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)

[X1PART 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 **[**F1UK-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

F1 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

[F2 Article 467

[F2 Unrealised losses measured at fair value]

. . . . . .

Textual Amendments

F2 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).

I F3 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 **[**[F4]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 **[**[F5]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

F3 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).

F4 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)**

F5 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

F6 Article 469

Deductions from Common Equity Tier 1 items

Textual Amendments

F6 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)**

I F7 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

F7 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).

F8 Article 470

Exemption from deduction from Common Equity Tier 1 items

Textual Amendments

F8 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

[[F9]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

F9 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).

[F10 Article 472

Items not deducted from Common Equity Tier 1

Textual Amendments

F10 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 **[**F11UK-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 (1) as amended by Regulation (EU) No 1205/2011 (2) . 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

F11 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)

[F12 Article 473a

Introduction of IFRS 9

[F3 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 **[**F13UK-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 **[**F13UK-adopted international accounting standards**]**;

c institutions that effect the valuation of assets and off-balance sheet items in conformity with accounting standards under **[**F14Directive 86/635/EEC UK law**]** and that use an expected credit loss model that is the same as the one used in **[**F13UK-adopted international accounting standards**]**.

[F3The 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:

[[F3]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;

[F3 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.**]**

[F3 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.**]**

[F15 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 **[**F16imposed 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.

[F15 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 **[**F17UK 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.**]**

[F3 During the periods set out in paragraphs 6 and 6a of this Article, in addition to disclosing the information required in **[**F18the 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.**]**

[F3 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.**]**

[F15 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.

F19 ...**]**

F20 10 . . . . . .**]**

Textual Amendments

F3 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).

F12 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).

F13 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)

F14 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)

F15 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).

F16 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)

F17 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)**

F18 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)**

F19 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)**

F20 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.

F21 Article 475

Items not deducted from Additional Tier 1 items

Textual Amendments

F21 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.

F22 Article 477

Deductions from Tier 2 items

Textual Amendments

F22 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

F23 Article 478

Applicable percentages for deduction from Common Equity Tier 1, Additional Tier 1 and Tier 2 items

Textual Amendments

F23 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

[F24 Article 481

Additional filters and deductions

Textual Amendments

F24 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 **[**F25European 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 **[**F26or the United Kingdom**]**;

c the instruments were considered compatible with the internal market by the **[**F27European**]** Commission under Article 107 TFEU.

Where the instruments are subscribed by both the Member State **[**F28or the United Kingdom**]** and private investors and there is a partial redemption of the instruments

subscribed by the Member State **[**[F28]or 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 **[**[F28]or 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

F25 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)

F26 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)

F27 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)

F28 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, **[**[F29]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

F29 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 **[**[F30]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

F30 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 **[**[F31]The **[**[F32]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.

[F33]…

Textual Amendments

F31 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)

F32 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)

F33 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

F34 Article 492

Disclosure of own funds

. . . . . .

Textual Amendments

F34 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

[F35] *Article 493*

Transitional provisions for large exposures

. . . . . .

Textual Amendments

F35 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)**

I[F9] *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

F9 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).

[F36 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

F36 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

F36 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).

[F37] Article 495

Treatment of equity exposures under the IRB Approach

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Textual Amendments

F37 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 **[**[F38]Competent 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

F38 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).

[F9 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 **[**F39the Bank**]** and until one of the following dates:

a where the **[**F40Treasury 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 **[**F41Treasury 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 **[**F42regulations**]**;

(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:

$$KCMi = \max KCCP \times IMi DFCCP + IM ; 8\,\% \times 2\,\% \times IMi$$

where:

KCMi	=	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 **[**F43Treasury may by regulations**]** extend **[**F44by 12 months on each occasion**]** the transitional provisions set out in paragraph 1 of this Article.**]**

Textual Amendments

F9 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).

F39 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)

F40 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)

F41 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)

F42 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)

F43 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)

F44 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)**

Modifications etc. (not altering text)

C1 Art. 497(1)(b)(ii): transitional period extended by 12 months so that it ends three years after the date of the submission of the application (22.12.2022) by The Central Counterparties (Transitional Provision) (Extension and Amendment) Regulations 2022 (S.I. 2022/1244), regs. 1(2), **2**

C2 Art. 497(1)(b)(ii): transitional period extended by 12 months so that it ends four years after the date of the submission of the application (1.11.2023) by The Central Counterparties (Transitional Provision) (Extension and Amendment) Regulations 2023 (S.I. 2023/999), regs. 1(2), **2**

[F45[X2 Article 498

Exemption for Commodities dealers

Until **[**F461 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 **[**F47paragraphs 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

X2 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

F45 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).

F46 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)**

F47 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)**

F48 Article 499

Leverage

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Textual Amendments

F48 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)**)

[F9 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 **[**F49PRA**]** 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 **[**[F49]PRA**]** without delay when the condition set out in point (c) of paragraph 1 has been met.**]**

Textual Amendments

F9 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).

F49 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)

[F50] *Article 500a*

Temporary treatment of public debt issued in the currency of another Member State

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Textual Amendments

F50 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)**

[F51] *Article 500b*

Temporary exclusion of certain exposures to central banks from the total exposure measure in view of the COVID-19 pandemic

. . . . . .

Textual Amendments

F51 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)**)

[[F15]*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

F15 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).

[F53] *Article 500d*

[F52]... Calculation of the exposure value of regular-way purchases and sales awaiting settlement in view of the COVID-19 pandemic

. . . . . .

Textual Amendments

F52 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)

F53 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)**)

[F9 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 **[**[F54]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 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;

[[F55]b 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

F9 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).

F54 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)**

F55 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)

[F36 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

[F36 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.**]**

[F564 . . . . . .

F565 . . . . . .**]**

Textual Amendments

F36 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).

F56 Art. 501a(4)(5) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **79** (as amended by S.I. 2020/1385, regs. 1(4), **65(3)**)

F57 *Article 501b*

Derogation from reporting requirements

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Textual Amendments

F57 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)**

F58 TITLE II

REPORTS AND REVIEWS

Article 501c

Prudential treatment of exposures related to environmental and/or social objectives

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Article 502

Cyclicality of capital requirements

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Article 503

Own funds requirements for exposures in the form of covered bonds

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Article 504

Capital instruments subscribed by public authorities in emergency situations

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Article 504a

Holdings of eligible liabilities instruments

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Article 505

Review of long-term financing

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Article 506

Credit risk — definition of default

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Article 507

Large exposures

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Article 508

Level of application

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Article 509

Liquidity requirements

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Article 510

Net Stable Funding Requirements

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Article 511

Leverage

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Article 512

Exposures to transferred credit risk

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Article 513

Macroprudential rules

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Article 514

Method for the calculation of the exposure value of derivative transactions

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Article 515

Monitoring and evaluation

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Article 516

Long-term financing

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Article 517

Definition of eligible capital

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Article 518

Review of capital instruments which may be written down or converted at the point of non-viability

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Article 518a

Review of cross-default provisions

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Article 518b

Report on overshootings and supervisory powers to limit distributions

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Article 519

Deduction of defined benefit pension fund assets from Common Equity Tier 1 items

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Article 519a

Reporting and review

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Article 519b

Own funds requirements for market risk

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Textual Amendments

F58 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)

[F36TITLE IIA

IMPLEMENTATION OF RULES]

F59 Article 519c

Compliance tool

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Textual Amendments

F59 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[(3)], 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:

$$K_{CCP} = \sum_i \max\{EBRM_i - IM_i - DF_i; 0\} \times RW \times \text{captial ratio}$$

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

$$\left(DF_a^{CCP}\right)$$

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. .**]**

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).

(1) **[**[X1]Commission 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).**]**

(2) **[**[X1]Commission 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).**]**

(3) **[**[X1]OJ 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).

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, PART TEN.