$$

where:

$PCE_{red,i}$ = the reduced figure for potential future credit exposure for all contracts and transaction of a CCP with clearing member *i*;

$PCE_{red,1}$ = the reduced figure for potential future credit exposure for all contracts and transaction of a CCP with the clearing member that has the largest PCE_{red} value;

$PCE_{red,2}$ = the reduced figure for potential future credit exposure for all contracts and transaction of a CCP with the clearing member that has the second largest PCE_{red} value.;

(2) in Article 11(15), point (b) is deleted;

(3) in Article 89, the following paragraph is inserted:

5a. Until 15 months after the date of entry into force of the latest of the regulatory technical standards referred to in Articles 16, 25, 26, 29, 34, 41, 42, 44, 45, 47 and 49, or until a decision is made under Article 14 on the authorisation of the CCP, whichever is earlier, that CCP shall apply the treatment specified in the third subparagraph of this paragraph.

Until 15 months after the date of entry into force of the latest of the regulatory technical standards referred to in Articles 16, 26, 29, 34, 41, 42, 44, 45, 47 and 49, or until a decision is made under Article 25 on the recognition of the CCP, whichever is earlier, that CCP shall apply the treatment specified in the third subparagraph of this paragraph.

Until the deadlines defined in the first two subparagraphs of this paragraph, and subject to the fourth subparagraph of this paragraph, where a CCP 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 information it is to report in accordance with Article 50c(1) shall include the total amount of initial margin it has received from its clearing members.

The deadlines referred to in the first and second subparagraphs of this paragraph may be extended by six months in accordance with a Commission implementing act adopted pursuant to Article 497(3) of Regulation (EU) No 575/2013. .

PART ELEVEN

FINAL PROVISIONS

Article 521

Entry into force and date of application

1 This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union* .

2 This Regulation shall apply from 1 January 2014 , with the exception of:

a Article 8(3), Article 21 and Article 451(1), which shall apply from 1 January 2015 ;

b Article 413(1), which shall apply from 1 January 2016 ;

c the provisions of this Regulation that require the ESAs to submit to the Commission draft technical standards and the provisions of this Regulation that empower the Commission to adopt delegated acts or implementing acts, which shall apply from 28 June 2013 .

[F863 Article 522

Savings provisions: pre-exit decisions

1. Where a decision of the type set out in paragraph 2 is made before IP completion by a body other than the PRA or FCA—

a that decision shall continue to have effect on and after IP completion;

b the PRA F864... shall have the same powers in respect of that decision on and after IP completion as if it was a decision taken by the PRA F865...; and

c those powers shall include the power to review, vary, modify or revoke the decision.

2. The types of decision are—

a in respect of applications for the permissions referred to in Articles 143(1), 143(3), 151(4), 151(9), 283, 312(2) and 363 of Regulation No 575/2013, a decision whether or not to grant the permission sought and to determine the terms and conditions pursuant to which any such permission should be subject, where that decision has been made—

i jointly by the competent authorities in accordance with Article 20(1) of Regulation No 575/2013; or

ii by the consolidating supervisor in accordance with Article 20(4) of Regulation No 575/2013;

b a decision whether the criteria for a specific intragroup treatment referred to in Articles 422(9) and 425(4) of Regulation No 575/2013 are met, where that decision has been made—

i jointly by the competent authorities in accordance with Article 20(1) of Regulation No 575/2013; or

ii by the competent authority responsible for the supervision of the subsidiary on an individual basis in accordance with Article 20(5) of Regulation No 575/2013;

c a decision on whether the conditions in points (a) to (d) of Article 8(1) of Regulation No 575/2013 are met and identifying a single liquidity sub-group for the application of Article 8 of Regulation No 575/2013 (including where that decision also imposes constraints on the locations and ownership of liquid assets and requires minimum amounts of liquid assets to be held by institutions that are exempt from the application of Part 6), where that decision has been made—

i jointly by the competent authorities in accordance with Article 21(1) of Regulation No 575/2013; or

ii by the competent authority responsible for supervision on an individual basis in accordance with Article 21(2) of Regulation No 575/2013;

d a decision on the application of Articles 73 and 97 of Directive 2013/36/EU to determine the adequacy of the consolidated level of own funds held by the group of institutions with respect to its financial situation and risk profile and the required level of own funds for the application of Article 104(1)(a) of Directive 2013/36/EU to each entity within the group of institutions and on a consolidated basis, where that decision has been made—

i jointly by the competent authorities in accordance with Article 113(1) of Directive 2013/36/EU; or

ii by the consolidating supervisor in accordance with Article 113(3) of Directive 2013/36/EU;

e a decision on measures required to address any significant matters and material findings relating to liquidity supervision including relating to the adequacy of the organisation and the treatment of risks as required pursuant to Article 86 of Directive 2013/36/EU and relating to the need for institution-specific liquidity requirements in accordance with Article 105 of Directive 2013/36/EU, where that decision has been made—

i jointly by the competent authorities in accordance with Article 113(1) of Directive 2013/36/EU; or

ii by the consolidating supervisor in accordance with Article 113(3) of Directive 2013/36EU;

f a decision to update a decision of the type specified in (d) or (e), where that decision has been made—

i jointly by the competent authorities in accordance with Article 113(4) of Directive 2013/36/EU;

ii by the consolidating supervisor in accordance with Article 113(4) of Directive 2013/36/EU; or

iii as a decision of bilateral application made in accordance with Article 105 (4) of Directive 2013/36/EU by the consolidating supervisor and a relevant competent authority where one of those parties was the PRA or FCA;

g a decision under the second sub-paragraph of Article 124(2) of Regulation No 575/2013, taken by a competent authority other than the PRA or FCA, to set higher risk weights or apply stricter criteria in respect of exposures secured on residential or commercial immovable property located in its territory;

h a decision under the second sentence of Article 164(5) of Regulation No 575/2013, taken by a competent authority other than the PRA or FCA, to set higher minimum values of exposure weighted average LGD for exposures secured by immovable property located in their territory;

i a decision determining whether the criteria referred to in Article 29(2) and Article 34(2) of Commission Delegated Regulation (EU) 2015/61 of 10th of October 2014 are met, where that decision has been made—

i jointly by the competent authorities in accordance with Article 20(1) of Regulation No 575/2013; or

ii by the competent authority responsible for the supervision of the subsidiary on an individual basis in accordance with Article 20(5) of Regulation No 575/2013.

3. For the purposes of paragraph 2, references to specific provisions of Regulation No 575/2013, Directive 2013/36/EU, and Commission Delegated Regulation (EU) 2015/61 are to those instruments as they stood immediately before IP completion, and without the modifications made under the European (Withdrawal) Act 2018.**]**

Textual Amendments

F863 Art. 522 inserted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **216** (as amended by S.I. 2020/1301, regs. 1, 3, **Sch. para. 11(h)** and with savings in S.I. 2019/680, **reg. 11**)); 2020 c. 1, **Sch. 5 para. 1(1)**

F864 Words in Art. 522(1)(b) omitted (1.1.2022) by virtue of Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 44(a)**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F865 Words in Art. 522(1)(b) omitted (1.1.2022) by virtue of Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 44(b)**; S.I. 2021/671, reg. 5(1)(b) (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), 2)

F866 ...

Textual Amendments

F866 Words in Signature omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **215** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

ANNEX I

Classification of off-balance sheet items

1. Full risk:

(a) guarantees having the character of credit substitutes, (e.g. guarantees for the good payment of credit facilities);

(b) credit derivatives;

(c) acceptances;

(d) endorsements on bills not bearing the name of another institution [F867or an investment firm];

(e) transactions with recourse (e.g. factoring, invoice discount facilities);

(f) irrevocable standby letters of credit having the character of credit substitutes;

(g) assets purchased under outright forward purchase agreements;

(h) forward deposits;

(i) the unpaid portion of partly-paid shares and securities;

(j) [F868other off-balance sheet items:

(i) including agreements where the transferee is merely entitled to return the assets at the purchase price or for a different amount agreed in advance on a date specified or to be specified, the transaction in question shall be deemed to be a sale with an option to purchase; and

(ii) excluding agreements where the transferor is not entitled to show in his balance sheets the assets transferred;]

(k) other items also carrying full risk.

Textual Amendments

F867 Words in Annex 1 point 1(d) inserted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 45**; S.I. 2021/671, **reg. 5(1)(b)** (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), **2**)

F868 Annex 1 point 1(j) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **217(2)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

2. Medium risk:

(a) trade finance off-balance sheet items, namely documentary credits issued or confirmed (see also ‘ Medium/low risk ’);

(b) other off-balance sheet items:

(i) shipping guarantees, customs and tax bonds;

(ii) undrawn credit facilities (agreements to lend, purchase securities, provide guarantees or acceptance facilities) with an original maturity of more than one year;

(iii) note issuance facilities (NIFs) and revolving underwriting facilities (RUFs);

(iv) other items also carrying medium risk and as communicated to [F869the competent authority].

Textual Amendments

F869 Words in Annex 1 point 2(b)(iv) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **217(3)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

3. Medium/low risk:

(a) trade finance off-balance sheet items:

(i) documentary credits in which underlying shipment acts as collateral and other self-liquidating transactions;

(ii) warranties (including tender and performance bonds and associated advance payment and retention guarantees) and guarantees not having the character of credit substitutes;

(iii) irrevocable standby letters of credit not having the character of credit substitutes;

(b) other off-balance sheet items:

(i) undrawn credit facilities which comprise agreements to lend, purchase securities, provide guarantees or acceptance facilities with an original maturity of up to and including one year which may not be cancelled unconditionally at any time without notice or that do not effectively provide for automatic cancellation due to deterioration in a borrower's creditworthiness;

(ii) other items also carrying medium/low risk and as communicated to [F870the competent authority].

Textual Amendments

F870 Words in Annex 1 point 3(b)(ii) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **217(3)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

4. Low risk:

(a) undrawn credit facilities comprising agreements to lend, purchase securities, provide guarantees or acceptance facilities which may be cancelled unconditionally at any time without notice, or that do effectively provide for automatic cancellation due to deterioration in a borrower's creditworthiness. Retail credit lines may be considered as unconditionally cancellable if the terms permit the institution to cancel them to the full extent allowable under consumer protection and related legislation;

(b) undrawn credit facilities for tender and performance guarantees which may be cancelled unconditionally at any time without notice, or that do effectively provide for automatic cancellation due to deterioration in a borrower's creditworthiness; and

(c) other items also carrying low risk and as communicated to **[**[F871]the competent authority**]**.

Textual Amendments

F871 Words in Annex 1 point 4(c) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **217(3)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

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) **[**[F872]interest-rate options;**]**

(f) other contracts of similar nature.

Textual Amendments

F872 Annex 2 point 1(e) substituted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 4 para. 13(2)**; S.I. 2021/671, **reg. 5(c)**

2. Foreign-exchange contracts and contracts concerning gold:

(a) cross-currency interest-rate swaps;

(b) forward foreign-exchange contracts;

(c) currency futures;

(d) **[**[F873]currency options;**]**

(e) other contracts of a similar nature;

(f) contracts of a nature similar to (a) to (e) concerning gold.

Textual Amendments

F873 Annex 2 point 2(d) substituted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 4 para. 13(3)**; S.I. 2021/671, **reg. 5(c)**

3. [F874 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 paragraphs 4 to 7, 9, 10 and 11 of Part 1 of Schedule 2 to the Regulated Activities Order not otherwise included in point 1 or 2 of this Annex.]

Textual Amendments

F874 Annex 2 point 3 substituted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 4 para. 13(4)**; S.I. 2021/671, **reg. 5(c)**

ANNEX III

Items subject to supplementary reporting of liquid assets

1. Cash.

2. Central bank exposures, to the extent that these exposures can be drawn down in times of stress.

3. Transferable securities representing claims on or claims guaranteed by sovereigns, central banks, non-central government public sector entities, regions with fiscal autonomy to raise and collect taxes and local authorities, the Bank for International Settlements, the International Monetary Fund, the European Union, the European Financial Stability Facility, the European Stability Mechanism or multilateral development banks and satisfying all of the following conditions:

(a) they are assigned a 0 % risk-weight under Chapter 2, Title II of Part Three [F875 of this Regulation and Articles 132a to 132c of Chapter 3 of the Standardised Approach and Internal Ratings Based Approach to Credit Risk (CRR) Part of the PRA Rulebook];

(b) they are not an obligation [F876 of, or of an affiliated entity of, an institution or an investment firm].

Textual Amendments

F875 Words in Annex 3 inserted (1.1.2022) by The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/1376), regs. 1(3), **25(56)**

F876 Words in Annex 3 point 3(b) substituted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 46(2)**; S.I. 2021/671, **reg. 5(1)(b)** (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), **2**)

4. Transferable securities other than those referred to in point 3 representing claims on or claims guaranteed by sovereigns or central banks issued in domestic currencies by the sovereign or central bank in the currency and country in which the liquidity risk

is being taken or issued in foreign currencies, to the extent that holding of such debt matches the liquidity needs of the bank's operations in that third country.

5. Transferable securities representing claims on or claims guaranteed by sovereigns, central banks, non-central government public sector entities, regions with fiscal autonomy to raise and collect taxes and local authorities, or multilateral development banks and satisfying all of the following conditions:

(a) they are assigned a 20 % risk-weight under Chapter 2, Title II of Part Three **[**[F875]of this Regulation and Articles 132a to 132c of Chapter 3 of the Standardised Approach and Internal Ratings Based Approach to Credit Risk (CRR) Part of the PRA Rulebook**]**;

(b) they are not an obligation **[**[F877]of, or of an affiliated entity of, an institution or an investment firm**]**.

Textual Amendments

F877 Words in Annex 3 point 5(b) substituted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 46(3)**; S.I. 2021/671, **reg. 5(1)(b)** (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), **2**)

6. Transferable securities other than those referred to in points 3, 4 and 5 that qualify for a 20 % or better risk weight under Chapter 2, Title II of Part Three **[**[F875]of this Regulation and Articles 132a to 132c of Chapter 3 of the Standardised Approach and Internal Ratings Based Approach to Credit Risk (CRR) Part of the PRA Rulebook**]** or are internally rated as having an equivalent credit quality, and fulfil any of the following conditions:

(a) they do not represent a claim **[**[F878]on, or on an affiliated entity of, an SSPE, an institution or an investment firm**]**;

(b) they are bonds eligible for the treatment set out in Article 129(4) or (5);

(c) they are **[**[F879]CRR covered bonds**]** other than those referred to in point (b) of this point.

Textual Amendments

F878 Words in Annex 3 point 6(a) substituted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 46(4)**; S.I. 2021/671, **reg. 5(1)(b)** (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), **2**)

F879 Words in Annex 3 substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **219(2)** (with savings in S.I. 2019/680, **reg. 11**); 2020 c. 1, **Sch. 5 para. 1(1)**

7. Transferable securities other than those referred to in points 3 to 6 that qualify for a 50 % or better risk weight under Chapter 2, Title II of Part Three **[**[F875]of this Regulation and Articles 132a to 132c of Chapter 3 of the Standardised Approach and Internal Ratings Based Approach to Credit Risk (CRR) Part of the PRA Rulebook**]** or are internally rated as having an equivalent credit quality, and do not represent a claim **[**[F880]on, or on an affiliated entity of, an SSPE, an institution or an investment firm**]**.

Textual Amendments

F880 Words in Annex 3 point 7 substituted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 46(5)**; S.I. 2021/671, **reg. 5(1)(b)** (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), **2**)

8. Transferable securities other than those referred to in points 3 to 7 that are collateralised by assets that qualify for a 35 % or better risk weight under Chapter 2, Title II of Part Three **[**[F875]of this Regulation and Articles 132a to 132c of Chapter 3 of the Standardised Approach and Internal Ratings Based Approach to Credit Risk (CRR) Part of the PRA Rulebook**]** or are internally rated as having an equivalent credit quality, and are fully and completely secured by mortgages on residential property in accordance with Article 125.

9. Standby credit facilities granted by central banks within the scope of monetary policy to the extent that these facilities are not collateralised by liquid assets and excluding emergency liquidity assistance.

10. Legal or statutory minimum deposits with the central credit institution and other statutory or contractually available liquid funding from the central credit institution or institutions that are members of the network referred to in Article 113(7), or eligible for the waiver provided in Article 10, to the extent that this funding is not collateralised by liquid assets, if the credit institution belongs to a network in accordance with legal or statutory provisions.

11. Exchange traded, centrally cleared common equity shares, that are a constituent of a major stock index, denominated in **[**[F881]pounds sterling**]** and not issued **[**[F882]by, or by an affiliate of, an institution or an investment firm**]**.

Textual Amendments

F881 Words in Annex 3 substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **219(3)** (with savings in S.I. 2019/680, **reg. 11**); 2020 c. 1, **Sch. 5 para. 1(1)**

F882 Words in Annex 3 point 11 substituted (1.1.2022) by Financial Services Act 2021 (c. 22), s. 49(5), **Sch. 1 para. 46(6)**; S.I. 2021/671, **reg. 5(1)(b)** (with reg. 5(2)) (as amended by S.I. 2021/1163, regs. 1(2), **2**)

12. Gold listed on a recognised exchange, held on an allocated basis.

All items with the exception of those referred to in points 1, 2 and 9 must satisfy all of the following conditions:

(a) they are traded in simple repurchase agreements or cash markets characterised by a low level of concentration;

(b) they have a proven record as a reliable source of liquidity by either repurchase agreement or sale even during stressed market conditions;

(c) they are unencumbered.

ANNEX IV

Correlation table

This Regulation	Directive 2006/48/EC	Directive 2006/49/EC
Article 1		
Article 2		
Article 3		
Point (1) of Article 4(1)	Article 4 (1)	
Point (2) of Article 4(1)		Article 3(1)b
Point (3) of Article 4(1)		Article 3(1)c
Point (4) of Article 4(1)		Article 3(1)p
Points (5)-(7) of Article 4(1)		
Point (8) of Article 4(1)	Article 4(18)	
Points (9)-(12) of Article 4(1)		
Point (13) of Article 4(1)	Article 4(41)	
Point (14) of Article 4(1)	Article 4(42)	
Point (15) of Article 4(1)	Article 4(12)	
Point (16) of Article 4(1)	Article 4(13)	
Point (17) of Article 4(1)	Article 4(3)	
Point (18) of Article 4(1)	Article 4(21)	
Point (19) of Article 4(1)		
Point (20) of Article 4(1)	Article 4(19)	
Point (21) of Article 4(1)		
Point (22) of Article 4(1)	Article 4(20)	
Point (23) of Article 4(1)		
Point (24) of Article 4(1)		
Point (25) of Article 4(1)		Article 3(1)c
Point (26) of Article 4(1)	Article 4(5)	
Point (27) of Article 4(1)		
Point (28) of Article 4(1)	Article 4(14)	
Point (29) of Article 4(1)	Article 4(16)	
Point (30) of Article 4(1)	Article 4(15)	
Point (31) of Article 4(1)	Article 4(17)	
Points (32)-(34) of Article 4(1)		

Point (35) of Article 4(1)	Article 4(10)	
Point (36) of Article 4(1)		
Point (37) of Article 4(1)	Article 4(9)	
Point (38) of Article 4(1)	Article 4(46)	
Point (39) of Article 4(1)	Article 4(45)	
Point (40) of Article 4(1)	Article 4(4)	
Point (41) of Article 4(1)	Article 4(48)	
Point (42) of Article 4(1)	Article 4(2)	
Point (43) of Article 4(1)	Article 4(7)	
Point (44) of Article 4(1)	Article 4(8)	
Point (45) of Article 4(1)		
Point (46) of Article 4(1)	Article 4(23)	
Points (47)-(49) of Article 4(1)		
Point (50) of Article 4(1)		Article 3(1)e
Point (51) of Article 4(1)		
Point (52) of Article 4(1)	Article 4(22)	
Point (53) of Article 4(1)	Article 4(24)	
Point (54) of Article 4(1)	Article 4(25)	
Point (55) of Article 4(1)	Article 4(27)	
Point (56) of Article 4(1)	Article 4(28)	
Point (57) of Article 4(1)	Article 4(30)	
Point (58) of Article 4(1)	Article 4(31)	
Point (59) of Article 4(1)	Article 4(32)	
Point (60) of Article 4(1)	Article 4(35)	
Point (61) of Article 4(1)	Article 4(36)	
Point (62) of Article 4(1)	Article 4(40)	
Point (63) of Article 4(1)	Article 4(40a)	
Point (64) of Article 4(1)	Article 4(40b)	
Point (65) of Article 4(1)	Article 4(43)	
Point (66) of Article 4(1)	Article 4(44)	
Point (67) of Article 4(1)	Article 4(39)	
Points (68)-(71) of Article 4(1)		
Point (72) of Article 4(1)	Article 4(47)	

Point (73) of Article 4(1)	Article 4(49)	
Points (74)-(81) of Article 4(1)		
Point (82) of Article 4(1)		Article 3(1)m
Point (83) of Article 4(1)	Article 4(33)	
Points (84)-(91) of Article 4(1)		
Point (92) of Article 4(1)		Article 3(1)i
Points (93)-(117) of Article 4(1)		
Point (118) of Article 4(1)		Article 3(1)r
Points (119)-(128) of Article 4(1)		
Article 4(2)		
Article 4(3)		
Article 6(1)	Article 68(1)	
Article 6(2)	Article 68(2)	
Article 6(3)	Article 68(3)	
Article 6(4)		
Article 6(5)		
Article 7(1)	Article 69(1)	
Article 7(2)	Article 69(2)	
Article 7(3)	Article 69(3)	
Article 8(1)		
Article 8(2)		
Article 8(3)		
Article 9(1)	Article 70(1)	
Article 9(2)	Article 70(2)	
Article 9(3)	Article 70(3)	
Article 10(1)	Article 3(1)	
Article 10(2)		
Article 11(1)	Article 71(1)	
Article 11(2)	Article 71(2)	
Article 11(3)		
Article 11(4)	Article 3(2)	

Article 11(5)		
Article 12		
Article 13(1)	Article 72(1)	
Article 13(2)	Article 72(2)	
Article 13(3)	Article 72(3)	
Article 13(4)		
Article 14(1)	Article 73(3)	
Article 14(2)		
Article 14(3)		
Article 15		Article 22
Article 16		
Article 17(1)		Article 23
Article 17(2)		
Article 17(3)		
Article 18(1)	Article 133(1) subparagraph 1	
Article 18(2)	Article 133(1) subparagraph 2	
Article 18(3)	Article 133(1) subparagraph 3	
Article 18(4)	Article 133(2)	
Article 18(5)	Article 133(3)	
Article 18(6)	Article 134(1)	
Article 18(7)		
Article 18(8)	Article 134(2)	
Article 19(1)	Article 73(1) (b)	
Article 19(2)	Article 73(1)	
Article 19(3)	Article 73(1) subparagraph 2	
Article 20(1)	Article 105(3) Article 129(2) and Annex X, Part 3, points 30 and 31	
Article 20(2)	Article 129(2) subparagraph 3	
Article 20(3)	Article 129(2) subparagraph 4	
Article 20(4)	Article 129(2) subparagraph 5	

Article 20(5)		
Article 20(6)	Article 84(2)	
Article 20(7)	Article 129(2) subparagraph 6	
Article 20(8)	Article 129(2) subparagraphs 7 and 8	
Article 21(1)		
Article 21(2)		
Article 21(3)		
Article 21(4)		
Article 22	Article 73(2)	
Article 23		Article 3(1) 2. Subparagraph
Article 24	Article 74 (1)	
Article 25		
Article 26 (1)	Article 57(a)	
Article 26 (1)(a)	Article 57(a)	
Article 26 (1)(b)	Article 57(a)	
Article 26 (1)(c)	Article 57(b)	
Article 26 (1)(d)		
Article 26 (1)(e)	Article 57(b)	
Article 26 (1)(f)	Article 57(c)	
Article 26 (1) first subparagraph 1	Article 61 subparagraph 2	
Article 26 (2)(a)	Article 57 subparagraphs 2, 3 and 4	
Article 26 (2)(b)	Article 57 subparagraphs 2, 3 and 4	
Article 26 (3)		
Article 26 (4)		
Article 27		
Article 28(1)(a)		
Article 28(1)(b)	Article 57(a)	
Article 28(1)(c)	Article 57(a)	
Article 28(1)(d)		
Article 28(1)(e)		
Article 28(1)(f)		

Status: *Point in time view as at 01/01/2022.*
Changes to legislation: *There are currently no known outstanding effects for the Regulation (EU) No 575/2013 of the European Parliament and of the Council. (See end of Document for details)*

Article 28(1)(g)		
Article 28(1)(h)		
Article 28(1)(i)	Article 57(a)	
Article 28(1)(j)	Article 57(a)	
Article 28(1)(k)		
Article 28(1)(l)		
Article 28(1)(m)		
Article 28(2)		
Article 28(3)		
Article 28(4)		
Article 28(5)		
Article 29		
Article 30		
Article 31		
Article 32(1)(a)		
Article 32(1)(b)	Article 57 subparagraph 4	
Article 32(2)		
Article 33(1)(a)	Article 64(4)	
Article 33(1)(b)	Article 64(4)	
Article 33(1)(c)		
Article 33(2)		
Article 33(3)(a)		
Article 33(3)(b)		
Article 33(3)(c)		
Article 33(3)(d)		
Article 33(4)		
Article 34	Article 64(5)	
Article 35		
Article 36(1)(a)	Article 57(k)	
Article 36(1)(b)	Article 57(j)	
Article 36(1)(c)		
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(1) [X1OJ C 105, 11.4.2012, p. 1.]

(2) [X1OJ C 68, 6.3.2012, p. 39.]

(3) [X1OJ L 177, 30.6.2006, p. 1.]

(4) [X1OJ L 177, 30.6.2006, p. 201.]

(5) [X1OJ L 176, 27.6.2013, p. 338.]

(6) [X1OJ L 331, 15.12.2010, p. 1.]

(7) [X1OJ L 331, 15.12.2010, p. 12.]

(8) [X1Council Decision 2009/937/EU of 1 December 2009 adopting the Council's Rules of Procedure (OJ L 325, 11.12.2009, p. 35).]

(9) [X1OJ L 372, 31.12.1986, p. 1.]

(10) [X1OJ L 193, 18.7.1983, p. 1.]

(11) [X1OJ L 243, 11.9.2002, p. 1.]

(12) [X1OJ L 145, 30.4.2004, p. 1.]

(13) [X1OJ L 35, 11.2.2003, p. 1.]

(14) [X1OJ L 201, 27.7.2012, p. 1.]

(15) [X1OJ L 302, 17.11.2009, p. 97.]

(16) [X1OJ L 281, 23.11.1995, p. 31.]

(17) [X1OJ L 8, 12.1.2001, p. 1.]

(18) [X1OJ L 55, 28.2.2011, p. 13.]

(19) [X1OJ C 175, 19.6.2012, p. 1.]

(20) [X1[F74Regulation (EU) 2017/2402 of the European Parliament and of the Council of 12 December 2017 laying down a general framework for securitisation and creating a specific framework for simple, transparent and standardised securitisation, and amending Directives 2009/65/EC, 2009/138/EC, 2011/61/EU and Regulations (EC) No 1060/2009 and (EU) No 648/2012 (OJ L 347, 28.12.2017, p. 35).]]

(21) [X1OJ L 302, 17.11.2009, p. 1 .]

(22) [X1Commission Regulation (EC) No 1126/2008 of 3 November 2008 adopting certain international accounting standards in accordance with Regulation (EC) No 1606/2002 of the European Parliament and of the Council (OJ L 320, 29.11.2008, p. 1).]

(23) [X1Commission Regulation (EU) No 1205/2011 of 22 November 2011 amending Regulation (EC) No 1126/2008 adopting certain international accounting standards in accordance with Regulation (EC) No 1606/2002 of the European Parliament and of the Council as regards International Financial Reporting Standard (IFRS) 7 (OJ L 305, 23.11.2011, p. 16).]

(24) [X1OJ L 176, 27.6.2013, p. 1.';]

Editorial Information

X1 Substituted by Corrigendum to 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).

Textual Amendments

F74 Substituted by Regulation (EU) 2017/2401 of the European Parliament and of the Council of 12 December 2017 amending Regulation (EU) No 575/2013 on prudential requirements for credit institutions and investment firms.