

## SCHEDULE 3

### Capital requirements

## PART 2

### Own Funds

#### *Qualifying items*

**3.** For the purposes of this Part, “own funds” means the following items, subject to the deductions specified in paragraph 6 and to the limits specified in paragraph 8—

- (a) paid up capital, including share premium accounts but excluding amounts arising in respect of cumulative preference shares;
- (b) reserves other than—
  - (i) revaluation reserves;
  - (ii) fair value reserves related to gains or losses on cash flow hedges of financial instruments measured at amortised cost; and
  - (iii) that part of profit and loss reserves that arises from any gains on liabilities valued at fair value that are due to changes in the authorised payment institution’s credit standing;
- (c) profit or loss brought forward as a result of the application of the final profit or loss, provided that—
  - (i) interim profits may only be included if they are—
    - (aa) verified by persons responsible for the auditing of the authorised payment institution’s accounts;
    - (bb) shown to the satisfaction of the Authority that the amount has been evaluated in accordance with the principles set out in directive [86/635/EEC](#) of the Council of the 8th December 1986 on the annual accounts and consolidated accounts of banks and other financial institutions<sup>(1)</sup>; and
    - (cc) net of any foreseeable charge or dividend;
  - (ii) in the case of an authorised payment institution which is the originator of a securitisation, net gains arising from the capitalisation of future income from the securitised assets and providing credit enhancement to positions in the securitisation are excluded;
- (d) revaluation reserves;
- (e) general or collective provisions if—
  - (i) they are freely available to the authorised payment institution to cover normal payment services risks where revenue or capital losses have not yet been identified;
  - (ii) their existence is disclosed in internal accounting records; and
  - (iii) their amount is determined by the management of the authorised payment institution, verified by a statutory auditor or audit firm (as defined by regulation 20(2)) and notified to the Authority;

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(1) OJ No L 372, 31.12.1986, p.1.

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- (f) securities of indeterminate duration and other instruments that fulfil the following conditions—
    - (i) they may not be reimbursed on the bearer's initiative or without the prior agreement of the Authority;
    - (ii) the debt agreement provides for the authorised payment institution to have the option of deferring the payment of interest on the debt;
    - (iii) the lender's claim on the authorised payment institution is wholly subordinated to those of all non-subordinated creditors;
    - (iv) the documents governing the issue of the securities provide for debt and unpaid interest to be such as to absorb losses, whilst leaving the authorised payment institution in a position to continue trading;

provided that only fully paid-up amounts are to be taken into account;
  - (g) cumulative preferential shares, other than fixed-term cumulative preference shares referred to in paragraph (j);
  - (h) the commitments of the members of an authorised payment institution set up as a cooperative, comprising—
    - (i) that institution's uncalled capital; and
    - (ii) the legal commitments of the members of that institution to make additional non-refundable payments should the institution incur a loss provided that such payments can be demanded without delay;
  - (i) the joint and several commitments of the borrower in the case of an authorised payment institution organised as a fund, comprising—
    - (i) that institution's uncalled capital; and
    - (ii) the legal commitments of the borrowers of that institution to make additional non-refundable payments should the institution incur a loss provided that such payments can be demanded without delay;
  - (j) fixed-term cumulative preferential shares and subordinated loan capital if—
    - (i) binding agreements exist under which, in the event of the winding-up of the authorised payment institution, they rank after the claims of all other creditors and are not to be repaid until all other debts outstanding at the time have been settled; and
    - (ii) in the case of subordinated loan capital—
      - (aa) only fully paid-up funds are taken into account;
      - (bb) the loans involved have an original maturity of at least five years, after which they may be repaid;
      - (cc) the extent to which they may rank as own funds is gradually reduced during at least the last five years before the repayment date; and
      - (dd) the loan agreement does not include any clause providing that in specified circumstances, other than the winding-up of the authorised payment institution, the debt will become repayable before the agreed repayment date.
4. The items specified in paragraph 3(a) to (d) must be—
- (a) available to the authorised payment institution for unrestricted and immediate use to cover risks or losses as soon as these occur; and

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- (b) net of any foreseeable tax charge at the moment of their calculation or be suitably adjusted in so far as such tax charges reduce the amount up to which these items may be applied to cover risks or losses.

**5.** Own funds are not to include guarantees provided by the Crown or a local authority to a payment institution which is a public sector entity for the purposes of the banking consolidation directive.