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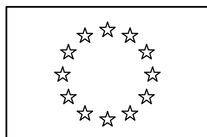

EUROPEAN COMMISSION

Brussels, 20.7.2011
COM(2011) 452 final

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PROPOSAL FOR A

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on prudential requirements for credit institutions and investment firms

PART III

(Text with EEA relevance)

{SEC(2011) 949 final}
{SEC(2011) 950 final}

Title III
Own funds requirements for operational risk

Chapter 1
General principles governing the use of the different approaches

Article 301
Permission and notification

1. To qualify for use of the Standardised Approach, institutions shall meet the criteria set out in Article 309, in addition to meeting the general risk management standards set out in Articles 73 and 83of Directive [inserted by OP]. Institutions shall notify the competent authorities prior to using the Standardised Approach.

   Competent authorities shall permit institutions to use an alternative relevant indicator for the business lines "retail banking" and "commercial banking" where the conditions set out in Articles 308(2) and 309 are met.

2. Competent authorities shall permit institutions to use Advanced Measurement Approaches based on their own operational risk measurement systems, where all the qualitative and quantitative standards set out in Articles 310 and 311 respectively are met and where institutions meet the general risk management standards set out in Articles 73 and 83of Directive [inserted by OP] and Section II, Chapter 3, Title VII of that Directive.

   Institutions shall also apply for permission from their competent authorities where they want to implement material extensions and changes to those Advanced Measurement Approaches. Competent authorities shall grant the permission only where institutions would continue to meet the standards specified in the first subparagraph following those material extensions and changes.

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

   (a) the assessment methodology under which the competent authorities permit institutions to use Advanced Measurement Approaches;

   (b) the conditions for assessing the materiality of extensions and changes to the Advanced Measurement Approaches.

   EBA shall submit those draft regulatory technical standards to the Commission by 31 December 2013.

   Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with the procedure laid down in Articles 10 to 14 of Regulation (EU) No 1093/2010.

Article 302
Reverting to the use of less sophisticated approaches

1. Institutions that use the Standardised Approach shall not revert to the use of the Basic Indicator Approach unless the conditions in paragraph 3 are met.

2. Institutions that use the Advanced Measurement Approaches shall not revert to the use of the Standardised Approach or the Basic Indicator Approach unless the conditions in paragraph 3 are met.

3. An institution may only revert to the use of a less sophisticated approach for operational risk where both the following conditions are met:

   (a) the institution has demonstrated to the satisfaction of the competent authority that the use of a less sophisticated approach is not proposed in order to reduce the operational risk related own funds requirements of the institution, is necessary on the basis of nature and complexity of the institution and would not have a material adverse impact on the solvency of the institution or its ability to manage operational risk effectively;

   (b) the institution has received the prior permission of the competent authority.

Article 303
Combined used of different approaches

1. Institutions may use a combination of approaches provided that they obtain permission from the competent authorities. Competent authorities shall grant such permission where the requirements set out in paragraphs 2 to 4, as applicable, are met.

2. An institution may use an Advanced Measurement Approach in combination with either the Basic Indicator Approach or the Standardised Approach, where both the following conditions are met:

   (a) the combination of Approaches used by the institution captures all its operational risks and competent authorities are satisfied with the methodology used by the institution to cover different activities, geographical locations, legal structures or other relevant divisions determined on an internal basis;

   (b) the criteria set out in Article 309 and the standards set out in Articles 310 and 311 are fulfilled for the part of activities covered by the Standardised Approach and the Advanced Measurement Approaches respectively.

3. For institutions that want to use an Advanced Measurement Approach in combination with either the Basic Indicator Approach or the Standardised Approach competent authorities may, on a case-by case basis, impose the following additional conditions for granting permission:

   (a) on the date of implementation of an Advanced Measurement Approach, a significant part of the institution's operational risks are captured by that Approach;

(b) the institution takes a commitment to apply the Advanced Measurement Approach across a material part of its operations within a time schedule that was submitted to and approved by its competent authorities.

4. An institution may request permission from a competent authority to use a combination of the Basic Indicator Approach and the Standardised Approach only in exceptional circumstances such as the recent acquisition of new business which may require a transition period for the application of the Standardised Approach.

A competent authority shall grant such permission only where the institution has committed to apply the Standardised Approach within a time schedule that was submitted to and approved by the competent authority.

5. EBA shall develop draft regulatory technical standards to specify the following:

(a) the conditions that competent authorities shall use when assessing the methodology referred to in point (a) of paragraph 2;

(b) the conditions that the competent authorities shall use when deciding whether to impose the additional conditions referred to in paragraph 3.

EBA shall submit those draft regulatory technical standards to the Commission by 31 December 2016.

Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with the procedure laid down in Articles 10 to 14 of Regulation (EU) No 1093/2010.

Chapter 2
Basic indicator approach

Article 304
Capital requirement

Under the Basic Indicator Approach, the own funds requirement for operational risk is equal to 15 % of the average over three years of the relevant indicator as defined in Article 305.

Institutions shall calculate the average over three years of the relevant indicator on the basis of the last three twelve-monthly observations at the end of the financial year. When audited figures are not available, institutions may use business estimates.

Where for any given observation, the relevant indicator is negative or equal to zero, institutions shall not take into account this figure in the calculation of the average over three years. Institutions shall calculate the average over three years as the sum of positive figures divided by the number of positive figures.

Article 305
Relevant indicator

1. For institutions applying accounting standards established by Directive 86/635/EEC, based on the accounting categories for the profit and loss account of institutions under Article 27 of that Directive, the relevant indicator is the sum of the elements listed in Table 1of this paragraph. Institutions shall include each element in the sum with its positive or negative sign.

Table 1
1 Interest receivable and similar income
2 Interest payable and similar charges
3 Income from shares and other variable/fixed-yield securities
4 Commissions/fees receivable
5 Commissions/fees payable
6 Net profit or net loss on financial operations
7 Other operating income

Institutions shall adjust these elements to reflect the following qualifications:

(a) institutions shall calculate the relevant indicator before the deduction of any provisions and operating expenses. Institutions shall include in operating expenses fees paid for outsourcing services rendered by third parties which are not a parent or subsidiary of the institution or a subsidiary of a parent which is also the parent of the institution. Institutions may use expenditure on the outsourcing of services rendered by third parties to reduce the relevant indicator where the expenditure is incurred from an undertaking subject to rules under, or equivalent to, this Regulation;

(b) institutions shall not use the following elements in the calculation of the relevant indicator:

  (i) realised profits/losses from the sale of non-trading book items;

  (ii) income from extraordinary or irregular items;

  (iii) income derived from insurance.

(c) when revaluation of trading items is part of the profit and loss statement, institutions may include revaluation. When institutions apply Article 36(2) of Directive 86/635/EEC, they shall include revaluation booked in the profit and loss account.

2. When institutions apply accounting standards different from the ones established by Directive 86/635/EEC, they shall calculate the relevant indicator on the basis of data that best reflect the definition set out in this Article.

3. EBA shall develop draft regulatory technical standards to determine the methodology to calculate the relevant indicator referred to in paragraph 2.

EBA shall submit those draft regulatory technical standards to the Commission by 31 December 2016.

Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with the procedure laid down in Articles 10 to 14 of Regulation (EU) No 1093/2010.

Chapter 3
Standardised approach

Article 306
Own funds requirement

1. Under the Standardised Approach, institutions shall divide their activities into the business lines set out in Table 2 of paragraph 4 and in accordance with the principles set out in Article 307.

2. Institutions shall calculate the own funds requirement for operational risk as the average over three years of the sum of the annual own funds requirements across all business lines referred to in Table 2 of paragraph 4. The annual own funds requirement of each business line is equal to the product of the corresponding beta factor referred to in that Table and the part of the relevant indicator mapped to the current business line.

3. In any given year, institutions may offset negative own funds requirements resulting from a negative part of the relevant indicator in any business line with positive own funds requirements in other business lines without limit. However, where the aggregate own funds requirement across all business lines within a given year is negative, institutions shall use the value zero as the input to the numerator for that year.

4. Institutions shall calculate the average over three years of the sum referred to in paragraph 2 on the basis of the last three twelve-monthly observations at the end of the financial year. When audited figures are not available, institutions may use business estimates.

Table 2		
Business line	List of activities	Percentage (beta factor)
Corporate finance	Underwriting of financial instruments or placing of financial instruments on a firm commitment basis	18 %

	Services related to underwriting Investment advice Advice to undertakings on capital structure, industrial strategy and related matters and advice and services relating to the mergers and the purchase of undertakings Investment research and financial analysis and other forms of general recommendation relating to transactions in financial instruments	
Trading and sales	Dealing on own account Money broking Reception and transmission of orders in relation to one or more financial instruments Execution of orders on behalf of clients Placing of financial instruments without a firm commitment basis Operation of Multilateral Trading Facilities	18 %
Retail brokerage (Activities with a individual natural persons or with small and medium sized enterprises meeting the criteria set out in Article 79 for the retail exposure class)	Reception and transmission of orders in relation to one or more financial instruments Execution of orders on behalf of clients Placing of financial instruments without a firm commitment basis	12 %
Commercial banking	Acceptance of deposits and other repayable funds Lending Financial leasing Guarantees and commitments	15 %
Retail banking (Activities with a individual natural persons or with small and medium sized enterprises	Acceptance of deposits and other repayable funds Lending	12 %

meeting the criteria set out in Article 79 for the retail exposure class)	Financial leasing Guarantees and commitments	
Payment and settlement	Money transmission services, Issuing and administering means of payment	18 %
Agency services	Safekeeping and administration of financial instruments for the account of clients, including custodianship and related services such as cash/collateral management	15 %
Asset management	Portfolio management Managing of UCITS Other forms of asset management	12 %

Article 307
Principles for business line mapping

1. Institutions shall develop and document specific policies and criteria for mapping the relevant indicator for current business lines and activities into the standardised framework set out in article 306. They shall review and adjust those policies and criteria as appropriate for new or changing business activities and risks.

2. Institutions shall apply the following principles for business line mapping:

   (a) institutions shall map all activities into the business lines in a mutually exclusive and jointly exhaustive manner;

   (b) institutions shall allocate any activity which cannot be readily mapped into the business line framework, but which represents an ancillary activity to an activity included in the framework, to the business line it supports. Where more than one business line is supported through the ancillary activity, institutions shall use an objective-mapping criterion;

   (c) where an activity cannot be mapped into a particular business line then institutions shall use the business line yielding the highest percentage. The same business line equally applies to any ancillary activity associated with that activity;

   (d) institutions may use internal pricing methods to allocate the relevant indicator between business lines. Costs generated in one business line which are imputable to a different business line may be reallocated to the business line to which they pertain;

   (e) the mapping of activities into business lines for operational risk capital purposes shall be consistent with the categories institutions use for credit and market risks;

(f) senior management shall be responsible for the mapping policy under the control of the management body of the institution;

(g) institutions shall subject the mapping process to business lines to independent review.

3. EBA shall develop draft implementing technical standards to determine the conditions of application of the principles for business line mapping provided in this Article.

EBA shall submit those draft implementing technical standards to the Commission by 31 December 2017.

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

Article 308
Alternative Standardised Approach

1. Under the Alternative Standardised Approach, for the business lines "retail banking" and "commercial banking", institutions shall apply the following:

(a) the relevant indicator is a normalised income indicator equal to the nominal amount of loans and advances multiplied by 0.035;

(b) the loans and advances consist of the total drawn amounts in the corresponding credit portfolios. For the "commercial banking" business line, institutions shall also include securities held in the non trading book in the nominal amount of loans and advances.

2. To be permitted to use the Alternative Standardised Approach, the institution shall meet all the following conditions:

(a) its retail or commercial banking activities shall account for at least 90 % of its income;

(b) a significant proportion of its retail or commercial banking activities shall comprise loans associated with a high probability of default;

(c) the alternative standardised approach provides an appropriate basis for calculating its own funds requirement for operational risk.

3. EBA shall develop regulatory technical standards to further specify the conditions for the use of the Alternative Standardised Approach referred to in paragraph 2.

EBA shall submit those draft regulatory technical standards to the Commission by 31 December 2016.

Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with the procedure laid down in Articles 10 to 14 of Regulation (EU) No 1093/2010.

Article 309
Criteria for the standardised approach

The criteria referred to in subparagraph 1 of Article 301(1) are the following:

(a) institutions shall have in place a well-documented assessment and management system for operational risk with clear responsibilities assigned for this system. They shall identify their exposures to operational risk and track relevant operational risk data, including material loss data. This system shall be subject to regular independent review;

(b) an institutions operational risk assessment system shall be closely integrated into the risk management processes of the institution. Its output shall be an integral part of the process of monitoring and controlling the institution's operational risk profile;

(c) institutions shall implement a system of reporting to senior management that provides operational risk reports to relevant functions within the institutions. Institutions shall have in place procedures for taking appropriate action according to the information within the reports to management.

Chapter 4
Advanced measurement approaches

SECTION 1
QUALIFYING CRITERIA

Article 310
Qualitative standards

The qualitative standards referred to in Article 301(2) are the following:

(a) an institution's internal operational risk measurement system shall be closely integrated into its day-to-day risk management processes;

(b) institutions shall have an independent risk management function for operational risk;

(c) institutions shall have in place regular reporting of operational risk exposures and loss experience and shall have in place procedures for taking appropriate corrective action;

(d) an institution's risk management system shall be well documented. Institution shall have in place routines for ensuring compliance and policies for the treatment of non-compliance;

(e) institution shall subject their operational risk management processes and measurement systems to regular reviews performed by internal or external auditors;

(f) an institution's internal validation processes shall operate in a sound and effective manner;

(g) data flows and processes associated with an institution's the risk measurement system shall be transparent and accessible.

Article 311
Quantitative Standards

1. The quantitative standards referred to in Article 301(2) include the standards relating to process, to internal data, to external data, to scenario analysis, to business environment and to internal control factors referred to in paragraphs 2 to 6 respectively.

2. The standards relating to process are the following:

   (a) institutions shall calculate their own funds requirement as comprising both expected loss and unexpected loss, unless expected loss is adequately captured in their internal business practices. The operational risk measure shall capture potentially severe tail events, achieving a soundness standard comparable to a 99.9 % confidence interval over a one year period;

   (b) an institutions operational risk measurement system shall include the use of internal data, external data, scenario analysis and factors reflecting the business environment and internal control systems as set out in paragraphs 3 to 6. An institution shall have in place a well documented approach for weighting the use of these four elements in its overall operational risk measurement system;

   (c) an institution's risk measurement system shall capture the major drivers of risk affecting the shape of the tail of the estimated distribution of losses;

   (d) institutions may recognise correlations in operational risk losses across individual operational risk estimates only where their systems for measuring correlations are sound, implemented with integrity, and take into account the uncertainty surrounding any such correlation estimates, particularly in periods of stress. Institutions shall validate their correlation assumptions using appropriate quantitative and qualitative techniques;

   (e) an institution's risk measurement system shall be internally consistent and shall avoid the multiple counting of qualitative assessments or risk mitigation techniques recognised in other areas of this Regulation.

3. The standards relating to internal data are the following:

   (a) institutions shall base their internally generated operational risk measures on a minimum historical observation period of five years. When an institution first moves to an Advanced Measurement Approach, it may use a three-year historical observation period;

   (b) institutions shall be able to map their historical internal loss data into the business lines defined in Article 306 and into the event types defined in Article 313, and to provide these data to competent authorities upon request. In exceptional circumstances, an institution may allocate loss events which affect the entire institution to an additional business line "corporate items". Institutions shall have in place documented, objective criteria for allocating losses to the specified business lines and event types. Institutions shall record the operational risk losses that are related to credit risk and that institutions have historically included in the internal credit risk databases in the operational risk databases and shall identify them separately. Such losses shall not be subject to the operational risk charge, as long as institutions continue to treat them as credit risk for the purposes of calculating own funds requirements. Institutions shall include operational

risk losses that are related to market risks in the scope of the own funds requirement for operational risk:

(c) an institution's internal loss data shall be comprehensive in that it captures all material activities and exposures from all appropriate sub-systems and geographic locations. Institutions shall be able to justify that any excluded activities or exposures, both individually and in combination, would not have a material impact on the overall risk estimates. Institutions shall define appropriate minimum loss thresholds for internal loss data collection;

(d) aside from information on gross loss amounts, institutions shall collect information about the date of the loss event, any recoveries of gross loss amounts, as well as descriptive information about the drivers or causes of the loss event;

(e) institutions shall have in place specific criteria for assigning loss data arising from a loss event in a centralised function or an activity that spans more than one business line, as well as from related loss events over time;

(f) institutions shall have in place documented procedures for assessing the on-going relevance of historical loss data, including those situations in which judgement overrides, scaling, or other adjustments may be used, to what extent they may be used and who is authorised to make such decisions.

4. The qualifying standards relating to external data are the following:

(a) an institution's operational risk measurement system shall use relevant external data, especially when there is reason to believe that the institution is exposed to infrequent, yet potentially severe, losses. An institution shall have a systematic process for determining the situations for which external data shall be used and the methodologies used to incorporate the data in its measurement system;

(b) institutions shall regularly review the conditions and practices for external data and shall document them and subject them to periodic independent review.

5. An institution shall use scenario analysis of expert opinion in conjunction with external data to evaluate its exposure to high severity events. Over time, the institution shall validate and reassess such assessments through comparison to actual loss experience to ensure their reasonableness.

6. The qualifying standards relating to business environment and internal control factors are the following:

(a) an institution's firm-wide risk assessment methodology shall capture key business environment and internal control factors that can change the institutions operational risk profile;

(b) institutions shall justify the choice of each factor as a meaningful driver of risk, based on experience and involving the expert judgment of the affected business areas;

(c) institutions shall be able to justify to competent authorities the sensitivity of risk estimates to changes in the factors and the relative weighting of the various factors. In

addition to capturing changes in risk due to improvements in risk controls, an institution's risk measurement framework shall also capture potential increases in risk due to greater complexity of activities or increased business volume;

(d) an institution shall document its risk measurement framework and shall subject it to independent review within the institution and by competent authorities. Over time, institutions shall validate and reassess the process and the outcomes through comparison to actual internal loss experience and relevant external data.

7. EBA shall develop regulatory technical standards to specify the following:

(a) the conditions for assessing whether a system is sound and implemented with integrity for the purposes of point (d) of paragraph 2;

(b) the exceptional circumstances in which an institution may allocate loss events to an additional business line referred to in point (b) of paragraph 3.

EBA shall submit those draft regulatory technical standards to the Commission by 31 December 2016.

Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with the procedure laid down in Articles 10 to 14 of Regulation (EU) No 1093/2010.

Article 312
Impact of insurance and other risk transfer mechanisms

1. The competent authorities shall permit institutions to recognise the impact of insurance subject to the conditions set out in paragraphs 2 to 5 and other risk transfer mechanisms where the institution can demonstrate that a noticeable risk mitigating effect is achieved.

2. The insurance provider shall be authorised to provide insurance or re-insurance and shall have a minimum claims paying ability rating by an eligible ECAI which has been determined by EBA to be associated with credit quality step 3 or above under the rules for the risk weighting of exposures to institutions under Chapter 2.

3. The insurance and the institutions' insurance framework shall meet all the following conditions:

(a) the insurance policy has an initial term of no less than one year. For policies with a residual term of less than one year, an institution shall make appropriate haircuts reflecting the declining residual term of the policy, up to a full 100 % haircut for policies with a residual term of 90 days or less;

(b) the insurance policy has a minimum notice period for cancellation of the contract of 90 days;

(c) the insurance policy has no exclusions or limitations triggered by supervisory actions or, in the case of a failed institution, that preclude the institution receiver or liquidator from recovering the damages suffered or expenses incurred by the institution, except in

respect of events occurring after the initiation of receivership or liquidation proceedings in respect of the institution. However, the insurance policy may exclude any fine, penalty, or punitive damages resulting from actions by the competent authorities;

(d) the risk mitigation calculations shall reflect the insurance coverage in a manner that is transparent in its relationship to, and consistent with, the actual likelihood and impact of loss used in the overall determination of operational risk capital;

(e) the insurance is provided by a third party entity. In the case of insurance through captives and affiliates, the exposure has to be laid off to an independent third party entity that meets the eligibility criteria set out in paragraph 2;

(f) the framework for recognising insurance is well reasoned and documented.

4. The methodology for recognising insurance shall capture all the following elements through discounts or haircuts in the amount of insurance recognition:

(a) where the residual term of the insurance policy is less than one year:

(i) the residual term of the insurance policy;

(ii) the policy's cancellation terms;

(b) the uncertainty of payment as well as mismatches in coverage of insurance policies.

5. The reduction in own funds requirements from the recognition of insurances and other risk transfer mechanisms shall not exceed 20 % of the own funds requirement for operational risk before the recognition of risk mitigation techniques.

Article 313
Loss event type classification

The loss events types referred to in point (b) of Article 311(3) are the following:

Table 3	
Event-Type Category	Definition
Internal fraud	Losses due to acts of a type intended to defraud, misappropriate property or circumvent regulations, the law or company policy, excluding diversity/discrimination events, which involves at least one internal party
External fraud	Losses due to acts of a type intended to defraud, misappropriate property or circumvent the law, by a third party
Employment Practices and Workplace Safety	Losses arising from acts inconsistent with employment, health or safety laws or agreements, from payment of personal injury claims, or from diversity/discrimination events
Clients, Products &	Losses arising from an unintentional or negligent failure to meet a

Business Practices	professional obligation to specific clients (including fiduciary and suitability requirements), or from the nature or design of a product
Damage to Physical Assets	Losses arising from loss or damage to physical assets from natural disaster or other events
Business disruption and system failures	Losses arising from disruption of business or system failures
Execution, Delivery & Process Management	Losses from failed transaction processing or process management, from relations with trade counterparties and vendors

Title IV
Own funds requirements for market risk

Chapter 1
General Provisions

Article 314
Allowances for consolidated requirements

1. Subject to paragraph 2 and only for the purpose of calculating net positions and own funds requirements in accordance with this Title on a consolidated basis, institutions may use positions in one institution or undertaking to offset positions in another institution or undertaking.

2. Institutions may apply paragraph 1 only subject to the permission of the competent authorities, which shall be granted if all of the following conditions are met:

   (a) there is a satisfactory allocation of own funds within the group;

   (b) the regulatory, legal or contractual framework in which the institutions operate is such as to guarantee mutual financial support within the group.

3. Where there are undertakings located in third countries all of the following conditions shall be met in addition to those in paragraph 2:

   (a) such undertakings have been authorised in a third country and either satisfy the definition of a credit institution or are recognised third-country investment firms;

   (b) such undertakings comply, on an individual basis, with own funds requirements equivalent to those laid down in this Regulation;

   (c) no regulations exist in the third countries in question which might significantly affect the transfer of funds within the group.

Chapter 2
Own funds requirements for position risk

SECTION 1
GENERAL PROVISIONS AND SPECIFIC INSTRUMENTS

Article 315
Own funds requirements for position risk

The institution's own funds requirement for position risk shall be the sum of the own funds requirements for the general and specific risk of its positions in debt and equity instruments. Securitisation positions in the trading book shall be treated as debt instruments.

Article 316
Netting

1. The absolute value of the excess of an institution's long (short) positions over its short (long) positions in the same equity, debt and convertible issues and identical financial futures, options, warrants and covered warrants shall be its net position in each of those different instruments. In calculating the net position, positions in derivative instruments shall be treated as laid down in Articles 317 to 319. Institutions' holdings of their own debt instruments shall be disregarded in calculating specific risk capital requirements under Article 325.

2. No netting shall be allowed between a convertible and an offsetting position in the instrument underlying it, unless the competent authorities adopt an approach under which the likelihood of a particular convertible's being converted is taken into account or require an own funds requirement to cover any loss which conversion might entail. Such approaches or own funds requirements shall be notified to the EBA. EBA shall monitor the range of practices in this area and shall, in accordance with Article 16 of Regulation (EU) No. 1093/2010, issue guidelines.

3. All net positions, irrespective of their signs, must be converted on a daily basis into the institution's reporting currency at the prevailing spot exchange rate before their aggregation.

Article 317
Interest rate futures and forwards

1. Interest-rate futures, forward-rate agreements (FRAs) and forward commitments to buy or sell debt instruments shall be treated as combinations of long and short positions. Thus a long interest-rate futures position shall be treated as a combination of a borrowing maturing on the delivery date of the futures contract and a holding of an asset with maturity date equal to that of the instrument or notional position underlying the futures contract in question. Similarly a sold FRA will be treated as a long position with a maturity date equal to the settlement date plus the contract period, and a short position with maturity equal to the settlement date. Both the borrowing and the asset holding shall be included in the first category set out in Table 1 in

Article 325 in order to calculate the own funds requirement for specific risk for interest-rate futures and FRAs. A forward commitment to buy a debt instrument shall be treated as a combination of a borrowing maturing on the delivery date and a long (spot) position in the debt instrument itself. The borrowing shall be included in the first category set out in Table 1 in Article 325 for purposes of specific risk, and the debt instrument under whichever column is appropriate for it in the same table.

2. For the purposes of this Article, 'long position' means a position in which an institution has fixed the interest rate it will receive at some time in the future, and 'short position' means a position in which it has fixed the interest rate it will pay at some time in the future.

Article 318
Options and warrants

1. Options and warrants on interest rates, debt instruments, equities, equity indices, financial futures, swaps and foreign currencies shall be treated as if they were positions equal in value to the amount of the underlying instrument to which the option refers, multiplied by its delta for the purposes of this Chapter. The latter positions may be netted off against any offsetting positions in the identical underlying securities or derivatives. The delta used shall, where relevant, be that of the exchange concerned, that calculated by the competent authorities or, subject to permission by the competent authorities, where that is not available or for OTC-options, that calculated by the institution itself using an appropriate model. Permission shall be granted if the model appropriately estimates the rate of change of the option's or warrant's value with respect to small changes in the market price of the underlying.

2. Institutions shall adequately reflect other risks, apart from the delta risk, associated with options in the own funds requirements.

3. EBA shall develop draft regulatory technical standards defining a range of methods to reflect in the own funds requirements other risks, apart from delta risk, referred to in paragraph 2 in a manner proportionate to the scale and complexity of institutions' activities in options and warrants.

   EBA shall submit those draft regulatory technical standards to the Commission by 1 January 2013.

   Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first sub-paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.

Article 319
Swaps

Swaps shall be treated for interest-rate risk purposes on the same basis as on-balance-sheet instruments. Thus, an interest-rate swap under which an institution receives floating-rate interest and pays fixed-rate interest shall be treated as equivalent to a long position in a floating-rate instrument of maturity equivalent to the period until the next interest fixing and a short position in a fixed-rate instrument with the same maturity as the swap itself.

Article 320
Interest rate risk on derivative instruments

1. Institutions which mark to market and manage the interest-rate risk on the derivative instruments covered in Articles 317 to 319 on a discounted-cash-flow basis may, subject to permission by the competent authorities, use sensitivity models to calculate the positions referred to in those points and may use them for any bond which is amortised over its residual life rather than via one final repayment of principal. Permission shall be granted if these models generate positions which have the same sensitivity to interest-rate changes as the underlying cash flows. This sensitivity shall be assessed with reference to independent movements in sample rates across the yield curve, with at least one sensitivity point in each of the maturity bands set out in Table 2 in Article 328. The positions shall be included in the calculation of own funds requirements for general risk of debt instruments.

2. Institutions which do not use models under paragraph 1 may, treat as fully offsetting any positions in derivative instruments covered in Articles 317 to 319 which meet the following conditions at least:

   (a) the positions are of the same value and denominated in the same currency;

   (b) the reference rate (for floating-rate positions) or coupon (for fixed-rate positions) is closely matched;

   (c) the next interest-fixing date or, for fixed coupon positions, residual maturity corresponds with the following limits:

      (i) less than one month hence: same day;

      (ii) between one month and one year hence: within seven days;

      (iii) over one year hence: within 30 days.

Article 321
Credit Derivatives

1. When calculating the own funds requirement for general and specific risk of the party who assumes the credit risk (the 'protection seller'), unless specified differently, the notional amount of the credit derivative contract shall be used. Notwithstanding the first sentence, the institution may elect to replace the notional value by the notional value plus the net market value change of the credit derivative since trade inception, a net downward change from the protection seller's perspective carrying a negative sign. For the purpose of calculating the specific risk charge, other than for total return swaps, the maturity of the credit derivative contract, rather than the maturity of the obligation, shall apply. Positions are determined as follows:

   (a) a total return swap creates a long position in the general risk of the reference obligation and a short position in the general risk of a government bond with a maturity equivalent to the period until the next interest fixing and which is assigned a 0 % risk weight under Title II, Chapter 2. It also creates a long position in the specific risk of the reference obligation;

(b) a credit default swap does not create a position for general risk. For the purposes of specific risk, the institution must record a synthetic long position in an obligation of the reference entity, unless the derivative is rated externally and meets the conditions for a qualifying debt item, in which case a long position in the derivative is recorded. If premium or interest payments are due under the product, these cash flows must be represented as notional positions in government bonds;

(c) a single name credit linked note creates a long position in the general risk of the note itself, as an interest rate product. For the purpose of specific risk, a synthetic long position is created in an obligation of the reference entity. An additional long position is created in the issuer of the note. Where the credit linked note has an external rating and meets the conditions for a qualifying debt item, a single long position with the specific risk of the note need only be recorded;

(d) in addition to a long position in the specific risk of the issuer of the note, a multiple name credit linked note providing proportional protection creates a position in each reference entity, with the total notional amount of the contract assigned across the positions according to the proportion of the total notional amount that each exposure to a reference entity represents. Where more than one obligation of a reference entity can be selected, the obligation with the highest risk weighting determines the specific risk.

Where a multiple name credit linked note has an external rating and meets the conditions for a qualifying debt item, a single long position with the specific risk of the note need only be recorded;

(e) a first-asset-to-default credit derivative creates a position for the notional amount in an obligation of each reference entity. If the size of the maximum credit event payment is lower than the own funds requirement under the method in the first sentence of this point, the maximum payment amount may be taken as the own funds requirement for specific risk.

A second-asset-to-default credit derivative creates a position for the notional amount in an obligation of each reference entity less one (that with the lowest specific risk own funds requirement). If the size of the maximum credit event payment is lower than the own funds requirement under the method in the first sentence of this point, this amount may be taken as the own funds requirement for specific risk.

Where an n-th-to-default credit derivative is externally rated, the protection seller shall calculate the specific risk own funds requirement using the rating of the derivative and apply the respective securitisation risk weights as applicable;

2. For the party who transfers credit risk (the protection buyer), the positions are determined as the mirror principle of the protection seller, with the exception of a credit linked note (which entails no short position in the issuer). When calculating the own funds requirement for the 'protection buyer', the notional amount of the credit derivative contract shall be used. Notwithstanding the first sentence, the institution may elect to replace the notional value by the notional value minus the net any market value changes of the credit derivative since trade inception, a net downward change from the protection buyer's perspective carrying a negative sign. If at a given moment there is a call option in combination with a step-up, such moment is treated as the maturity of the protection.

Article 322
Securities sold under a repurchase agreement or lent

The transferor of securities or guaranteed rights relating to title to securities in a repurchase agreement and the lender of securities in a securities lending shall include these securities in the calculation of its own funds requirement under this Chapter provided that such securities are trading book positions.

SECTION 2
DEBT INSTRUMENTS

Article 323
Net positions in debt instruments

Net positions shall be classified according to the currency in which they are denominated and shall calculate the own funds requirement for general and specific risk in each individual currency separately.

SUB-SECTION 1
SPECIFIC RISK

Article 324
Cap on the own funds requirement for a net position

The institution may cap the own funds requirement for specific risk of a net position in a debt instrument at the maximum possible default-risk related loss. For a short position, that limit may be calculated as a change in value due to the instrument or, where relevant, the underlying names immediately becoming default risk-free.

Article 325
Own funds requirement for non-securitisation debt instruments

1. The institution shall assign its net positions in the trading book in instruments that are not securitisation positions as calculated in accordance with Article 316 to the appropriate categories in Table 1 on the basis of their issuer or obligor, external or internal credit assessment, and residual maturity, and then multiply them by the weightings shown in that table. It shall sum its weighted positions resulting from the application of this point regardless of whether they are long or short in order to calculate its own funds requirement against specific risk.

Table 1	
Categories	Specific risk own funds requirement
Debt securities which would receive a 0 % risk weight under the	0 %

Standardised approach for credit risk.	
Debt securities which would receive a 20% or 50% risk weight under the Standardised approach for credit risk and other qualifying items as defined in paragraph 6.	0,25 % (residual term to final maturity six months or less) 1,00 % (residual term to final maturity greater than six months and up to and including 24 months) 1,60 % (residual term to maturity exceeding 24 months)
Debt securities which would receive a 100% risk weight under the Standardised approach for credit risk.	8,00 %
Debt which would receive a 150% risk weight under the Standardised approach for credit risk.	12,00 %

2. For institutions which apply the IRB approach to the exposure class of which the issuer of the debt instrument forms part, to qualify for a risk weight under the Standardised approach for credit risk as referred to in paragraph 1, the issuer of the exposure shall have an internal rating with a PD equivalent to or lower than that associated with the appropriate credit quality step under the Standardised approach.

3. Institutions may calculate the specific risk requirements for any bonds that qualify for a 10% risk weight in accordance with the treatment in Article 124(3) as half of the applicable specific risk own funds requirement for the second category in Table 1.

4. Other qualifying items are:

   (a) long and short positions in assets qualifying for a credit quality step corresponding at least to investment grade in the mapping process under the Standardised approach for credit risk;

   (b) long and short positions in assets which, because of the solvency of the issuer, have a PD under the IRB approach for credit risk, which is not higher than that of the assets referred to under (a);

   (c) long and short positions in assets for which a credit assessment by a nominated external credit assessment institution is not available and which meet all of the following conditions:

      (i) they are considered by the institution concerned to be sufficiently liquid;

      (ii) their investment quality is, according to the institution's own discretion, at least equivalent to that of the assets referred to under point (a);

(iii) they are listed on at least one regulated market in a Member State or on a stock exchange in a third country provided that the exchange is recognised by the competent authorities of the relevant Member State;

(d) long and short positions in assets issued by institutions subject to the own funds requirements set out in this Regulation which are considered by the institution concerned to be sufficiently liquid and whose investment quality is, according to the institution's own discretion, at least equivalent to that of the assets referred to under point (a);

(e) securities issued by institutions that are deemed to be of equivalent, or higher, credit quality than those associated with credit quality step 2 under the Standardised approach for credit risk of exposures to institutions and that are subject to supervisory and regulatory arrangements comparable to those under this Directive.

Institutions that make use of points (c) or (d) shall have a documented methodology in place to assess whether assets meet the requirements in those points and shall notify this methodology to the competent authorities.

Article 326
Own funds requirement for securitisation instruments

1. For instruments in the trading book that are securitisation positions, the institution shall weight with the following its net positions as calculated in accordance with Article 316(1):

(a) for securitisation positions that would be subject to the Standardised Approach for credit risk in the same institution's non-trading book, 8 % of the risk weight under the Standardised Approach as set out in Chapter 5;

(b) for securitisation positions that would be subject to the Internal Ratings Based Approach in the same institution's non-trading book, 8 % of the risk weight under the Internal Ratings Based Approach as set out in Chapter 5.

2. The Supervisory Formula Method set out in Article 257 may be used where the institution can produce estimates of PD, and where applicable EAD and LGD as inputs into the Supervisory Formula Method in accordance with the requirements for the estimation of those parameters under the Internal Ratings Based approach in accordance with Chapter 2, Section 3.

An institution other than an originator institution that could apply it for the same securitisation position in its non-trading book may only use that method subject to permission by the competent authorities, which shall be granted where the institution fulfils the condition in the previous sentence.

Estimates of PD and LGD as inputs to the Supervisory Formula Method may alternatively also be determined based on estimates that are derived from an IRC approach of an institution that has been granted permission to use an internal model for specific risk of debt instruments. The latter alternative may be used only subject to permission by the competent authorities, which shall be granted if those estimates meet the quantitative requirements for the Internal Ratings Based Approach set out in Chapter 2, Section 3.

In accordance with Article 16 of Regulation (EU) No. 1093/2010, EBA shall issue guidelines on the use of estimates of PD and LGD as inputs when those estimates are based on an IRC approach.

3. For securitisation positions that are subject to an additional risk weight in accordance with Article 396, 8 % of the total risk weight shall be applied.

4. The institution shall sum its weighted positions resulting from the application of this Article (regardless of whether they are long or short) in order to calculate its own funds requirement against specific risk.

5. By way of derogation from paragraph 4, for a transitional period ending 31 December 2013, the institution shall sum separately its weighted net long positions and its weighted net short positions. The larger of those sums shall constitute the specific risk own funds requirement. The institution shall, however, quarterly report to the home Member State competent authority the total sum of its weighted net long and net short positions, broken down by types of underlying assets.

Article 327
Own funds requirement for the correlation trading portfolio

1. The correlation trading portfolio shall consist of securitisation positions and n-th-to-default credit derivatives that meet all of the following criteria:

   (a) the positions are neither re-securitisation positions, nor options on a securitisation tranche, nor any other derivatives of securitisation exposures that do not provide a pro-rata share in the proceeds of a securitisation tranche;

   (b) all reference instruments are either of the following:

      (i) single-name instruments, including single-name credit derivatives, for which a liquid two-way market exists;

      (ii) commonly-traded indices based on those reference entities.

   A two-way market is deemed to exist where there are independent bona fide offers to buy and sell so that a price reasonably related to the last sales price or current bona fide competitive bid and offer quotations can be determined within one day and settled at such price within a relatively short time conforming to trade custom.

2. Positions which reference any of the following shall not be part of the correlation trading portfolio:

   (a) an underlying that is capable of being assigned to the exposure class 'retail claims or contingent retail claims' or to the exposure class 'claims or contingent claims secured by mortgages on immovable property' under the Standardised approach for credit risk in an institution's non-trading book;

   (b) a claim on a special purpose entity.

3. An institution may include in the correlation trading portfolio positions which are neither securitisation positions nor n-th-to-default credit derivatives but which hedge other positions of that portfolio, provided that a liquid two-way market as described in the last subparagraph of paragraph 1 exists for the instrument or its underlyings instead of determining it as the sum of those amounts.

4. An institution shall determine the larger of the following amounts as the specific risk own funds requirement for the correlation trading portfolio:

   (a) the total specific risk own funds requirement that would apply just to the net long positions of the correlation trading portfolio;

   (b) the total specific risk own funds requirement that would apply just to the net short positions of the correlation trading portfolio.

SUB-SECTION 2
GENERAL RISK

Article 328
Maturity-based calculation of general risk

1. In order to calculate own funds requirements against general risk all positions shall be weighted according to maturity as explained in paragraph 2 in order to compute the amount of own funds required against them. This requirement shall be reduced when a weighted position is held alongside an opposite weighted position within the same maturity band. A reduction in the requirement shall also be made when the opposite weighted positions fall into different maturity bands, with the size of this reduction depending both on whether the two positions fall into the same zone, or not, and on the particular zones they fall into.

2. The institution shall assign its net positions to the appropriate maturity bands in column 2 or 3, as appropriate, in Table 2 in paragraph 4. It shall do so on the basis of residual maturity in the case of fixed-rate instruments and on the basis of the period until the interest rate is next set in the case of instruments on which the interest rate is variable before final maturity. It shall also distinguish between debt instruments with a coupon of 3 % or more and those with a coupon of less than 3 % and thus allocate them to column 2 or column 3 in Table 2. It shall then multiply each of them by the weighing for the maturity band in question in column 4 in Table 2.

3. The institution shall then work out the sum of the weighted long positions and the sum of the weighted short positions in each maturity band. The amount of the former which are matched by the latter in a given maturity band shall be the matched weighted position in that band, while the residual long or short position shall be the unmatched weighted position for the same band. The total of the matched weighted positions in all bands shall then be calculated.

4. The institution shall compute the totals of the unmatched weighted long positions for the bands included in each of the zones in Table 2 in order to derive the unmatched weighted long position for each zone. Similarly, the sum of the unmatched weighted short positions for each band in a particular zone shall be summed to compute the unmatched weighted short position

for that zone. That part of the unmatched weighted long position for a given zone that is matched by the unmatched weighted short position for the same zone shall be the matched weighted position for that zone. That part of the unmatched weighted long or unmatched weighted short position for a zone that cannot be thus matched shall be the unmatched weighted position for that zone.

Table 2				
Zone	Maturity band			
	Coupon of 3 % or more	Coupon of less than 3 %		
One	0 ≤ 1 month	0 ≤ 1 month	0,00	—
	> 1 ≤ 3 months	> 1 ≤ 3 months	0,20	1,00
	> 3 ≤ 6 months	> 3 ≤ 6 months	0,40	1,00
	> 6 ≤ 12 months	> 6 ≤ 12 months	0,70	1,00
Two	> 1 ≤ 2 years	> 1,0 ≤ 1,9 years	1,25	0,90
	> 2 ≤ 3 years	> 1,9 ≤ 2,8 years	1,75	0,80
	> 3 ≤ 4 years	> 2,8 ≤ 3,6 years	2,25	0,75
Three	> 4 ≤ 5 years	> 3,6 ≤ 4,3 years	2,75	0,75
	> 5 ≤ 7 years	> 4,3 ≤ 5,7 years	3,25	0,70
	> 7 ≤ 10 years	> 5,7 ≤ 7,3 years	3,75	0,65
	> 10 ≤ 15 years	> 7,3 ≤ 9,3 years	4,50	0,60
	> 15 ≤ 20 years	> 9,3 ≤ 10,6 years	5,25	0,60
	> 20 years	> 10,6 ≤ 12,0 years	6,00	0,60
		> 12,0 ≤ 20,0 years	8,00	0,60
		> 20 years	12,50	0,60

5. The amount of the unmatched weighted long or short position in zone one which is matched by the unmatched weighted short or long position in zone two shall then be the matched weighted position between zones one and two. The same calculation shall then be undertaken with regard to that part of the unmatched weighted position in zone two which is left over and the unmatched weighted position in zone three in order to calculate the matched weighted position between zones two and three.

6. The institution may reverse the order in paragraph 5 so as to calculate the matched weighted position between zones two and three before calculating that position between zones one and two.

7. The remainder of the unmatched weighted position in zone one shall then be matched with what remains of that for zone three after the latter's matching with zone two in order to derive the matched weighted position between zones one and three.

8. Residual positions, following the three separate matching calculations in paragraph 5, 6 and 7 shall be summed.

9. The institution's own funds requirement shall be calculated as the sum of:

(a) 10 % of the sum of the matched weighted positions in all maturity bands;

(b) 40 % of the matched weighted position in zone one;

(c) 30 % of the matched weighted position in zone two;

(d) 30 % of the matched weighted position in zone three;

(e) 40 % of the matched weighted position between zones one and two and between zones two and three;

(f) 150 % of the matched weighted position between zones one and three;

(g) 100 % of the residual unmatched weighted positions.

Article 329
Duration-based calculation of general risk

1. Institutions may use an approach for calculating the own funds requirement for the general risk on debt instruments which reflects duration, instead of the approach set out in Article 328, provided that the institution does so on a consistent basis.

2. Under the duration-based approach referred to in paragraph 1, the institution shall take the market value of each fixed-rate debt instrument and hence calculate its yield to maturity, which is implied discount rate for that instrument. In the case of floating-rate instruments, the institution shall take the market value of each instrument and hence calculate its yield on the assumption that the principal is due when the interest rate can next be changed.

3. The institution shall then calculate the modified duration of each debt instrument on the basis of the following formula:

$$modified\ duration = \frac{D}{1+R}$$

where:

D = duration calculated according to the following formula:

$$D = \frac{\sum_{t=1}^{M} \frac{t \cdot C_t}{(1+R)^t}}{\sum_{t=1}^{M} \frac{C_t}{(1+R)^t}}$$

where:

R = yield to maturity referred to in paragraph 2;

C_t = cash payment in time t;

M = total maturity referred to in paragraph 2.

Correction shall be made to the calculation of the modified duration for debt instruments which are subject to prepayment risk. EBA shall, in accordance with Article 16 of Regulation (EU) No. 1093/2010, issue guidelines about how to apply such corrections.

4. The institution shall then allocate each debt instrument to the appropriate zone in Table 3. It shall do so on the basis of the modified duration of each instrument.

Table 3		
Zone	Modified duration (in years)	Assumed interest (change in %)
One	$> 0 \leq 1{,}0$	1,0
Two	$> 1{,}0 \leq 3{,}6$	0,85
Three	$> 3{,}6$	0,7

5. The institution shall then calculate the duration-weighted position for each instrument by multiplying its market price by its modified duration and by the assumed interest-rate change for an instrument with that particular modified duration (see column 3 in Table 3).

6. The institution shall calculate its duration-weighted long and its duration-weighted short positions within each zone. The amount of the former which are matched by the latter within each zone shall be the matched duration-weighted position for that zone.

The institution shall then calculate the unmatched duration-weighted positions for each zone. It shall then follow the procedures laid down for unmatched weighted positions in paragraphs 5 to 8.

7. The institution's own funds requirement shall then be calculated as the sum of the following:

(a) 2 % of the matched duration-weighted position for each zone;

(b) 40 % of the matched duration-weighted positions between zones one and two and between zones two and three;

(c) 150 % of the matched duration-weighted position between zones one and three;

(d) 100 % of the residual unmatched duration-weighted positions.

SECTION 3
EQUITIES

Article 330
Net positions in equity instruments

1. The institution shall separately sum all its net long positions and all its net short positions in accordance with Article 316. The sum of the absolute values of the two figures shall be its overall gross position.

2. The institution shall calculate, separately for each market, the difference between the sum of the net long and the net short positions. The sum of the absolute values of those differences shall be its overall net position.

3. EBA shall develop draft regulatory technical standards defining the term market referred to in paragraph 2.

   EBA shall submit those draft regulatory technical standards to the Commission by 1 January 2013.

   Power is delegated to the Commission to adopt the regulatory technical standards referred to in the previous sub-paragraph in accordance with the procedure laid down in Articles 10 to 14 of Regulation (EU) No 1093/2010.

Article 331
Specific risk of equity instruments

The institution shall multiply its overall gross position by 8 % in order to calculate its own funds requirement against specific risk.

Article 332
General risk of equity instruments

The own funds requirement against general risk shall be its overall net position multiplied by 8 %.

Article 333
Stock indices

1. EBA shall develop draft implementing technical standards listing the stock indices for which one or more of the treatments in paragraphs 3 and 4 is available.

EBA shall submit those draft 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 third subparagraph in accordance with the procedure laid down in Article 15 of Regulation (EU) No 1093/2010.

2. Before the entry into force of the technical standards referred to in paragraph 1, institutions may continue to apply the treatment set out in paragraphs 3 and 4, where the competent authorities have applied that treatment before 1 January 2013.

3. Stock-index futures, the delta-weighted equivalents of options in stock-index futures and stock indices collectively referred to hereafter as 'stock-index futures', may be broken down into positions in each of their constituent equities. These positions may be treated as underlying positions in the equities in question, and may, be netted against opposite positions in the underlying equities themselves. Institutions shall notify the competent authority of the use they make of this treatment.

4. Where a stock-index future is not broken down into its underlying positions, it shall be treated as if it were an individual equity. However, the specific risk on this individual equity can be ignored if the stock-index future in question is exchange traded and represents an appropriately diversified index.

SECTION 4
UNDERWRITING

Article 334
Reduction of net positions

1. In the case of the underwriting of debt and equity instruments, an institution may use the following procedure in calculating its own funds requirements. The institution shall first calculate the net positions by deducting the underwriting positions which are subscribed or sub-underwritten by third parties on the basis of formal agreements. The institution shall then reduce the net positions by the reduction factors in Table 4 and calculate its own funds requirements using the reduced underwriting positions.

Table 4	
working day 0:	100 %
working day 1:	90 %
working days 2 to 3:	75 %
working day 4:	50 %
working day 5:	25 %
after working day 5:	0 %.

'Working day zero' shall be the working day on which the institution becomes unconditionally committed to accepting a known quantity of securities at an agreed price.

2. The institutions shall notify to the competent authorities the use they make of paragraph 1.

SECTION 5
SPECIFIC RISK OWN FUNDS REQUIREMENTS FOR POSITIONS HEDGED BY CREDIT DERIVATIVES

Article 335
Allowance for hedges by credit derivatives

1. An allowance shall be given for hedges provided by credit derivatives, in accordance with the principles set out in paragraphs 2 to 6.

2. Institutions shall treat the position in the credit derivative as one 'leg' and the hedged position that has the same nominal, or, where applicable, notional amount, as the other 'leg'.

3. Full allowance shall be given when the values of the two legs always move in the opposite direction and broadly to the same extent. This will be the case in the following situations:

   (a) the two legs consist of completely identical instruments;

   (b) a long cash position is hedged by a total rate of return swap (or vice versa) and there is an exact match between the reference obligation and the underlying exposure (i.e., the cash position). The maturity of the swap itself may be different from that of the underlying exposure.

   In these situations, a specific risk own funds requirement shall not be applied to either side of the position.

4. An 80 % offset will be applied when the values of the two legs always move in the opposite direction and where there is an exact match in terms of the reference obligation, the maturity of both the reference obligation and the credit derivative, and the currency of the underlying exposure. In addition, key features of the credit derivative contract shall not cause the price movement of the credit derivative to materially deviate from the price movements of the cash position. To the extent that the transaction transfers risk, an 80 % specific risk offset will be applied to the side of the transaction with the higher own funds requirement, while the specific risk requirements on the other side shall be zero.

5. Partial allowance shall be given, absent the situations in paragraphs 3 and 4, in the following situations:

   (a) the position falls under paragraph 2(b) but there is an asset mismatch between the reference obligation and the underlying exposure. However, the positions meet the following requirements:

      (i) the reference obligation ranks pari passu with or is junior to the underlying obligation;

(ii) the underlying obligation and reference obligation share the same obligor and have legally enforceable cross-default or cross-acceleration clauses;

(b) the position falls under paragraph 2(b) or 3 but there is a currency or maturity mismatch between the credit protection and the underlying asset. Such currency mismatch shall be included in the own funds requirement for foreign exchange risk;

(c) the position falls under paragraph 3 but there is an asset mismatch between the cash position and the credit derivative. However, the underlying asset is included in the (deliverable) obligations in the credit derivative documentation.

In order to give partial allowance, rather than adding the specific risk own funds requirements for each side of the transaction, only the higher of the two own funds requirements shall apply.

6. In all situations not falling under paragraphs 3 to 5, an own funds requirement for specific risk shall be calculated for both sides of the positions separately.

Article 336
Allowance for hedges by first and nth-to default credit derivatives

In the case of first-to-default credit derivatives and nth-to-default credit derivatives, the following treatment applies for the allowance to be given according to Article 335:

(a) where an institution obtains credit protection for a number of reference entities underlying a credit derivative under the terms that the first default among the assets shall trigger payment and that this credit event shall terminate the contract, the institution may offset specific risk for the reference entity to which the lowest specific risk percentage charge among the underlying reference entities applies according to Table 1 in Article 325;

(b) where the nth default among the exposures triggers payment under the credit protection, the protection buyer may only offset specific risk if protection has also been obtained for defaults 1 to n-1 or when n-1 defaults have already occurred. In such cases, the methodology set out above for first-to-default credit derivatives shall be followed appropriately modified for nth-to-default products.

SECTION 6
OWN FUNDS REQUIREMENTS FOR CIUS

Article 337
Own funds requirements for CIUs

1. Without prejudice to other provisions in this section, positions in CIUs shall be subject to an own funds requirement for position risk, comprising specific and general risk, of 32 %. Without prejudice to Article 342 or Article 356(6) taken together with Article 342 where the modified gold treatment set out in those points is used, positions in CIUs shall be subject to an own funds requirement for position risk, comprising specific and general risk, and foreign-exchange risk of 40 %.

2. Unless noted otherwise in Article 339, no netting is permitted between the underlying investments of a CIU and other positions held by the institution.

Article 338
General criteria for CIUs

CIUs shall be eligible for the approach set out in Article 339, where all the following conditions are met:

(a) the CIU's prospectus or equivalent document shall include all of the following:

 (i) the categories of assets the CIU is authorised to invest in;

 (ii) where investment limits apply, the relative limits and the methodologies to calculate them;

 (iii) where leverage is allowed, the maximum level of leverage;

 (iv) where concluding OTC financial derivatives transactions or repurchase transactions or securities borrowing or lending is allowed, a policy to limit counterparty risk arising from these transactions;

(b) the business of the CIU shall be reported in half-yearly and annual reports to enable an assessment to be made of the assets and liabilities, income and operations over the reporting period;

(c) the shares or units of the CIU are redeemable in cash, out of the undertaking's assets, on a daily basis at the request of the unit holder;

(d) investments in the CIU shall be segregated from the assets of the CIU manager;

(e) there shall be adequate risk assessment of the CIU, by the investing institution;

(f) CIUs shall be managed by persons supervised according to Directive (UCITS) or equivalent legislation in order to be eligible.

Article 339
Specific methods for CIUs

1. Where the institution is aware of the underlying investments of the CIU on a daily basis, the institution may look through to those underlying investments in order to calculate the own funds requirements for position risk, comprising specific and general risk under this approach, positions in CIUs shall be treated as positions in the underlying investments of the CIU. Netting shall be permitted between positions in the underlying investments of the CIU and other positions held by the institution, as long as the institution holds a sufficient quantity of shares or units to allow for redemption/creation in exchange for the underlying investments.

2. Institutions may calculate the own funds requirements for position risk, comprising specific and general risk, for positions in CIUs by assuming positions representing those necessary to

replicate the composition and performance of the externally generated index or fixed basket of equities or debt securities referred to in (a), subject to the following conditions:

(a) purpose of the CIU's mandate is to replicate the composition and performance of an externally generated index or fixed basket of equities or debt securities;

(b) a minimum correlation of 0.9 between daily price movements of the CIU and the index or basket of equities or debt securities it tracks can be clearly established over a minimum period of six months. 'Correlation' in this context means the correlation coefficient between daily returns on the CIU and the index or basket of equities or debt securities it tracks.

3. Where the institution is not aware of the underlying investments of the CIU on a daily basis, the institution may calculate the own funds requirements for position risk, comprising specific and general risk, subject to the following conditions:

(a) it will be assumed that the CIU first invests to the maximum extent allowed under its mandate in the asset classes attracting the highest own funds requirement for specific and general risk separately, and then continues making investments in descending order until the maximum total investment limit is reached. The position in the CIU will be treated as a direct holding in the assumed position;

(b) institutions shall take account of the maximum indirect exposure that they could achieve by taking leveraged positions through the CIU when calculating their own funds requirement for specific and general risk separately, by proportionally increasing the position in the CIU up to the maximum exposure to the underlying investment items resulting from the mandate;

(c) if the own funds requirement specific and general risk together according to this point exceed that set out in Article 337(1) the own funds requirement shall be capped at that level.

4. Institutions may rely on the following third parties to calculate and report own funds requirements for position risk for positions in CIUs falling under paragraphs 1 to 4, in accordance with the methods set out in this Chapter:

(a) the depository of the CIU provided that the CIU exclusively invests in securities and deposits all securities at this depository;

(b) for other CIUs, the CIU management company, provided that the CIU management company meets the criteria set out in paragraph 3(a) of Article 127.

The correctness of the calculation shall be confirmed by an external auditor.

Chapter 3
Own funds requirements for foreign-exchange risk

Article 340
De minimis and weighting for foreign exchange risk

If the sum of an institution's overall net foreign-exchange position and its net gold position, calculated in accordance with the procedure set out in Article 341, including for any foreign exchange and gold positions for which own funds requirements are calculated using an internal model, exceeds 2 % of its total own funds, the institution shall calculate an own funds requirement for foreign exchange risk. The own funds requirement for foreign exchange risk shall be the sum of its overall net foreign-exchange position and its net gold position in the reporting currency, multiplied by 8 %.

Article 341
Calculation of the overall net foreign exchange risk position

1. The institution's net open position in each currency (including the reporting currency) and in gold shall be calculated as the sum of the following elements (positive or negative):

   (a) the net spot position (i.e. all asset items less all liability items, including accrued interest, in the currency in question or, for gold, the net spot position in gold);

   (b) the net forward position, which are all amounts to be received less all amounts to be paid under forward exchange and gold transactions, including currency and gold futures and the principal on currency swaps not included in the spot position;

   (c) irrevocable guarantees and similar instruments that are certain to be called and likely to be irrecoverable;

   (d) the net delta, or delta-based, equivalent of the total book of foreign-currency and gold options;

   (e) the market value of other options.

   The delta used for purposes of point (e) shall be, where relevant, that of the exchange concerned, subject to permission by the competent authorities, where that is not available, or for OTC options, that calculated by the institution itself using an appropriate model. Permission shall be granted if the model appropriately estimates the rate of change of the option's or warrant's value with respect to small changes in the market price of the underlying.

   The institution may include net future income/expenses not yet accrued but already fully hedged if it does so consistently.

   The institution may break down net positions in composite currencies into the component currencies according to the quotas in force.

2. Any positions which an institution has deliberately taken in order to hedge against the adverse effect of the exchange rate on its ratios in according to Article 87(1) may, subject to

permission by the competent authorities, be excluded from the calculation of net open currency positions. Such positions shall be of a non-trading or structural nature and any variation of the terms of their exclusion, subject to separate permission by the competent authorities. The same treatment subject to the same conditions as above may be applied to positions which an institution has which relate to items that are already deducted in the calculation of own funds.

3. An institution may use the net present value when calculating the net open position in each currency and in gold provided that the institution applies this approach consistently.

4. Net short and long positions in each currency other than the reporting currency and the net long or short position in gold shall be converted at spot rates into the reporting currency. They shall then be summed separately to form the total of the net short positions and the total of the net long positions respectively. The higher of these two totals shall be the institution's overall net foreign-exchange position.

5. Institutions shall adequately reflect other risks associated with options, apart from the delta risk, in the own funds requirements.

6. EBA shall develop draft regulatory technical standards defining a range of methods to reflect in the own funds requirements other risks, apart from delta risk, in a manner proportionate to the scale and complexity of institutions' activities in options.

   EBA shall submit those draft regulatory technical standards to the Commission by 1 January 2013.

   Power is delegated to the Commission to adopt the regulatory technical standards referred to in the previous sub-paragraph in accordance with the procedure laid down in Articles 10 to 14 of Regulation (EU) No 1093/2010.

Article 342
Foreign exchange risk of CIUs

1. For the purposes of Article 341, in respect of CIUs the actual foreign exchange positions of the CIU shall be taken into account.

2. Institutions may rely on the following third parties' reporting of the foreign exchange positions in the CIU:

   (a) the depository institution of the CIU provided that the CIU exclusively invests in securities and deposits all securities at this depository institution;

   (b) for other CIUs, the CIU management company, provided that the CIU management company meets the criteria set out in point (a) of paragraph 3.

   The correctness of the calculation shall be confirmed by an external auditor.

3. Where an institution is not aware of the foreign exchange positions in a CIU, it shall be assumed that the CIU is invested up to the maximum extent allowed under the CIU's mandate in foreign exchange and institutions shall, for trading book positions, take account of the

maximum indirect exposure that they could achieve by taking leveraged positions through the CIU when calculating their own funds requirement for foreign exchange risk. This shall be done by proportionally increasing the position in the CIU up to the maximum exposure to the underlying investment items resulting from the investment mandate. The assumed position of the CIU in foreign exchange shall be treated as a separate currency according to the treatment of investments in gold, subject to the modification that, where the direction of the CIU's investment is available, the total long position may be added to the total long open foreign exchange position and the total short position may be added to the total short open foreign exchange position. There shall be no netting allowed between such positions prior to the calculation.

Article 343
Closely correlated currencies

1. Institutions may provide lower own funds requirements against positions in closely correlated currencies. A pair of currencies is deemed to be closely correlated only if the likelihood of a loss — calculated on the basis of daily exchange-rate data for the preceding three or five years — occurring on equal and opposite positions in such currencies over the following 10 working days, which is 4 % or less of the value of the matched position in question (valued in terms of the reporting currency) has a probability of at least 99 %, when an observation period of three years is used, or 95 %, when an observation period of five years is used. The own-funds requirement on the matched position in two closely correlated currencies shall be 4 % multiplied by the value of the matched position.

2. In calculating the requirements of this chapter, institutions may disregard positions in currencies, which are subject to a legally binding intergovernmental agreement to limit its variation relative to other currencies covered by the same agreement. Institutions shall calculate their matched positions in such currencies and subject them to an own funds requirement no lower than half of the maximum permissible variation laid down in the intergovernmental agreement in question in respect of the currencies concerned.

3. EBA shall develop draft implementing technical standards listing the currencies which meet the requirements set out in paragraph 1.

   EBA shall submit those draft 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 third subparagraph in accordance with the procedure laid down in Article 15 of Regulation (EU) No 1093/2010.

4. The own funds requirement on the matched positions in currencies of Member States participating in the second stage of the economic and monetary union may be calculated as 1,6 %of the value of such matched positions.

5. Only the unmatched positions in currencies referred to in this Article shall be incorporated into the overall net open position according to Article 341(4).

Chapter 4
Own funds requirements for commodities risk

Article 344
Choice of method for commodities risk

Subject to Articles 345 to 347, institutions shall calculate the own funds requirement for commodities risk with one of the methods set out in Articles 348, 349 or 350.

Article 345
Ancillary commodities business

1. Institutions with ancillary agricultural commodities business may determine the own funds requirements for their physical commodity stock at the end of each year for the following year where all of the following conditions are met:

   (a) at any time of the year it holds own funds for this risk which are not lower than the average own funds requirement for that risk estimated on a conservative basis for the coming year;

   (b) it estimates on a conservative basis the expected volatility for the figure calculated under point (a);

   (c) its average own funds requirement for this risk does not exceed 5% of its own funds or 1 million EUR and, taking into account the volatility estimated in accordance with (b), the expected peak own funds requirements do not exceed 6.5% of its own funds;

   (d) The institution monitors on an ongoing basis whether the estimates carried out under points (a) and (b) still reflect the reality.

2. Institutions shall notify to the competent authorities the use they make of the option provided in paragraph 1.

Article 346
Positions in commodities

1. Each position in commodities or commodity derivatives shall be expressed in terms of the standard unit of measurement. The spot price in each commodity shall be expressed in the reporting currency.

2. Positions in gold or gold derivatives shall be considered as being subject to foreign-exchange risk and treated according to Chapter 3 or 5, as appropriate, for the purpose of calculating commodities risk.

3. For the purposes of this Chapter, positions which are purely stock financing may be excluded.

4. For the purpose of Article 349(1), the excess of an institution's long positions over its short positions, or vice versa, in the same commodity and identical commodity futures, options and warrants shall be its net position in each commodity. Derivative instruments shall be treated, as laid down in Article 347, as positions in the underlying commodity.

5. For the purposes of calculating a position in a commodity, the following positions shall be treated as positions in the same commodity:

   (a) positions in different sub-categories of commodities in cases where the sub-categories are deliverable against each other;

   (b) positions in similar commodities if they are close substitutes and where a minimum correlation of 0.9 between price movements can be clearly established over a minimum period of one year.

Article 347
Particular instruments

1. Commodity futures and forward commitments to buy or sell individual commodities shall be incorporated in the measurement system as notional amounts in terms of the standard unit of measurement and assigned a maturity with reference to expiry date.

2. Commodity swaps where one side of the transaction is a fixed price and the other the current market price shall be treated, as a series of positions equal to the notional amount of the contract, with, where relevant, one position corresponding with each payment on the swap and slotted into the maturity bands in Article 348(1). The positions shall be long positions if the institution is paying a fixed price and receiving a floating price and short positions if the institution is receiving a fixed price and paying a floating price. Commodity swaps where the sides of the transaction are in different commodities are to be reported in the relevant reporting ladder for the maturity ladder approach.

3. Options and warrants on commodities or on commodity derivatives shall be treated as if they were positions equal in value to the amount of the underlying to which the option refers, multiplied by its delta for the purposes of this Chapter. The latter positions may be netted off against any offsetting positions in the identical underlying commodity or commodity derivative. The delta used shall, where relevant, be that of the exchange concerned, subject to permission by the competent authorities, where that is not available, or for OTC options, that calculated by the institution itself using an appropriate model. Permission shall be granted if the model appropriately estimates the rate of change of the option's or warrant's value with respect to small changes in the market price of the underlying.

   Institutions shall adequately reflect other risks associated with options, apart from the delta risk, in the own funds requirements.

4. EBA shall develop draft regulatory technical standards defining a range of methods to reflect in the own funds requirements other risks, apart from delta risk, in a manner proportionate to the scale and complexity of institutions' activities in options.

   EBA shall submit those draft regulatory technical standards to the Commission by 1 January 2013.

Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first sub-paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.

5. Where an institution is either of the following, it shall include the commodities concerned in the calculation of its own funds requirement for commodities risk:

(a) the transferor of commodities or guaranteed rights relating to title to commodities in a repurchase agreement;

(b) the lender of commodities in a commodities lending agreement.

Article 348
Maturity ladder approach

1. The institution shall use a separate maturity ladder in line with Table 1 for each commodity. All positions in that commodity shall be assigned to the appropriate maturity bands. Physical stocks shall be assigned to the first maturity band between 0 and up to and including 1 month.

Table 1	
Maturity band (1)	Spread rate (in %) (2)
0 ≤ 1 month	1,50
> 1 ≤ 3 months	1,50
> 3 ≤ 6 months	1,50
> 6 ≤ 12 months	1,50
> 1 ≤ 2 years	1,50
> 2 ≤ 3 years	1,50
> 3 years	1,50

2. Positions in the same commodity may be offset and assigned to the appropriate maturity bands on a net basis for the following:

(a) positions in contracts maturing on the same date;

(b) positions in contracts maturing within 10 days of each other if the contracts are traded on markets which have daily delivery dates.

3. The institution shall then calculate the sum of the long positions and the sum of the short positions in each maturity band. The amount of the former which are matched by the latter in a given maturity band shall be the matched positions in that band, while the residual long or short position shall be the unmatched position for the same band.

4. That part of the unmatched long position for a given maturity band that is matched by the unmatched short position, or vice versa, for a maturity band further out shall be the matched position between two maturity bands. That part of the unmatched long or unmatched short position that cannot be thus matched shall be the unmatched position.

5. The institution's own funds requirement for each commodity shall be calculated on the basis of the relevant maturity ladder as the sum of the following:

(a) the sum of the matched long and short positions, multiplied by the appropriate spread rate as indicated in the second column of Table 1 for each maturity band and by the spot price for the commodity;

(b) the matched position between two maturity bands for each maturity band into which an unmatched position is carried forward, multiplied by 0,6 %, which is the carry rate and by the spot price for the commodity;

(c) the residual unmatched positions, multiplied by 15 % which is the outright rate and by the spot price for the commodity.

6. The institution's overall own funds requirement for commodities risk shall be calculated as the sum of the own funds requirements calculated for each commodity according to paragraph 5.

Article 349
Simplified approach

1. The institution's own funds requirement for each commodity shall be calculated as the sum of the following:

(a) 15 % of the net position, long or short, multiplied by the spot price for the commodity;

(b) 3 % of the gross position, long plus short, multiplied by the spot price for the commodity.

2. The institution's overall own funds requirement for commodities risk shall be calculated as the sum of the own funds requirements calculated for each commodity according to paragraph 1.

Article 350
Extended maturity ladder approach

Institutions may use the minimum spread, carry and outright rates set out in the following table 2 instead of those indicated in Article 348 provided that the institutions:

(a) undertake significant commodities business;

(b) have an appropriately diversified commodities portfolio;

(c) are not yet in a position to use internal models for the purpose of calculating the own funds requirement for commodities risk.

Institutions shall notify the use they make of this Article to their competent authorities together with evidence of their efforts to implement an internal model for the purpose of calculating the own funds requirement for commodities risk.

Table 2				
	Precious metals (except gold)	Base metals	Agricultural products (softs)	Other, including energy products
Spread rate (%)	1,0	1,2	1,5	1,5
Carry rate (%)	0,3	0,5	0,6	0,6
Outright rate (%)	8	10	12	15

Chapter 5
Use of internal models to calculate own funds requirements

Section 1
Permission and own funds requirements

Article 351
Specific and general risks

Position risk on a traded debt instrument or equity instrument or derivative thereof may be divided into two components for purposes of this chapter. The first shall be its specific risk component and shall encompass the risk of a price change in the instrument concerned due to factors related to its issuer or, in the case of a derivative, the issuer of the underlying instrument. The general risk component shall encompass the risk of a price change in the instrument due in the case of a traded debt instrument or debt derivative to a change in the level of interest rates or in the case of an equity or equity derivative to a broad equity-market movement unrelated to any specific attributes of individual securities.

Article 352
Permission to use internal models

1. After having verified an institution's compliance with the requirements of sections 2, 3 and 4 as relevant, competent authorities shall grant permission to institutions to calculate their own

funds requirements for one or more of the following risk categories by using their internal models instead of or in combination with the methods in Chapters 2 to 4:

(a) general risk of equity instruments;

(b) specific risk of equity instruments;

(c) general risk of debt instruments;

(d) specific risk of debt instruments;

(e) foreign-exchange risk;

(f) commodities risk.

2. For risk categories for which the institution has not been granted the permission referred to in paragraph 1 to use its internal models, that institution shall continue to calculate own funds requirements in accordance with those Chapters 2, 3 and 4 as relevant. Permission by the competent authorities for the use of internal models shall be required for each risk category. Material changes to the use of internal models, the extension of the use of internal models, in particular to additional risk categories, and the initial calculation of stressed value-at-risk according to Article 354(2) require a separate permission by the competent authority.

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

(a) the conditions for assessing materiality of extensions and changes to the use of internal models;

(b) the assessment methodology under which competent authorities permit institutions to use internal models.

EBA shall submit those draft regulatory technical standards to the Commission by 1 January 2013.

Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with the procedure laid down in Articles 10 to 14 of Regulation (EU) No 1093/2010.

Article 353

Own funds requirements when using internal models

1. Each institution using an internal model shall fulfil, in addition to own funds requirements calculated according to Chapters 2, 3 and 4 for those risk categories for which permission to use an internal model has not been granted, an own funds requirement expressed as the sum of points (a) and (b):

(a) the higher of the following values:

(i) its previous day's value-at-risk number calculated in accordance with Article 354(1) (VaR_{t-1});

(ii) an average of the daily value-at-risk numbers calculated in accordance with Article 354(1) on each of the preceding sixty business days (VaR_{avg}), multiplied by the multiplication factor (mc) according to Article 355;

(b) the higher of the following values:

(i) its latest available stressed-value-at-risk number calculated in accordance with Article 354(2) ($sVaR_{t-1}$); and

(ii) an average of the stressed value-at-risk numbers calculated in the manner and frequency specified in point 10a during the preceding sixty business days ($sVaR_{avg}$), multiplied by the multiplication factor (ms) according to Article 355;

2. Institutions that use an internal model to calculate their own funds requirement for specific risk of debt instruments shall fulfil an additional own funds requirement expressed as the sum of the following points (a) and (b):

(a) the own funds requirement calculated in accordance with Article 326 and 327 for the specific risk of securitisation positions and nth to default credit derivatives in the trading book with the exception of those incorporated in an own funds requirement for the specific risk of the correlation trading portfolio in accordance with Section 4 and, where applicable, the own funds requirement for specific risk in accordance with Chapter 2, Section 6, for those positions in CIUs for which neither the conditions in Article 339(1) nor Article 339(2) are fulfilled;

(b) the higher of:

(i) the most recent risk number for the incremental default and migration risk calculated in accordance with Section 3;

(ii) the average of this number over the preceding 12 weeks.

3. Institutions that have a correlation trading portfolio, which meets the requirements in Article 327(1) to (3), shall fulfil an additional own funds requirement calculated as the higher of the following:

(a) the most recent risk number for the correlation trading portfolio calculated in accordance with Section 5;

(b) the average of this number over the preceding 12-weeks;

(c) 8 % of the own funds requirement that would, at the time of calculation of the most recent risk number referred to in the first indent of this point, be calculated in accordance with Article 327(4) for all those positions incorporated into the internal model for the correlation trading portfolio.

SECTION 2
GENERAL REQUIREMENTS

Article 354
VaR and stressed VaR Calculation

1. The calculation of the value-at-risk number referred to in Article 353 shall be subject to the following requirements:

   (a) daily calculation of the value-at-risk number;

   (b) a 99th percentile, one-tailed confidence interval;

   (c) a 10-day holding period;

   (d) an effective historical observation period of at least one year except where a shorter observation period is justified by a significant upsurge in price volatility;

   (e) at least monthly data set updates.

   The institution may use value-at-risk numbers calculated according to shorter holding periods than 10 days scaled up to 10 days by an appropriate methodology that is reviewed periodically.

2. In addition, the institution shall at least weekly calculate a 'stressed value-at-risk' of the current portfolio, in accordance with the requirements set out in the first paragraph, with value-at-risk model inputs calibrated to historical data from a continuous 12-month period of significant financial stress relevant to the institution's portfolio. The choice of such historical data shall be subject to at least annual review by the institution, which shall notify the outcome to the competent authorities. EBA shall monitor the range of practices for calculating stressed value at risk and shall, in accordance with Article 16 of Regulation (EU) No. 1093/2010, issue guidelines on such practices.

Article 355
Regulatory backtesting and multiplication factors

1. The results of the calculations referred to in Article 354 shall be scaled up by the multiplication factors (m_c) and (m_s).

2. The multiplication factors (m_c) and (m_s) shall be the sum of 3 and an addend between 0 and 1 in accordance with Table 1. That addend shall depend on the number of overshootings for the most recent 250 business days as evidenced by the institution's back-testing of the value-at-risk number as set out in Article 354(1).

Table 1	
Number of overshootings	addend

Fewer than 5	0,00
5	0,40
6	0,50
7	0,65
8	0,75
9	0,85
10 or more	1,00

3. The institutions shall count daily overshootings on the basis of back-testing on hypothetical and actual changes in the portfolio's value. An overshooting is a one-day change in the portfolio's value that exceeds the related one-day value-at-risk number generated by the institution's model. For the purpose of determining the addend the number of overshootings shall be assessed at least quarterly and shall be equal to the higher of the number of overshootings under hypothetical and actual changes in the value of the portfolio.

   Back-testing on hypothetical changes in the portfolio's value shall be based on a comparison between the portfolio's end-of-day value and, assuming unchanged positions, its value at the end of the subsequent day.

   Back-testing on actual changes in the portfolio's value shall be based on a comparison between the portfolio's end-of-day value and its actual value at the end of the subsequent day excluding fees, commissions, and net interest income.

4. The competent authorities may in individual cases limit the addend to that resulting from overshootings under hypothetical changes, where the number of overshootings under actual changes does not result from deficiencies in the internal model.

5. In order to allow competent authorities to monitor the appropriateness of the multiplication factors on an ongoing basis, institutions shall notify promptly, and in any case no later than within five working days, the competent authorities of overshootings that result form their back-testing programme.

Article 356
Requirements on risk measurement

1. Any internal model used to calculate capital requirements for position risk, foreign exchange risk, commodities risk and any internal model for correlation trading shall meet all of the following requirements:

   (a) the model shall capture accurately all material price risks;

   (b) the model shall capture a sufficient number of risk factors, depending on the level of activity of the institution in the respective markets. The institution shall at least

incorporate those risk factors in its model that are incorporated into its pricing model. The risk-measurement model shall capture nonlinearities for options and other products as well as correlation risk and basis risk. Where proxies for risk factors are used they shall show a good track record for the actual position held.

2. Any internal model used to calculate capital requirements for position risk, foreign exchange risk or commodities risk shall meet all of the following requirements:

(a) the model shall incorporate a set of risk factors corresponding to the interest rates in each currency in which the institution has interest rate sensitive on- or off-balance sheet positions. The institution shall model the yield curves using one of the generally accepted approaches. For material exposures to interest-rate risk in the major currencies and markets, the yield curve shall be divided into a minimum of six maturity segments, to capture the variations of volatility of rates along the yield curve. The model shall also capture the risk of less than perfectly correlated movements between different yield curves;

(b) the model shall incorporate risk factors corresponding to gold and to the individual foreign currencies in which the institution's positions are denominated. For CIUs the actual foreign exchange positions of the CIU shall be taken into account. Institutions may rely on third party reporting of the foreign exchange position of the CIU, where the correctness of this report is adequately ensured. If an institution is not aware of the foreign exchange positions of a CIU, this position shall be carved out and treated in accordance with Article 342(3);

(c) the model shall use a separate risk factor at least for each of the equity markets in which the institution holds significant positions;

(d) the model shall use a separate risk factor at least for each commodity in which the institution holds significant positions. The model must also capture the risk of less than perfectly correlated movements between similar, but not identical, commodities and the exposure to changes in forward prices arising from maturity mismatches. It shall also take account of market characteristics, notably delivery dates and the scope provided to traders to close out positions;

(e) the institution's internal model shall conservatively assess the risk arising from less liquid positions and positions with limited price transparency under realistic market scenarios. In addition, the internal model shall meet minimum data standards. Proxies shall be appropriately conservative and shall be used only where available data is insufficient or is not reflective of the true volatility of a position or portfolio.

3. Institutions may, in any internal model used for purposes of this Chapter, use empirical correlations within risk categories and across risk categories only if the institution's approach for measuring correlations is sound and implemented with integrity.

Article 357
Qualitative requirements

1. Any internal model used for purposes of this Chapter shall be conceptually sound and implemented with integrity and, in particular, all of the following qualitative requirements shall be met:

   (a) any internal model used to calculate capital requirements for position risk, foreign exchange risk or commodities risk is shall be closely integrated into the daily risk-management process of the institution and serve as the basis for reporting risk exposures to senior management;

   (b) the institution shall have a risk control unit that is independent from business trading units and reports directly to senior management. The unit shall be responsible for designing and implementing any internal model used for purposes of this Chapter. The unit shall conduct the initial and on-going validation of any internal model used for purposes of this Chapter. The unit shall produce and analyse daily reports on the output of any internal model used for calculating capital requirements for position risk, foreign exchange risk and commodities risk, and on the appropriate measures to be taken in terms of trading limits;

   (c) the institution's management body and senior management shall be actively involved in the risk-control process and the daily reports produced by the risk-control unit are reviewed by a level of management with sufficient authority to enforce both reductions of positions taken by individual traders as well as in the institution's overall risk exposure;

   (d) the institution shall have sufficient numbers of staff skilled in the use of sophisticated internal models, and including the ones used for purposes of this Chapter, in the trading, risk-control, audit and back-office areas;

   (e) the institution shall have established procedures for monitoring and ensuring compliance with a documented set of internal policies and controls concerning the overall operation of its internal models, and including the ones used for purposes of this Chapter;

   (f) any internal model used for purposes of this Chapter shall have a proven track record of reasonable accuracy in measuring risks;

   (g) the institution shall frequently conduct a rigorous programme of stress testing, including reverse stress tests, which encompasses any internal model used for purposes of this Chapter and the results of these stress tests shall be reviewed by senior management and reflected in the policies and limits it sets. This process shall particularly address illiquidity of markets in stressed market conditions, concentration risk, one way markets, event and jump-to-default risks, non-linearity of products, deep out-of-the-money positions, positions subject to the gapping of prices and other risks that may not be captured appropriately in the internal models. The shocks applied shall reflect the nature of the portfolios and the time it could take to hedge out or manage risks under severe market conditions;

(h) the institution shall conduct, as part of its regular internal auditing process, an independent review of its internal models, and including the ones used for purposes of this Chapter.

2. The review referred to in point (h) of the first paragraph shall include both the activities of the business trading units and of the independent risk-control unit. At least once a year, the institution shall conduct a review of its overall risk-management process. The review shall consider the following:

(a) the adequacy of the documentation of the risk-management system and process and the organisation of the risk-control unit;

(b) the integration of risk measures into daily risk management and the integrity of the management information system;

(c) the process the institution employs for approving risk-pricing models and valuation systems that are used by front and back-office personnel;

(d) the scope of risks captured by the risk-measurement model and the validation of any significant changes in the risk-measurement process;

(e) the accuracy and completeness of position data, the accuracy and appropriateness of volatility and correlation assumptions, and the accuracy of valuation and risk sensitivity calculations;

(f) the verification process the institution employs to evaluate the consistency, timeliness and reliability of data sources used to run internal models, including the independence of such data sources;

(g) the verification process the institution uses to evaluate back-testing that is conducted to assess the models' accuracy.

3. As techniques and best practices evolve, institutions shall apply those new techniques and practices in any internal model used for purposes of this Chapter.

Article 358
Internal Validation

1. Institutions shall have processes in place to ensure that all their internal models used for purposes of this Chapter have been adequately validated by suitably qualified parties independent of the development process to ensure that they are conceptually sound and adequately capture all material risks. The validation shall be conducted when the internal model is initially developed and when any significant changes are made to the internal model. The validation shall also be conducted on a periodic basis but especially where there have been any significant structural changes in the market or changes to the composition of the portfolio which might lead to the internal model no longer being adequate. As techniques and best practices for internal validation evolve, institutions shall apply these advances. Internal model validation shall not be limited to back-testing, but shall, at a minimum, also include the following:

(a) tests to demonstrate that any assumptions made within the internal model are appropriate and do not underestimate or overestimate the risk;

(b) in addition to the regulatory back-testing programmes, institutions shall carry out their own internal model validation tests, including back-testing, in relation to the risks and structures of their portfolios;

(c) the use of hypothetical portfolios to ensure that the internal model is able to account for particular structural features that may arise, for example material basis risks and concentration risk.

2. The institution shall perform back-testing on both actual and hypothetical changes in the portfolio's value.

SECTION 3
REQUIREMENTS PARTICULAR TO SPECIFIC RISK MODELLING

Article 359
Requirements for modelling specific risk

An internal model used for calculating own funds requirements for specific risk and an internal model for correlation trading shall meet the following additional requirements:

(a) it explains the historical price variation in the portfolio;

(b) it captures concentration in terms of magnitude and changes of composition of the portfolio;

(c) it is robust to an adverse environment;

(d) it is validated through back-testing aimed at assessing whether specific risk is being accurately captured. If the institution performs such back-testing on the basis of relevant sub-portfolios, these must be chosen in a consistent manner;

(e) it captures name-related basis risk and shall in particular be sensitive to material idiosyncratic differences between similar but not identical positions;

(f) it captures event risk.

Article 360
Exclusions from specific risk models

1. An institution may choose to exclude from the calculation of its specific risk own funds requirement using an internal model those positions for which it fulfils an own funds requirement for specific risk in accordance with point (c) of Article 353.

2. An institution may choose not to capture default and migration risks for debt instruments in its internal model where it is capturing those risks through the requirements set out in Section 4.

SECTION 4
INTERNAL MODEL FOR INCREMENTAL DEFAULT AND MIGRATION RISK

Article 361
Requirement to have an internal IRC model

An institution that use an internal model for calculating own funds requirements for specific risk of debt instruments shall also have an internal incremental default and migration risk (IRC) model in place to capture the default and migration risks of its trading book positions that are incremental to the risks captured by the value-at-risk measure as specified in Article 354(1). An institution shall demonstrate that its internal model meets soundness standards comparable to the IRB approach for credit risk under the assumption of a constant level of risk, and adjusted where appropriate to reflect the impact of liquidity, concentrations, hedging and optionality.

Article 362
M48
Scope of the internal IRC model

The internal IRC model shall cover all positions subject to an own funds requirement for specific interest rate risk, including those subject to a 0% specific risk capital charge under Article 325, but shall not cover securitisation positions and n-th-to-default credit derivatives.

The institution may, subject to permission by the competent authorities**,** choose to consistently include all listed equity positions and derivatives positions based on listed equities. The permission shall be granted if such inclusion is consistent with how the institution internally measures and manages risk.

Article 363
Parameters of the internal IRC model

1. Institutions shall use the internal model to calculate a number which measures losses due to default and internal or external ratings migration at the 99,9 % confidence interval over a time horizon of one year. Institutions shall calculate this number at least weekly.

2. Correlation assumptions shall be supported by analysis of objective data in a conceptually sound framework. The internal model shall appropriately reflect issuer concentrations. Concentrations that can arise within and across product classes under stressed conditions shall also be reflected.

3. The internal IRC model shall reflect the impact of correlations between default and migration events. The impact of diversification between, on the one hand, default and migration events and, on the other hand, other risk factors shall not be reflected.

4. The internal model shall be based on the assumption of a constant level of risk over the one-year time horizon, implying that given individual trading book positions or sets of positions that have experienced default or migration over their liquidity horizon are re-balanced at the end of their liquidity horizon to attain the initial level of risk. Alternatively, an institution may choose to consistently use a one-year constant position assumption.

5. The liquidity horizons shall be set according to the time required to sell the position or to hedge all material relevant price risks in a stressed market, having particular regard to the size of the position. Liquidity horizons shall reflect actual practice and experience during periods of both systematic and idiosyncratic stresses. The liquidity horizon shall be measured under conservative assumptions and shall be sufficiently long that the act of selling or hedging, in itself, would not materially affect the price at which the selling or hedging would be executed.

6. The determination of the appropriate liquidity horizon for a position or set of positions is subject to a floor of three months.

7. The determination of the appropriate liquidity horizon for a position or set of positions shall take into account an institution's internal policies relating to valuation adjustments and the management of stale positions. When an institution determines liquidity horizons for sets of positions rather than for individual positions, the criteria for defining sets of positions shall be defined in a way that meaningfully reflects differences in liquidity. The liquidity horizons shall be greater for positions that are concentrated, reflecting the longer period needed to liquidate such positions. The liquidity horizon for a securitisation warehouse shall reflect the time to build, sell and securitise the assets, or to hedge the material risk factors, under stressed market conditions.

Article 364

Recognition of hedges in the internal IRC model

1. Hedges may be incorporated into an institution's internal model to capture the incremental default and migration risks. Positions may be netted when long and short positions refer to the same financial instrument. Hedging or diversification effects associated with long and short positions involving different instruments or different securities of the same obligor, as well as long and short positions in different issuers, may only be recognised by explicitly modelling gross long and short positions in the different instruments. Institutions shall reflect the impact of material risks that could occur during the interval between the hedge's maturity and the liquidity horizon as well as the potential for significant basis risks in hedging strategies by product, seniority in the capital structure, internal or external rating, maturity, vintage and other differences in the instruments. An institution shall reflect a hedge only to the extent that it can be maintained even as the obligor approaches a credit or other event.

2. For positions that are hedged via dynamic hedging strategies, a rebalancing of the hedge within the liquidity horizon of the hedged position may be recognised provided that the institution:

   (a) chooses to model rebalancing of the hedge consistently over the relevant set of trading book positions;

   (b) demonstrates that the inclusion of rebalancing results in a better risk measurement;

   (c) demonstrates that the markets for the instruments serving as hedges are liquid enough to allow for such rebalancing even during periods of stress. Any residual risks resulting from dynamic hedging strategies must be reflected in the own funds requirement.

Article 365
Particular requirements for the internal IRC model

1. The internal model to capture the incremental default and migration risks shall reflect the nonlinear impact of options, structured credit derivatives and other positions with material nonlinear behaviour with respect to price changes. The institution shall also have due regard to the amount of model risk inherent in the valuation and estimation of price risks associated with such products.

2. The internal model shall be based on data that are objective and up-to-date.

3. As part of the independent review and validation of their internal models used for purposes of this Chapter, an institution shall in particular do all of the following:

   (a) validate that its modelling approach for correlations and price changes is appropriate for its portfolio, including the choice and weights of its systematic risk factors;

   (b) perform a variety of stress tests, including sensitivity analysis and scenario analysis, to assess the qualitative and quantitative reasonableness of the internal model, particularly with regard to the treatment of concentrations. Such tests shall not be limited to the range of events experienced historically;

   (c) apply appropriate quantitative validation including relevant internal modelling benchmarks.

4. The internal model shall be consistent with the institution's internal risk management methodologies for identifying, measuring, and managing trading risks.

5. Institutions shall document their internal models so that its correlation and other modelling assumptions are transparent to the competent authorities.

6. The internal model shall conservatively assess the risk arising from less liquid positions and positions with limited price transparency under realistic market scenarios. In addition, the internal model shall meet minimum data standards. Proxies shall be appropriately conservative and may be used only where available data is insufficient or is not reflective of the true volatility of a position or portfolio.

Article 366
Not fully compliant IRC approaches

If an institution uses an internal model to capture incremental default and migration risks that does not comply with all requirements of Articles 363, 364 and 365 but that is consistent with the institution's internal methodologies for identifying, measuring and managing incremental default and migration risks, it shall be able to demonstrate that its internal model results in an own funds requirement that is at least as high as if it was based on a model in full compliance with the requirements of those Articles. The competent authorities shall review compliance with the previous sentence at least annually. EBA shall monitor the range of practices concerning internal models not complying with all requirements of Articles 363, 364 and 365 and shall, in accordance with Article 16 of Regulation (EU) No. 1093/2010, issue guidelines on those practices.

SECTION 5
INTERNAL MODEL FOR CORRELATION TRADING

Article 367
Requirements for an internal model for correlation trading

1. Competent authorities shall grant permission to use an internal model for the own funds requirement for the correlation trading portfolio instead of the own funds requirement according to Article 327 to institutions that are allowed to use an internal model for specific risk of debt instruments and that meet the requirements in paragraphs 2 to 6 and in Articles 356(1), 357, 358 and 359.

2. Institutions shall use this internal model to calculate a number which adequately measures all price risks at the 99,9 % confidence interval over a time horizon of one year under the assumption of a constant level of risk, and adjusted where appropriate to reflect the impact of liquidity, concentrations, hedging and optionality. Institutions shall calculate this number at least weekly.

3. The following risks shall be adequately captured by the model referred to in paragraph 1:

   (a) the cumulative risk arising from multiple defaults, including different ordering of defaults, in tranched products;

   (b) credit spread risk, including the gamma and cross-gamma effects;

   (c) volatility of implied correlations, including the cross effect between spreads and correlations;

   (d) basis risk, including both of the following:

      (i) the basis between the spread of an index and those of its constituent single names;

      (ii) the basis between the implied correlation of an index and that of bespoke portfolios;

   (e) recovery rate volatility, as it relates to the propensity for recovery rates to affect tranche prices;

   (f) to the extent the comprehensive risk measure incorporates benefits from dynamic hedging, the risk of hedge slippage and the potential costs of rebalancing such hedges;

   (g) any other material price risks of positions in the correlation trading portfolio.

4. An institution shall use sufficient market data within the model referred to in paragraph 1 in order to ensure that it fully captures the salient risks of those exposures in its internal approach in accordance with the requirements set out in this Article. It shall be able to demonstrate to the competent authority through back testing or other appropriate means that its model can appropriately explain the historical price variation of those products.

The institution shall have appropriate policies and procedures in place in order to separate the positions for which it holds permission to incorporate them in the own funds requirement in accordance with this Article from other positions for which it does not hold such permission.

5. With regard to the portfolio of all the positions incorporated in the model referred to in paragraph 1, the institution shall regularly apply a set of specific, predetermined stress scenarios. Such stress scenarios shall examine the effects of stress to default rates, recovery rates, credit spreads, basis risk, correlations and other relevant risk factors on the correlation trading portfolio. The institution shall apply stress scenarios at least weekly and report at least quarterly to the competent authorities the results, including comparisons with the institution's own funds requirement in accordance with this point. Any instances where the stress test results materially exceed the own funds requirement for the correlation trading portfolio shall be reported to the competent authorities in a timely manner.

6. The internal model shall conservatively assess the risk arising from less liquid positions and positions with limited price transparency under realistic market scenarios. In addition, the internal model shall meet minimum data standards. Proxies shall be appropriately conservative and may be used only where available data is insufficient or is not reflective of the true volatility of a position or portfolio.

Title V
Own Funds Requirements for Settlement Risk

Article 368
Settlement/delivery risk

In the case of transactions in which debt instruments, equities, foreign currencies and commodities excluding repurchase transactions and securities or commodities lending and securities or commodities borrowing are unsettled after their due delivery dates, an institution shall calculate the price difference to which it is exposed.

The price is calculated as difference between the agreed settlement price for the debt instrument, equity, foreign currency or commodity in question and its current market value, where the difference could involve a loss for the credit institution.

The institution shall multiply that price difference by the appropriate factor in column A of the following Table 1 in order to calculate the institution's own funds requirement for settlement risk.

Table 1	
Number of working days after due settlement date	(%)
5 — 15	8
16 — 30	50
31 — 45	75
46 or more	100

Article 369
Free deliveries

1. An institution shall be required to hold own funds, as set out in Table 2, where the following occurs:

   (a) it has paid for securities, foreign currencies or commodities before receiving them or it has delivered securities, foreign currencies or commodities before receiving payment for them;

   (b) in the case of cross-border transactions, one day or more has elapsed since it made that payment or delivery.

Table 2

Capital treatment for free deliveries			
Column 1	Column 2	Column 3	Column 4
Transaction Type	Up to first contractual payment or delivery leg	From first contractual payment or delivery leg up to four days after second contractual payment or delivery leg	From 5 business days post second contractual payment or delivery leg until extinction of the transaction
Free delivery	No capital charge	Treat as an exposure	Treat as an exposure risk weighted at 1 250 %

2. In applying a risk weight to free delivery exposures treated according to Column 3 of Table 2, an institution using the Internal Ratings Based approach set out in Part Three, Title II, Chapter 3 may assign PDs to counterparties, for which it has no other non-trading book exposure, on the basis of the counterparty's external rating. Institutions using own estimates of 'LGDs' may apply the LGD set out in Article 157(1) to free delivery exposures treated according to Column 3 of Table 2 provided that they apply it to all such exposures. Alternatively, an institution using the Internal Ratings Based approach set out in Part Three, Title II, Chapter 3 may apply the risk weights of the Standardised Approach, as set out in Part Three, Title II, Chapter 2 provided that it applies them to all such exposures or may apply a 100 % risk weight to all such exposures.

   If the amount of positive exposure resulting from free delivery transactions is not material, institutions may apply a risk weight of 100 % to these exposures, except where a risk weight of 1 250% in accordance with Column 4 of Table 2 in paragraph 1 is required.

3. As an alternative to applying a risk weight of 1 250 % to free delivery exposures according to Column 4 of Table 2 in paragraph 1, institutions may deduct the value transferred plus the current positive exposure of those exposures from Common Equity Tier 1 items in accordance with point (k) of Article 33(1).

Article 370
Waiver

Where a system wide failure of a settlement or clearing system occurs, competent authorities may waive the own funds requirements calculated as set out in Article 368 and 369 until the situation is rectified. In this case, the failure of a counterparty to settle a trade shall not be deemed a default for purposes of credit risk.

Title VI
Own funds requirements for credit valuation adjustment risk

Article 371
Meaning of Credit Value Adjustment

For the purposes of this Title and Chapter 6 of Title III, 'Credit Valuation Adjustment' or 'CVA' means an adjustment to the mid-market valuation of the portfolio of transactions with a counterparty. That adjustment reflects the current market value of the credit risk of the counterparty to the institution, but does not reflect the current market value of the credit risk of the institution to the counterparty.

Article 372
Scope

1. An institution shall calculate the own funds requirements for CVA risk in accordance with this Title for all OTC derivative instruments in respect of all of its business activities, other than credit derivatives recognised to reduce risk-weighted exposure amounts for credit risk.

2. An institution shall include securities financing transactions in the calculation of own funds required by paragraph 1 if the competent authority determines that the institution's CVA risk exposures arising from those transactions are material.

3. Transactions with a central counterparty are excluded from the own funds requirements for CVA risk.

Article 373
Advanced method

1. An institution which has permission to use an internal model for the specific risk of debt instruments in accordance with Article 352 shall, for all transactions for which it has permission to use the IMM for determining the exposure value for the associated counterparty credit risk exposure in accordance with Article 277, determine the own funds requirements for CVA risk by modelling the impact of changes in the counterparties' credit spreads on the CVAs of all counterparties of these transactions, taking into account CVA hedges that are eligible in accordance with Article 375.

   An institution shall use its internal model for determining the own funds requirements for specific risk associated with traded debt positions and shall apply a 99 percent confidence interval and a 10 day equivalent holding period. The internal model shall be used in such way that it simulates changes in the credit spreads of counterparties, but does not model the sensitivity of CVA to changes in other market factors, including changes in the value of the reference asset, commodity, currency or interest rate of a derivative.

   The own funds requirements for CVA risk for each counterparty shall be calculated in accordance with the following formula:

$$CVA = LGD_{MKT} \cdot \sum_{i=1}^{T} \max\left\{0, \exp\left(-\frac{s_{i-1} \cdot t_{i-1}}{LGD_{MKT}}\right) - \exp\left(-\frac{s_i \cdot t_i}{LGD_{MKT}}\right)\right\} \cdot \frac{EE_{i-1} \cdot D_{i-1} - EE_i \cdot D_i}{2}$$

where:

t_i = the time of the i-th revaluation, starting from t_0=0;

t_T = the longest contractual maturity across the netting sets with the counterparty;

s_i = is the credit spread of the counterparty at tenor t_i, used to calculate the CVA of the counterparty. Where the credit default swap spread of the counterparty is available, an institution shall use that spread. Where such a credit default swap spread is not available, an institution shall use a proxy spread that is appropriate having regard to the rating, industry and region of the counterparty;

LGD_{MKT} = the loss given default of the counterparty that shall be based on the spread of a market instrument of the counterparty if a counterparty instrument is available. Where a counterparty instrument is not available, it shall be based on the proxy spread that is appropriate having regard to the rating, industry and region of the counterparty. The first factor within the formula represents an approximation of the market implied marginal probability of a default occurring between times t_{i-1} and t_i;

EE_i = the expected exposure to the counterparty at revaluation time t_i, as defined in point 19 of Article 267, where exposures of different netting sets for such counterparty are added, and where the longest maturity of each netting set is given by the longest contractual maturity inside the netting set; An institution shall apply the treatment referred to in paragraph 2 in the case of margined trading, if the institution uses the EPE measure referred to in point (a) or (b) of Article 279(1) for margined trades;

D_i = the default risk-free discount factor at time t_i, where D_0 =1.

2. When calculating the own funds requirements for CVA risk for a counterparty, an institution shall base all inputs into its internal model for specific risk of debt instruments on the following formulae (whichever is appropriate):

(a) where the model is based on credit spread sensitivities for specific tenors, an institution shall base each credit spread sensitivity ('Regulatory CS01') on the following formula:

$$Regulatory\ CS01_i = 0.0001 \cdot t_i \cdot \exp\left(-\frac{s_i \cdot t_i}{LGD_{MKT}}\right) \cdot \frac{EE_{i-1} \cdot D_{i-1} - EE_{i+1} \cdot D_{i+1}}{2};$$

(b) where the model uses credit spread sensitivities to parallel shifts in credit spreads, an institution shall use the following formula:

$$Regulatory\ CS01_i = 0.0001 \cdot \sum_{i=1}^{T} \left(t_i \cdot \exp\left(-\frac{s_i \cdot t_i}{LGD_{MKT}} \right) - t_{i-1} \cdot \exp\left(-\frac{s_{i-1} \cdot t_{i-1}}{LGD_{MKT}} \right) \right) \cdot \frac{EE_{i-1} \cdot D_{i-1} - EE_i \cdot D_i}{2}$$

;

(c) where the model uses second-order sensitivities to shifts in credit spreads (spread gamma), the gammas shall be calculated based on the formula in paragraph 1.

3. An institution using the EPE measure for collateralised OTC derivatives referred to in point (a) or (b) of Article 279(1) shall, when determining the own funds requirements for CVA risk in accordance with paragraph 1, do both of the following:

(a) assume a constant EE profile;

(b) set EE equal to the effective expected exposure as calculated under Article 279(1)(b) for a maturity equal to the greater of the following:

(i) half of the longest maturity occurring in the netting set;

(ii) the notional weighted average maturity of all transactions inside the netting set.

4. An institution which is permitted by the competent authority in accordance with Article 277 to use IMM to calculate exposure values in relation to the majority of its business, but which uses the method set out in Section 3 or Section 4 of Title II, Chapter 6 for smaller portfolios, and which is permitted to use the market risk internal models approach for specific risk of traded debt instruments in accordance with Article 352 may, subject to permission from the competent authorities, calculate the own funds requirements for CVA risk in accordance with paragraph 1 for the non-IMM netting sets. Competent authorities shall grant this permission only if the institution uses the method set out in Section 3 or Section 4 of Title II, Chapter 6 for a limited number of smaller portfolios.

For the purposes of a calculation under the preceding subparagraph and where the IMM model does not produce an expected exposure profile, an institution shall do both of the following:

(a) assume a constant EE profile;

(b) set EE equal to the exposure value as computed under the methods set out in Section 3 or Section 5 of Title II, Chapter 6, or IMM for a maturity equal to the greater of:

(i) half of the longest maturity occurring in the netting set;

(ii) the notional weighted average maturity of all transactions inside the netting set.

5. An institution shall determine the own funds requirements for CVA risk as the sum of non-stressed and stressed Value-at-Risk, which shall be calculated as follows:

(a) for the non-stressed Value-at-Risk, current parameter calibrations for expected exposure shall be used;

(b) for the stressed Value-at-Risk, future counterparty EE profiles using a stressed calibration as set out in Article 286(2) shall be used. The period of stress for the credit

spread parameters shall be the most severe one-year stress period contained within the three-year stress period used for the exposure parameters.

6. EBA shall develop draft regulatory technical standards to specify in greater detail:

(a) how a proxy spread should be determined for the purposes of identifying LGD_{MKT} for the purposes of the calculation required by paragraph 1;

(b) the number and size of portfolios that fulfil the criterion of a limited number of smaller portfolios referred to in paragraph 4.

EBA shall submit those draft regulatory technical standards to the Commission by 1 January 2013.

Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first sub-paragraph in accordance with the procedure laid down in Articles 10 to 14 of Regulation (EU) No 1093/2010.

Article 374
Standardised method

1. An institution which does not calculate the own funds requirements for CVA risk for its counterparties in accordance with Article 373 shall calculate a portfolio own funds requirements for CVA risk for each counterparty in accordance with the following formula, taking into account CVA hedges that are eligible in accordance with Article 375:

$$K = 2.33 \cdot \sqrt{h} \cdot \sqrt{\left(\sum_i 0.5 \cdot w_i \cdot \left(M_i \cdot EAD_i^{total} - M_i^{hedge} B_i \right) - \sum_{ind} w_{ind} \cdot M_{ind} \cdot B_{ind} \right)^2 + \sum_i 0.75 \cdot w_i^2 \cdot \left(M_i \cdot EAD_i^{total} - M_i^{hedge} B_i \right)^2}$$

where:

h = the one-year risk horizon (in units of a year); h = 1;

w_i = the weight applicable to counterparty "i".

Counterparty "i" shall be mapped to one of the seven weights w_i based on an external credit assessment by a nominated ECAI, as set out in Table 1. For a counterparty for which a credit assessment by a nominated ECAI is not available:

(a) an institution using the approach in Title II, Chapter 3 shall map the internal rating of the counterparty to one of the external credit assessment;

(b) an institution using the approach in Title II, Chapter 2 shall assign credit quality step 3 to this counterparty;

EAD_i^{total} = the total counterparty credit risk exposure value of counterparty "i" (summed across its netting sets) including the effect of collateral in accordance with the methods set out in Sections 3 to 6 of Title II, Chapter 6 as applicable to the

calculation of the own funds requirements for counterparty credit risk for that counterparty.

For an institution not using the method set out in Section 6 of Title II, Chapter 6, the exposure shall be discounted by applying the following factor:

$$\frac{1-e^{-0.05 \cdot M_i}}{0.05 \cdot M_i};$$

B_i = the notional of purchased single name credit default swap hedges (summed if more than one position) referencing counterparty "i" and used to hedge CVA risk.

That notional amount shall be discounted by applying the following factor:

$$\frac{1-e^{-0.05 \cdot M_i^{hedge}}}{0.05 \cdot M_i^{hedge}};$$

B_{ind} = is the full notional of one or more index credit default swap of purchased protection used to hedge CVA risk.

That notional amount shall be discounted by applying the following factor:

$$\frac{1-e^{-0.05 \cdot M_{ind}}}{0.05 \cdot M_{ind}};$$

w_{ind} = is the weight applicable to index hedges.

An institution shall map indices to one of the seven weights w_i based on the average spread of index 'ind';

M_i = the effective maturity of the transactions with counterparty i.

For an institution using the method set out in Section 6 of Title II, Chapter 6, M_i shall be calculated in accordance with Article 158(2)(f).

For an institution not using the method set out in Section 6 of Title II, Chapter 6, M_i is the average notional weighted maturity as referred to in point Article 158(2);

M_i^{hedge} = the maturity of the hedge instrument with notional B_i (the quantities Mihedge Bi are to be summed if these are several positions);

M_{ind} = the maturity of the index hedge ind.

In case of more than one index hedge position, M_{ind} is the notional-weighted maturity.

2. Where a counterparty is included in an index on which a credit default swap used for hedging counterparty credit risk is based, the institution may subtract the notional amount attributable to that counterparty in accordance with its reference entity weight from the index CDS

notional amount and treated as a single name hedge (B_i) of the individual counterparty with maturity based on the maturity of the index.

Table 1	
Credit quality step	Weight w_i
1	0.7%
2	0.8%
3	1.0%
4	2.0%
5	3.0%
6	10.0%

Article 375
Eligible hedges

1. Hedges shall be 'eligible hedges' for the purposes of the calculation of own funds requirements for CVA risk in accordance with Article 373 and Article 374 only where they are used for the purpose of mitigating CVA risk and managed as such, and are one of the following:

(a) single-name credit default swaps or other equivalent hedging instruments referencing the counterparty directly;

(b) index credit default swaps, provided that the basis between any individual counterparty spread and the spreads of index credit default swap hedges is reflected in the Value-at-Risk.

The requirement in point (b) that the basis between any individual counterparty spread and the spreads of index credit default swap hedges is reflected in the Value-at-Risk shall also apply to cases where a proxy is used for the spread of a counterparty.

For all counterparties for which a proxy is used, an institution shall use reasonable basis time series out of a representative group of similar names for which a spread is available.

If the basis between any individual counterparty spread and the spreads of index credit default swap hedges is not reflected to the satisfaction of the competent authority, then an institution shall reflect only 50% of the notional amount of index hedges in the Value-at-Risk.

The hedges referred to in point (b) may be used only for the purposes of the calculation of own funds requirements for CVA risk in accordance with Article 373.

2. An institution shall not reflect other types of counterparty risk hedges in the calculation of the own funds requirements for CVA risk. In particular, tranched or nth-to-default credit default swaps and credit linked notes are not eligible hedges for the purposes the calculation of the own funds requirements for CVA risk.

3. Eligible hedges that are included in the calculation of the own funds requirements for CVA risk shall not be included in the calculation of the own funds requirements for specific risk as set out in Title IV or treated as credit risk mitigation other than for the counterparty credit risk of the same portfolio of transaction.

PART FOUR
LARGE EXPOSURES

SECTION I
LARGE EXPOSURE REGIME

Article 376
Subject matter

Institutions shall monitor and control their large exposures in accordance with this Part.

Article 377
Negative Scope

This Part shall not apply to investment firms that fulfil the criteria set out in Article 90(1) or Article 91(1).

Article 378
Definition

The following definition applies for the purposes of this Part:

'Exposures', for the purposes of this Part means any asset or off-balance-sheet item referred to in Part Three, Title II, Chapter 2, without risk weights or degrees of risk.

Article 379
Calculation of the exposure value

1. Exposures arising from the items referred to in Annex II shall be calculated in accordance with one of the methods set out in Part Three, Title II, Chapter 6.

2. Institutions with a permission to use the Internal Model Method in accordance with Article 277 may use the Internal Model Method for calculating the exposure value for repurchase transactions, securities or commodities lending or borrowing transactions, margin lending transactions and long settlement transactions.

3. The exposures to individual clients which arise on the trading book shall be calculated by those institutions that calculate the own funds requirements for their trading-book business in accordance with Part Three, Title IV, Chapter 2, Article 293 and Part Three, Title V and, as appropriate, with Part Three, Title IV, Chapter 5, by summing the following items:

   (a) the positive excess of an institution's long positions over its short positions in all the financial instruments issued by the client in question, the net position in each of the different instruments being calculated according to the methods laid down in Part Three, Title IV, Chapter 2;

(b) the net exposure, in the case of the underwriting of a debt or an equity instrument;

(c) the exposures due to the transactions, agreements and contracts referred to in Articles 293 and 368 to 370 with the client in question, such exposures being calculated in the manner laid down in those Articles, for the calculation of exposure values.

For the purposes of point (b), the net exposure is calculated by deducting those underwriting positions which are subscribed or sub-underwritten by third parties on the basis of a formal agreement reduced by the factors set out in Article 334.

For the purposes of point (b), institutions shall set up systems to monitor and control their underwriting exposures between the time of the initial commitment and the next business day in the light of the nature of the risks incurred in the markets in question.

For the purposes of point (c), Part Three, Title II, Chapter 3 shall be excluded from the reference in Article 293.

4. The overall exposures to individual clients or groups of connected clients shall be calculated by summing the exposures of the trading book and those of the non-trading book.

5. The exposures to groups of connected clients shall be calculated by summing the exposures to individual clients in a group.

6. Exposures shall not include any of the following:

(a) in the case of foreign exchange transactions, exposures incurred in the ordinary course of settlement during the two working days following payment;

(b) in the case of transactions for the purchase or sale of securities, exposures incurred in the ordinary course of settlement during five working days following payment or delivery of the securities, whichever the earlier;

(c) in the case of the provision of money transmission including the execution of payment services, clearing and settlement in any currency and correspondent banking or financial instruments clearing, settlement and custody services to clients, delayed receipts in funding and other exposures arising from client activity which do not last longer than the following business day;

(d) in the case of the provision of money transmission including the execution of payment services, clearing and settlement in any currency and correspondent banking, intra-day exposures to institutions providing those services;

(e) exposures deducted from own funds in accordance with Articles 33, 53 and 63.

7. In order to determine the existence of a group of connected clients, in respect of exposures referred to in points (l) and (n) of 107 where there is an exposure to underlying assets, and in respect of exposures referred to in point (p) of Article 107 where there is a scheme and an exposure to underlying assets, an institution shall assess the scheme, its underlying exposures, or both. For that purpose, an institution shall evaluate the economic substance and the risks inherent in the structure of the transaction.

8. EBA shall develop draft regulatory technical standards to specify the following:

(a) which exposures referred to in point (p) of Article 107 are subject to the treatment of this paragraph;

(b) the conditions and methodologies used to determine the existence of a group of connected clients in respect of such exposures.

EBA shall submit those draft regulatory technical standards to the Commission by 1 January 2014.

Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with the procedure laid down in Articles 10 to 14 of Regulation (EU) No. 1093/2010.

Article 380
Definition of an institution for large exposures purposes

For the purposes of calculating the value of exposures in accordance with this Part the term 'institution' also means any private or public undertaking, including its branches, which meets the definition of institution' and has been authorised in a third country.

Article 381
Definition of a large exposure

An institution's exposure to a client or group of connected clients shall be considered a large exposure where its value is equal to or exceeds 10 % of its eligible capital.

Article 382
Capacity to identify and manage large exposures

An institution shall have sound administrative and accounting procedures and adequate internal control mechanisms for the purposes of identifying, managing, monitoring, reporting and recording all large exposures and subsequent changes to them, in accordance with this Regulation

Article 383
Reporting requirements

1. An institution shall report the following information about every large exposure to the competent authorities, including large exposures exempted from the application of Article 384(1)

(a) the identification of the client or the group of connected clients to which an institution has a large exposure;

(b) the exposure value before taking into account the effect of the credit risk mitigation, when applicable;

(c) where used, the type of funded or unfunded credit protection;

(d) the exposure value after taking into account the effect of the credit risk mitigation calculated for the purpose of Article 384(1).

Where an institution is subject to Part Three, Title II, Chapter 3 its 20 largest exposures on a consolidated basis, excluding those exempted from the application of Article 384(1) shall be made available to the competent authorities.

2. Reporting shall be carried out at least twice a year.

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

(a) the uniform formats for the reporting referred to in paragraph 2 which shall be proportionate to the nature, scale and complexity of institutions' activities and the instructions for using those formats;

(b) the frequencies and dates of the reporting referred to in paragraph 2;

(c) the IT solutions to be applied for the reporting referred to in paragraph 2.

EBA shall submit those draft implementing technical standards to the Commission by 1 January 2013.

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

Article 384
Large exposures limit

1. An institution shall not incur an exposure, after taking into account the effect of the credit risk mitigation in accordance with Articles 388 to 392, to a client or group of connected clients the value of which exceeds 25 % of its eligible capital Where that client is an institution or where a group of connected clients includes one or more institutions, that value shall not exceed 25 % of the institution's eligible capital or EUR 150 million, whichever the higher, provided that the sum of exposure values, after taking into account the effect of the credit risk mitigation in accordance with Articles 388 to 392, to all connected clients that are not institutions does not exceed 25 % of the institution’s eligible capital

Where the amount of EUR 150 million is higher than 25 % of the institution’s eligible capital the value of the exposure, after taking into account the effect of credit risk mitigation in accordance with Articles 388 to 392 shall not exceed a reasonable limit in terms of the institution’s eligible capital That limit shall be determined by the institution in accordance with the policies and procedures referred to in Article 79 of Directive [inserted by OP], to address and control concentration risk. This limit shall not exceed 100 % of the institution’s eligible capital

Competent authorities may set a lower limit than EUR 150 million and shall inform EBA and the Commission thereof.

2. Subject to Article 385, an institution shall at all times comply with the relevant limit laid down in paragraph 1.

3. Assets constituting claims and other exposures onto recognised third country investment firms may be subject to the same treatment as laid down in paragraph 1.

4. The limits laid down in this Article may be exceeded for the exposures on the institution's trading book if the following conditions are met:

   (a) the exposure on the non-trading book to the client or group of clients in question does not exceed the limit laid down in paragraph 1, this limit being calculated with reference to eligible capital, so that the excess arises entirely on the trading book;

   (b) the institution meets an additional own funds requirement on the excess in respect of the limit laid down in paragraph 1 which is calculated in accordance with Articles 386 and 387;

   (c) where 10 days or less have elapsed since the excess occurred, the trading-book exposure to the client or group of connected clients in question shall not exceed 500 % of the institution's eligible capital;

   (d) any excesses that have persisted for more than 10 days do not, in aggregate, exceed 600 % of the institution's eligible capital.

   In each case in which the limit has been exceeded, the institution shall report the amount of the excess and the name of the client concerned without delay to the competent authorities.

Article 385
Compliance with Large exposures requirements

1. If, in an exceptional case, exposures exceed the limit set out in Article 384(1), the institution shall report the value of the exposure without delay to the competent authorities which may, where the circumstances warrant it, allow the credit institution a limited period of time in which to comply with the limit.

   Where the amount of EUR 150 million referred to in Article 384(1) is applicable, the competent authorities may allow on a case-by-case basis the 100 % limit in terms of the credit institution's own funds to be exceeded.

2. Where compliance by a institution on an individual or sub-consolidated basis with the obligations imposed in this Part is disapplied under Article 6(1), or the provisions of Article 8 are applied in the case of parent institutions in a Member State, measures must be taken to ensure the satisfactory allocation of risks within the group.

Article 386
Calculating additional own funds requirements for large exposures in the trading book

1. The excess referred to in Article 384(4)(b) shall be calculated by selecting those components of the total trading exposure to the client or group of clients in question which attract the

highest specific-risk requirements in Part Three, Title IV, Chapter 2 and/or requirements in Article 293 and Part Three, Title V, the sum of which equals the amount of the excess referred to in point (a) of Article 384(4).

2. Where the excess has not persisted for more than 10 days, the additional capital requirement shall be 200 % of the requirements referred to in paragraph 1, on these components.

3. As from 10 days after the excess has occurred, the components of the excess, selected in accordance with paragraph 1, shall be allocated to the appropriate line in Column 1 of Table 1 in ascending order of specific-risk requirements in Part Three, Title IV, Chapter 2 and/or requirements in Article 293 and Part Three, Title V. The additional own funds requirement shall be equal to the sum of the specific-risk requirements in Part Three, Title IV, Chapter 2 and/or the Article 293 and Part Three, Title V requirements on these components, multiplied by the corresponding factor in Column 2 of Table 1.

Table 1	
Column 1: Excess over the limits (on the basis of a percentage of eligible capital)	Column 2: Factors
Up to 40 %	200 %
From 40 % to 60 %	300 %
From 60 % to 80 %	400 %
From 80 % to 100 %	500 %
From 100 % to 250 %	600 %
Over 250 %	900 %

Article 387
Procedures to prevent avoiding the additional own funds requirement

Institutions shall not deliberately avoid the additional own funds requirements set out in Article 386 that they would otherwise incur, on exposures exceeding the limit laid down in Article 384(1) once those exposures have been maintained for more than 10 days, by means of temporarily transferring the exposures in question to another company, whether within the same group or not, and/or by undertaking artificial transactions to close out the exposure during the 10-day period and create a new exposure.

Institutions shall maintain systems which ensure that any transfer which has the effect referred to in the first subparagraph is immediately reported to the competent authorities.

Article 388
Eligible credit mitigation techniques

1. For the purposes of Articles 389 to 392 the term 'guarantee' shall include credit derivatives recognised under Part Three, Title II, Chapter 4 other than credit linked notes.

2. Subject to paragraph 3 of this Article, where, under Articles 389 to 392 the recognition of funded or unfunded credit protection is permitted, this shall be subject to compliance with the eligibility requirements and other requirements set out in Part Three, Title II, Chapter 4.

3. Where a institution relies upon Article 390(2), the recognition of funded credit protection shall be subject to the relevant requirements under Part Three, Title II, Chapter 3 For the purposes of this Section, a credit institution shall not take into account the collateral referred to in Article 195, paragraphs 3 to 5, unless permitted under Article 391.

4. Institutions shall analyse, to the extent possible, their exposures to collateral issuers, providers of unfunded credit protection and underlying assets pursuant to Article 379(7) for possible concentrations and where appropriate take action and report any significant findings to their competent authority.

Article 389
Exemptions

1. The following exposures shall be exempted from the application of Article 384(1):

   (a) asset items constituting claims on central governments or central banks which, unsecured, would be assigned a 0 % risk weight under Part Three, Title II, Chapter 2;

   (b) asset items constituting claims on international organisations or multilateral development banks which, unsecured, would be assigned a 0 % risk weight under Part Three, Title II, Chapter 2;

   (c) asset items constituting claims carrying the explicit guarantees of central governments, central banks, international organisations, multilateral development banks or public sector entities, where unsecured claims on the entity providing the guarantee would be assigned a 0 % risk weight under Part Three, Title II, Chapter 2;

   (d) other exposures attributable to, or guaranteed by, central governments, central banks, international organisations, multilateral development banks or public sector entities, where unsecured claims on the entity to which the exposure is attributable or by which it is guaranteed would be assigned a 0 % risk weight under Part Three, Title II, Chapter 2;

   (e) asset items constituting claims on regional governments or local authorities of Member States where those claims would be assigned a 0 % risk weight under Part Three, Title II, Chapter 2 and other exposures to or guaranteed by those regional governments or local authorities, claims on which would be assigned a 0 % risk weight under Part Three, Title II, Chapter 2;

   (f) exposures to counterparties referred to in Article 108(6) or Article 108(7) if they would be assigned a 0 % risk weight under Part Three, Title II, Chapter 2. Exposures that do

not meet those criteria, whether or not exempted from Article 384(1) shall be treated as exposures to a third party;

(g) asset items and other exposures secured by collateral in the form of cash deposits placed with the lending institution or with an institution which is the parent undertaking or a subsidiary of the lending institution;

(h) asset items and other exposures secured by collateral in the form of certificates of deposit issued by the lending institution or by an institution which is the parent undertaking or a subsidiary of the lending institution and lodged with either of them;

(i) exposures arising from undrawn credit facilities that are classified as low-risk off-balance sheet items in Annex I and provided that an agreement has been concluded with the client or group of connected clients under which the facility may be drawn only if it has been ascertained that it will not cause the limit applicable under Article 384(1) to be exceeded;

(j) trade exposures to central counterparties and default fund contributions to central counterparties;

(k) exposures to deposit guarantee schemes under Directive 94/19/EC arising from the funding of those schemes, if the member institutions of the scheme have a legal or contractual obligation to fund the scheme.

Cash received under a credit linked note issued by the institution and loans and deposits of a counterparty to or with the institution which are subject to an on-balance sheet netting agreement recognised under Part Three, Title II, Chapter 4 shall be deemed to fall under point (g).

2. Member States or competent authorities may fully or partially exempt the following exposures from the application of Article 384(1):

(a) covered bonds falling within the terms Article 124(1) and Article 124(2);

(b) asset items constituting claims on regional governments or local authorities of Member States where those claims would be assigned a 20 % risk weight under Part Three, Title II, Chapter 2 and other exposures to or guaranteed by those regional governments or local authorities, claims on which would be assigned a 20 % risk weight under Part Three, Title II, Chapter 2;

(c) exposures, including participations or other kinds of holdings, incurred by an institution to its parent undertaking, to other subsidiaries of that parent undertaking or to its own subsidiaries, in so far as those undertakings are covered by the supervision on a consolidated basis to which the institution itself is subject, in accordance with this Regulation or with equivalent standards in force in a third country; exposures that do not meet these criteria, whether or not exempted from Article 384(1) shall be treated as exposures to a third party;

(d) asset items constituting claims on and other exposures, including participations or other kinds of holdings, to regional or central credit institutions with which the credit institution is associated in a network in accordance with legal or statutory provisions and

which are responsible, under those provisions, for cash-clearing operations within the network;

(e) asset items constituting claims on and other exposures to credit institutions incurred by credit institutions operating on a non-competitive basis, providing loans under legislative programmes or their statutes, to promote specified sectors of the economy under some form of government oversight and restrictions on the use of the loans, provided that the respective exposures arise from such loans that are passed on to the beneficiaries via other credit institutions;

(f) asset items constituting claims on and other exposures to institutions, provided that those exposures do not constitute such institutions' own funds, do not last longer than the following business day and are not denominated in a major trading currency;

(g) asset items constituting claims on central banks in the form of required minimum reserves held at those central banks which are denominated in their national currencies;

(h) asset items constituting claims on central governments in the form of statutory liquidity requirements held in government securities which are denominated and funded in their national currencies provided that, at the discretion of the competent authority, the credit assessment of those central governments assigned by a nominated ECAI is investment grade;

(i) 50 % of medium/low risk off-balance-sheet documentary credits and of medium/low risk off-balance sheet undrawn credit facilities referred to in Annex I and subject to the competent authorities' agreement, 80 % of guarantees other than loan guarantees which have a legal or regulatory basis and are given for their members by mutual guarantee schemes possessing the status of credit institutions;

(j) legally required guarantees used when a mortgage loan financed by issuing mortgage bonds is paid to the mortgage borrower before the final registration of the mortgage in the land register, provided the guarantee is not used as reducing the risk in calculating the risk weighted assets;

(k) assets constituting claims and other exposures to recognised exchanges.

Article 390

Calculating the effect of the use of credit risk mitigation techniques

1. For the purposes of calculating the value of exposures for the purposes of Article 384(1) an institution may use the 'fully adjusted exposure value' as calculated under Part Three, Title II, Chapter 4 taking into account the credit risk mitigation, volatility adjustments, and any maturity mismatch (E*).

2. An institution permitted to use own estimates of LGDs and conversion factors for an exposure class under Part Three, Title II, Chapter 3 may, subject to a permission by the competent authorities recognise the effects of financial collateral in calculating the value of exposures for the purposes of Article 384(1).

Competent authorities shall grant the permission referred to in preceding subparagraph only if the institution can estimate the effects of financial collateral on their exposures separately from other LGD-relevant aspects.

An institution shall apply such procedures so that its produced estimates are sufficiently suitable for reducing the exposure value for the purposes of compliance with the provisions of Article 384.

Where an institution is permitted to use its own estimates of the effects of financial collateral, it shall do so on a basis consistent with the approach adopted in the calculation of the own funds requirements in accordance with this Regulation.

Institutions permitted to use own estimates of LGDs and conversion factors for an exposure class under Part Three, Title II, Chapter 3, which do not calculate the value of their exposures using the method referred to in the first subparagraph of this paragraph, may use the Financial Collateral Comprehensive Method or the approach set out in Article 392(1)(b) for calculating the value of exposures.

3. An institution that makes use of the Financial Collateral Comprehensive Method or is permitted to use the method described in paragraph 2 of this Article in calculating the value of exposures for the purposes of Article 384(1) shall conduct periodic stress tests of their credit-risk concentrations, including in relation to the realisable value of any collateral taken.

These periodic stress tests referred to in the first subparagraph shall address risks arising from potential changes in market conditions that could adversely impact the institutions' adequacy of own funds and risks arising from the realisation of collateral in stressed situations.

The stress tests carried out shall be adequate and appropriate for the assessment of such risks.

In the event that the period stress test indicates a lower realisable value of collateral taken than would be permitted to be taken into account while making use of the Financial Collateral Comprehensive Method or the method described in paragraph 2 as appropriate, the value of collateral permitted to be recognised in calculating the value of exposures for the purposes of Article 384(1) shall be reduced accordingly.

Institutions referred to in the first subparagraph shall include the following in their strategies to address concentration risk:

(a) policies and procedures to address risks arising from maturity mismatches between exposures and any credit protection on those exposures;

(b) policies and procedures in the event that a stress test indicates a lower realisable value of collateral than taken into account while making use of the Financial Collateral Comprehensive Method or the method described in paragraph 2;

(c) policies and procedures relating to concentration risk arising from the application of credit risk mitigation techniques, and in particular large indirect credit exposures, for example to a single issuer of securities taken as collateral.

Article 391
Exposures arising from mortgage lending

1. For the purposes of calculating the value of exposures or any part of an exposure secured by mortgages on residential property, an institution may reduce the exposure value by up to 50 % of the value of the residential property concerned, where either of the following conditions is met:

(a) the exposure is secured, by mortgages on residential property or by shares in Finnish residential housing companies, operating in accordance with the Finnish Housing Company Act of 1991 or subsequent equivalent legislation;

(b) the exposure relates to a leasing transaction under which the lessor retains full ownership of the residential property leased for as long as the lessee has not exercised his option to purchase.

The value of the property shall be calculated on the basis of prudent valuation standards laid down by law, regulation or administrative provisions. Valuation shall be carried out at least once every three years for residential property.

The requirements in Article 203 and in Article 224(1) shall apply for the purpose of this paragraph.

'Residential property' shall mean a residence to be occupied or let by the owner.

2. For the purposes of calculating the value of exposures or any part of an exposure secured by mortgages on commercial property, an credit institution may reduce the exposure value by up to 50 % of the value of the commercial property concerned only if the competent authorities concerned in the Member State where the commercial property is situated allow the following exposures to receive a 50 % risk weight on the basis of the same conditions set out in Article 121:

(a) exposures secured by mortgages on offices or other commercial premises, or by shares in Finnish housing companies, operating in accordance with the Finnish Housing Company Act of 1991 or subsequent equivalent legislation, in respect of offices or other commercial premises;

(b) exposures related to property leasing transactions concerning offices or other commercial premises.

The value of the property shall be calculated on the basis of prudent valuation standards laid down by law, regulation or administrative provisions.

Commercial property shall be fully constructed, leased and produce appropriate rental income.

Article 392
Substitution approach

1. Where an exposure to a client is guaranteed by a third party, or secured by collateral issued by a third party, an institution may:

(a) treat the portion of the exposure which is guaranteed as having been incurred to the guarantor rather than to the client provided that the unsecured exposure to the guarantor would be assigned an equal or lower risk weight than a risk weight of the unsecured exposure to the client under Part Three, Title II, Chapter 2;

(b) treat the portion of the exposure collateralised by the market value of recognised collateral as having been incurred to the third party rather than to the client, if the exposure is secured by collateral and provided that the collateralised portion of the exposure would be assigned an equal or lower risk weight than a risk weight of the unsecured exposure to the client under Part Three, Title II, Chapter 2.

The approach referred to in point (b) of the first subparagraph shall not be used by an institution where there is a mismatch between the maturity of the exposure and the maturity of the protection.

For the purpose of this Part, an institution may use both the Financial Collateral Comprehensive Method and the treatment provided for in point (b) of the first subparagraph only where it is permitted to use both the Financial Collateral Comprehensive Method and the Financial Collateral Simple Method for the purposes of Article 87.

2. Where an institution applies point (a) of paragraph 1:

(a) where the guarantee is denominated in a currency different from that in which the exposure is denominated the amount of the exposure deemed to be covered shall be calculated in accordance with the provisions on the treatment of currency mismatch for unfunded credit protection in Part Three, Title II, Chapter 4;

(b) a mismatch between the maturity of the exposure and the maturity of the protection shall be treated in accordance with the provisions on the treatment of maturity mismatch in Part Three, Title II, Chapter 4;

(c) partial coverage may be recognised in accordance with the treatment set out in Part Three, Title II, Chapter 4.

PART FIVE
EXPOSURES TO TRANSFERRED CREDIT RISK

Title I
General provisions for this Part

Article 393
Scope of application

Titles II and III shall apply to new securitisations issued on or after 1 January 2011. Titles II and III shall, after 31 December 2014, apply to existing securitisations where new underlying exposures are added or substituted after that date.

Title II
Requirements for investor institutions

Article 394
Retained interest of the issuer

1. An institution, other than when acting as an originator, a sponsor or original lender, shall be exposed to the credit risk of a securitisation position in its trading book or non-trading book only if the originator, sponsor or original lender has explicitly disclosed to the institution that it will retain, on an ongoing basis, a material net economic interest which, in any event, shall not be less than 5 %.

   Only any of the following qualifies as retention of a material net economic interest of not less than 5%:

   (a) retention of no less than 5 % of the nominal value of each of the tranches sold or transferred to the investors;

   (b) in the case of securitisations of revolving exposures, retention of the originator's interest of no less than 5 % of the nominal value of the securitised exposures;

   (c) retention of randomly selected exposures, equivalent to no less than 5 % of the nominal amount of the securitised exposures, where such exposures would otherwise have been securitised in the securitisation, provided that the number of potentially securitised exposures is no less than 100 at origination;

   (d) retention of the first loss tranche and, if necessary, other tranches having the same or a more severe risk profile than those transferred or sold to investors and not maturing any earlier than those transferred or sold to investors, so that the retention equals in total no less than 5 % of the nominal value of the securitised exposures.

   Net economic interest is measured at the origination and shall be maintained on an ongoing basis. The net economic interest, including retained positions, interest or exposures, shall not be subject to any credit risk mitigation or any short positions or any other hedge and shall not be sold. The net economic interest shall be determined by the notional value for off-balance sheet items.

   There shall be no multiple applications of the retention requirements for any given securitisation.

2. Where an EU parent credit institution or an EU financial holding company, or one of its subsidiaries, as an originator or a sponsor, securitises exposures from several credit institutions, investment firms or other financial institutions which are included in the scope of supervision on a consolidated basis, the requirement referred to in paragraph 1 may be satisfied on the basis of the consolidated situation of the related EU parent credit institution or EU financial holding company.

The first subparagraph shall apply only where credit institutions, investment firms or financial institutions which created the securitised exposures have committed themselves to adhere to the requirements set out in Article 397 and deliver, in a timely manner, to the originator or sponsor and to the EU parent credit institution or an EU financial holding company the information needed to satisfy the requirements referred to in Article 398.

3. Paragraph 1 shall not apply where the securitised exposures are claims or contingent claims on or fully, unconditionally and irrevocably guaranteed by the following entities:

(a) central governments or central banks;

(b) regional governments, local authorities and public sector entities of Member States;

(c) institutions to which a 50 % risk weight or less is assigned under Part Three, Title II, Chapter 2;

(d) multilateral development banks.

4. Paragraph 1 shall not apply to the following:

(a) transactions based on a clear, transparent and accessible index, where the underlying reference entities are identical to those that make up an index of entities that is widely traded, or are other tradable securities other than securitisation positions;

(b) syndicated loans, purchased receivables or credit default swaps where these instruments are not used to package and/or hedge a securitisation that is covered by paragraph 1.

Article 395
Due diligence

1. Before investing, and as appropriate thereafter, institutions, shall be able to demonstrate to the competent authorities for each of their individual securitisation positions, that they have a comprehensive and thorough understanding of and have implemented formal policies and procedures appropriate to their trading book and non-trading book and commensurate with the risk profile of their investments in securitised positions for analysing and recording:

(a) information disclosed under Article 394(1), by originators or sponsors to specify the net economic interest that they maintain, on an ongoing basis, in the securitisation;

(b) the risk characteristics of the individual securitisation position;

(c) the risk characteristics of the exposures underlying the securitisation position;

(d) the reputation and loss experience in earlier securitisations of the originators or sponsors in the relevant exposure classes underlying the securitisation position;

(e) the statements and disclosures made by the originators or sponsors, or their agents or advisors, about their due diligence on the securitised exposures and, where applicable, on the quality of the collateral supporting the securitised exposures;

(f) where applicable, the methodologies and concepts on which the valuation of collateral supporting the securitised exposures is based and the policies adopted by the originator or sponsor to ensure the independence of the valuer;

(g) all the structural features of the securitisation that can materially impact the performance of the institution's securitisation position.

Institutions shall regularly perform their own stress tests appropriate to their securitisation positions. To this end, institutions may rely on financial models developed by an ECAI provided that institutions can demonstrate, when requested, that they took due care prior to investing to validate the relevant assumptions in and structuring of the models and to understand methodology, assumptions and results.

2. Institutions, other than when acting as originators or sponsors or original lenders, shall establish formal procedures appropriate to their trading book and non-trading book and commensurate with the risk profile of their investments in securitised positions to monitor on an ongoing basis and in a timely manner performance information on the exposures underlying their securitisation positions. Where relevant, this shall include the exposure type, the percentage of loans more than 30, 60 and 90 days past due, default rates, prepayment rates, loans in foreclosure, collateral type and occupancy, and frequency distribution of credit scores or other measures of credit worthiness across underlying exposures, industry and geographical diversification, frequency distribution of loan to value ratios with band widths that facilitate adequate sensitivity analysis. Where the underlying exposures are themselves securitisation positions, institutions shall have the information set out in this subparagraph not only on the underlying securitisation tranches, such as the issuer name and credit quality, but also on the characteristics and performance of the pools underlying those securitisation tranches.

Institutions shall have a thorough understanding of all structural features of a securitisation transaction that would materially impact the performance of their exposures to the transaction such as the contractual waterfall and waterfall related triggers, credit enhancements, liquidity enhancements, market value triggers, and deal-specific definition of default.

Article 396
Additional risk weight

Where an institution does not meet the requirements in Articles 394 or 395 in any material respect by reason of the negligence or omission of the institution, the competent authorities shall impose a proportionate additional risk weight of no less than 250 % of the risk weight (capped at 1250 %) which shall apply to the relevant securitisation positions in the manner specified in Articles 240(6) or 326(3) respectively. The additional risk weight shall progressively increase with each subsequent infringement of the due diligence provisions.

The competent authorities shall take into account the exemptions for certain securitisations provided in Article 394(3) by reducing the risk weight it would otherwise impose under this Article in respect of a securitisation to which Article 394(3) applies.

Title III
Requirements for sponsor and originator institutions

Article 397
Criteria for credit granting

Sponsor and originator institutions shall apply the same sound and well-defined criteria for credit-granting in accordance with the requirements of Article 77 of Directive [inserted by OP] to exposures to be securitised as they apply to exposures to be held on their book. To this end the same processes for approving and, where relevant, amending, renewing and re-financing credits shall be applied by the originator and sponsor institutions. Institutions shall also apply the same standards of analysis to participations or underwritings in securitisation issues purchased from third parties whether such participations or underwritings are to be held on their trading or non-trading book.

Where the requirements referred to in the first subparagraph of this Article are not met, Article 240(1) shall not be applied by an originator institution and that originator institution shall not be allowed to exclude the securitised exposures from the calculation of its capital requirements under this Regulation.

Article 398
Disclosure to investors

Sponsor and originator institutions shall disclose to investors the level of their commitment under Article 394 to maintain a net economic interest in the securitisation. Sponsor and originator institutions shall ensure that prospective investors have readily available access to all materially relevant data on the credit quality and performance of the individual underlying exposures, cash flows and collateral supporting a securitisation exposure as well as such information that is necessary to conduct comprehensive and well informed stress tests on the cash flows and collateral values supporting the underlying exposures. For that purpose, materially relevant data shall be determined as at the date of the securitisation and where appropriate due to the nature of the securitisation thereafter.

Article 399
Uniform condition of application

1. EBA shall report to the Commission annually on measures taken by the competent authorities in order to ensure the compliance with the requirements of Titles II and III by institutions.

2. EBA shall develop draft implementing technical standards for facilitating the convergence of supervisory practices with regard to Articles 394 to 398, including the measures to be taken in case of breach of the due diligence and risk management obligations.

   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 the procedure laid down in Articles 15 of Regulation (EU) No 1093/2010.

PART SIX
LIQUIDITY

Title I
Definitions and liquidity coverage requirement

Article 400
Definitions

For the purposes of this Part, the following definitions apply:

(1) 'Financial customer' means a customer that performs one or more of the activities listed in Annex I of Directive [inserted by OP] as their main business, or is one of the following:

(a) a credit institution;

(b) an investment firm;

(c) a SSPE;

(d) a CIU;

(e) a non-open ended investment scheme

(f) an insurance undertaking;

(g) a financial holding company or mixed-activity holding company.

(2) 'Retail deposit' means a liability to a natural person or to a small and medium sized enterprise where the aggregate liability to such clients or group of connected clients is less than 1 million EUR.

Article 401
Liquidity coverage requirement

1. Institutions shall at all times hold liquid assets, the sum of the values of which equals, or is greater than, the liquidity outflows less the liquidity inflows under stressed conditions so as to ensure that institutions maintain levels of liquidity buffers which are adequate to face any possible imbalance between liquidity inflows and outflows under stressed conditions over a short period of time.

2. Institutions shall not count double liquidity inflows and liquid assets.

3. Institutions may use the liquid assets referred to in paragraph 1 to meet their obligations under stress circumstances as specified under Article 402.

4. The provisions set out in Title II shall apply exclusively for the purposes of specifying reporting obligations set out in Article 403.

Article 402
Compliance with liquidity requirements

Where a credit institution does not meet, or is expected not to meet the requirement set out in Article 401(1), it shall immediately notify the competent authorities and shall submit without undue delay to the competent authority a plan for the timely restoration of compliance with Article 401. Until such compliance has been restored, the credit institution shall report the items daily by the end of each business day unless the competent authority authorises a lower frequency and a longer delay. Competent authorities shall only grant such authorisations based on the individual situation of a credit institution. They shall monitor the implementation of the restoration plan and shall require a more timely restoration if appropriate.

Title II
Liquidity reporting

Article 403
Reporting obligation and reporting format

1. Institutions shall report to the competent authorities the items referred to in Title II and III and their components, including the composition of its liquid assets according to Article 404 and Annex III. The reporting frequency shall not be less than monthly for the requirement in Title II and Annex III and not less than quarterly for items referred to in Title III.

   Competent authorities shall only authorise a lower reporting frequency or a longer reporting delay on the basis of the individual situation of a credit institution. They shall monitor the implementation of the restoration plan referred to in that Article and shall, if appropriate, require a more timely restoration than it is set out in the plan.

2. When a competent authority decides that an institution has a significant liquidity risk in another currency or a significant branch as defined in Article 52 of Directive [inserted by OP] in a host Member State using a different currency than its home Member State, the institution shall separately report to the competent authorities of the home Member States the items denominated in or indexed to the former currency.

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

   (a) uniform formats with associated instructions for and frequencies, dates and delays of reporting. The reporting formats and frequencies shall be proportionate to the nature, scale and complexity of different institutions' activities and shall comprise the reporting required according to paragraphs 1 and 2;

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

   (c) the IT solutions to be applied for such reporting which allow for direct and immediate electronic access to the reporting of an institution where required by Directive [inserted by OP] and this Regulation.

   n.

   EBA shall submit those draft technical standards to the Commission by 1 January 2013.

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

4. Competent authorities of the home Member State shall upon request provide the competent authorities and the national central bank of the host Member States and EBA with direct and immediate electronic access to the individual reporting in accordance with this Article.

5. Competent authorities that exercise supervision on a consolidated basis according to Article 107 of Directive [inserted by OP] shall provide upon request the following authorities with direct and immediate electronic access to all reporting submitted by the institution in accordance with this Article:

(a) the competent authorities and the national central bank of the host Member States in which there are significant branches of subsidiaries of the parent institution or institutions controlled by the same parent financial holding company;

(b) the competent authorities that have authorised subsidiaries of the parent institution or institutions controlled by the same parent financial holding company and the national central bank of the same Member State;

(c) EBA;

(d) ECB.

6. The competent authorities that have authorised an institution that is a subsidiary of a parent institution or parent financial holding company shall provide upon request the competent authorities that shall exercise supervision on a consolidated basis according to Article 106 of Directive [inserted by OP], the central bank of the Member State where the institution is authorised and EBA with direct and immediate electronic access to all reporting submitted by the institution in accordance with the uniform formats referred to in paragraph 3.

Article 404

Reporting on liquid assets

1. Institutions shall report the following as liquid assets unless excluded by paragraph 2 and only if the liquid assets fulfil the conditions in paragraph 3:

(a) cash and deposits held with central banks to the extent that these deposits can be withdrawn in times of stress;

(b) transferable assets that are of extremely high liquidity and credit quality;

(c) transferable assets representing claims on or guaranteed by the central government of a Member State or a third country if the institution incurs a liquidity risk in that Member State or third country that it covers by holding those liquid assets;

(d) transferable assets that are of high liquidity and credit quality.

Pending a uniform definition in accordance with Article 481(2) of high and extremely high liquidity and credit quality, institutions shall identify themselves in a given currency transferable assets that are respectively of high or extremely high liquidity and credit quality. Pending a uniform definition, competent authorities may, taking into account the criteria listed in Article 481(2), provide general guidance that institutions shall follow in identifying assets of high and extremely high liquidity and credit quality. In the absence of such guidance, institutions shall use transparent and objective criteria to this end, including some or all of the criteria listed in Article 481(2).

2. The following shall not be considered liquid assets:

(a) assets that are issued by a credit institution unless they fulfil one of the following conditions:

(i) they are bonds eligible for the treatment set out in Article 124(3) or (4);

(ii) they are bonds as defined in Article 52(4) of Directive 2009/65/EC other than those referred to in (i);

(iii) the credit institution has been set up and is sponsored by a Member State central or regional government and the asset is guaranteed by that government and used to fund promotional loans granted on a non-competitive, not for profit basis in order to promote its public policy objectives;

(b) assets issued by any of the following:

(i) an investment firm;

(ii) an insurance undertaking;

(iii) a financial holding company;

(iv) a mixed-activity holding companies;

(v) any other entity that performs one or more of the activities listed in Annex I of Directive [inserted by OP] as its main business.

3. Institutions shall only report as liquid assets that fulfil each of the following conditions:

(a) they are not issued by the institution itself or its parent or subsidiary institutions or another subsidiary of its parent institutions or parent financial holding company;

(b) they are eligible collateral in normal times for intraday liquidity needs and overnight liquidity facilities of a central bank in a Member State or if the liquid assets are held to meet liquidity outflows in the currency of a third country, of the central bank of that third country;

(c) their price can be determined by a formula that is easy to calculate based on publicly available inputs and does not depend on strong assumptions as is typically the case for structured or exotic products;

(d) they are listed on a recognised exchange;

(e) they are tradable on active outright sale or repurchase agreement markets with a large and diverse number of market participants, a high trading volume, and market breadth and depth.

The condition in point (b) shall not apply in case of liquid assets held to meet liquidity outflows in a currency in which there is an extremely narrow definition of central bank eligibility. In case of currencies of third countries, this exception shall apply and only apply if

the competent authorities of the third country apply the same exception and the third country has comparable reporting requirements in place.

4. EBA shall develop draft implementing technical standards listing the currencies which meet the conditions referred to in the paragraph 3.

   EBA shall submit those draft technical standards to the Commission by 1 January 2013.

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

   Before the entry into force of the technical standards referred to in the previous subparagraph, institutions may continue to apply the treatment set out in the first subparagraph, where the competent authorities have applied that treatment before 1 January 2013.

5. Shares or units in CIUs may be treated as liquid assets up to an absolute amount of 250 million EUR provided that the requirements in Article 127(3) are met and that the CIU, apart from derivatives to mitigate interest rate or credit risk, only invests in liquid assets.

6. Where a liquid asset ceases to be eligible for paragraph 1, an institution may nevertheless continue to consider it a liquid asset for an additional period of 30 calendar days.

Article 405

Operational requirements for holdings of liquid assets

The institution shall only report as liquid assets those holdings of liquid assets that meet the following conditions:

(a) they are appropriately diversified;

(b) not less than 60% of the liquid assets that the institution reports are assets referred to under points (a) to (c) of Article 404(1). Such assets owed and due or callable within 30 calendar days shall not count towards the 60% unless the assets have been obtained against collateral that also qualifies under points (a) to (c) of Article 404(1);

(c) they are legally and practically readily available at any time during the next 30 days to be liquidated via outright sale or repurchase agreements in order to meet obligations coming due. Liquid assets referred to in point (c) of Article 404 which are held in third countries where there are transfer restrictions or which are denominated in non-convertible currencies shall be considered available only to the extent that they correspond to outflows in the third country or currency in question;

(d) the liquid assets are controlled by a liquidity management function;

(e) a portion of the liquid assets is periodically and at least annually liquidated via outright sale or repurchase agreements for the following purposes:

   (i) to test the access to the market for these assets,

(ii) to test the effectiveness of its processes for the liquidation of assets

(iii) to test the usability of the assets,

(iv) to minimise the risk of negative signalling during a period of stress;

(f) price risks associated with the assets may be hedged but the liquid assets are subject to appropriate internal arrangements that ensure that they will not be used in other ongoing operations, including:

(i) hedging or other trading strategies;

(ii) providing credit enhancements in structured transactions;

(iii) to cover operational costs.

(g) the denomination of the liquid assets is consistent with the distribution by currency of liquidity outflows after the deduction of capped inflows.

Article 406
Valuation of liquid assets

1. The value of a liquid asset to be reported shall be its market value, subject to appropriate haircuts that reflect at least the duration, the credit and liquidity risk and typical repo haircuts in periods of general market stress. The haircuts shall not be less than 15% for the assets in point (d) of Article 404(1). If the credit institution hedges the price risk associated with an asset, it shall take into account the cash flow resulting from the potential close-out of the hedge.

2. Shares or units in CIUs as referred to in Article 404(4) shall be subject to haircuts, looking through to the underlying assets as follows:

(a) 0% for the assets in point (a) of Article 404(1) ;

(b) 5% for the assets in points (b) and (c) of Article 404(1) ;

(c) 20% for the assets in point (d) of Article 404(1).

The look-through approach shall be applied as follows:

(a) where the institution is aware of the underlying exposures of a CIU, it may look through to those underlying exposures in order to assign them to point (a) to (d) of Article 404(1);

(b) where the institution is not aware of the underlying exposures of a CIU, it shall be assumed that the CIU invests, to the maximum extent allowed under its mandate, in descending order in the asset types referred to in points (a) to (d) of Article 404(1) until the maximum total investment limit is reached.

3. Institutions may rely on the following third parties to calculate and report the haircuts for shares or units in CIUs, in accordance with the methods set out in points (a) and (b) in the second subparagraph of paragraph 2:

(a) the depository institution of the CIU provided that the CIU exclusively invests in securities and deposits all securities at this depository institution;

(b) for other CIUs, the CIU management company, provided that the CIU management company meets the criteria set out in Article 127(3)(a).

The correctness of the calculations by the depository institution or the CIU management company shall be confirmed by an external auditor.

Article 407
Currencies with constraints on the availability of liquid assets

1. EBA shall assess the availability for institutions of the liquid assets referred to in point (b) of Article 404(1) in the currencies that are relevant for EU institutions.

2. Where the justified needs for liquid assets in light of the requirement in Article 401 are exceeding the availability of those liquid assets in a currency, one or more of the following derogations shall apply:

(a) by derogation to point (b) of Article 405, the percentage share of the assets referred to in points (a) to (c) of Article 404(1) in the liquid assets that the institution reports may be lower than 60%;

(b) by derogation to point (h) of Article 405 , the denomination of the liquid assets may be inconsistent with the distribution by currency of liquidity outflows after the deduction of capped inflows.

(c) for currencies of third countries, required liquid assets may be substituted by credit lines from the central bank of that third country, which are contractually irrevocably committed for the next 30 days and are fairly priced, independent of the amount currently drawn, provided that the competent authorities of the third country do the same and the third country has comparable reporting requirements in place.

3. The derogations applied in accordance with paragraph 2 shall be inversely proportional to the availability of the relevant assets. The justified needs of institutions shall be assessed taking into account their ability to reduce, by sound liquidity management, the need for those liquid assets and the holdings of those assets by other market participants.

4. EBA shall develop draft implementing technical standards listing the currencies which meet the conditions set out in this Article.

EBA shall submit those draft implementing technical standards to the Commission by 1 January 2013.

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

5. EBA shall develop draft regulatory technical standards to specify the exceptions referred to in paragraph 2.

EBA shall submit those draft regulatory technical standards to the Commission by 1 January 2013.

Power is delegated to the Commission to adopt the implementing technical standards referred to in the first subparagraph in accordance with the procedure laid down in Articles 10 to 14 of Regulation (EU)No 1093/2010.

6. EBA shall provide advice to the Commission by 31 December 2013 about the appropriate haircuts for assets held as a result of the derogation referred to in point (a) of paragraph 2.

Article 408
Liquidity outflows

1. Liquidity outflows to be reported shall be calculated as the sum of the following items:

(a) the percentages of the current amount outstanding for retail deposits as set out in Article 409;

(b) the percentages of the current amounts outstanding of other liabilities that come due, can be called for payout or entail an implicit expectation of the provider of the funding that the institution would repay the liability during the next 30 days as set out in Article 410;

(c) the additional outflows referred to in Article 411;

(d) the percentage of the maximum amount that can be drawn during the next 30 days from undrawn credit and liquidity facilities that qualify as medium or medium to low risk under Annex I, as set out in Article 412;

(e) the additional outflows identified in the assessment according to paragraph 2.

2. Institutions shall regularly assess the likelihood and potential volume of liquidity outflows during the next 30 days as far as products or services are concerned, which are not captured in Articles 410 to 412 and which these institutions offer or sponsor or which potential purchasers would consider to be associated with these institutions, including any contractual arrangements such as other off balance sheet and contingent funding obligations. These outflows shall be assessed under the assumption of a combined idiosyncratic and market-wide stress scenario.

For this assessment, institutions shall take particular account of material reputational damages that could result from them not providing liquidity support to such products or services. Institutions shall report products and services the likelihood and volume referred to in the first subparagraph is material to the competent authorities not less than yearly and the competent authorities shall determine the outflows to be assigned.

The competent authorities shall at least annually report to EBA the types of products or services for which they have determined outflows on the basis of the reports from institutions. They shall in this report also explain the methodology applied to determine the outflows.

3. EBA shall develop draft regulatory technical standards specifying the treatment of products and services referred to in paragraph 2, identifying products or services that shall be covered for these purposes and the appropriate methods to determine the outflows to be assigned.

EBA shall submit those draft regulatory technical standards to the Commission by 30 June 2014.

Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with the procedure laid down in Articles 10 to 14 of Regulation (EU) No 1093/2010.

Article 409
Outflows on retail deposits

1. Institutions shall multiply the amount of retail deposits that are covered by a Deposit Guarantee Scheme according to Directive 94/19/EG or an equivalent deposit guarantee scheme in a third country by at least 5% where the deposit is either

   (a) part of an established relationship making withdrawal highly unlikely;

   (b) held in a transactional account, including accounts to which salaries are regularly credited.

2. Institutions shall multiply other retail deposits not referred to in paragraph 1 by at least 10%.

3. EBA shall develop draft implementing technical standards to determine the conditions of application of paragraphs 1 and 2 in relation to the identification of retail deposits subject to higher outflows than specified in paragraph 1 or 2 and the definitions of those products and the appropriate outflows for purposes of this Title. These standards shall take account of the likelihood of these deposits to lead to outflows of liquidity during the next 30 days. These outflows shall be assessed under the assumption of a combined idiosyncratic and market-wide stress scenario.

EBA shall submit those draft implementing technical standards to the Commission by 1 January 2013.

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

4. Institutions shall multiply retail deposits that they have taken in third countries by a higher percentage than provided for in paragraphs 1 and 2 if such percentage is provided by comparable third country reporting requirements.

5. Institutions may exclude from the calculation of outflows certain clearly circumscribed categories of retail deposits as long as in each and every instance the institution rigorously

applies the following for the whole category of those deposits, unless in individually justified circumstances of hardship for the depositor:

(a) within 30 days, the depositor is not allowed to withdraw the deposit;

(b) for early withdrawals within 30 days, the depositor has to pay a penalty for early withdrawal that is materially greater than losing the interest he would obtain for the remaining maturity absent the early withdrawal. Notwithstanding the previous sentence, the penalty does not have to exceed the interest due for the time elapsed since the current term of the deposit had been agreed.

Article 410
Outflows on other liabilities

1. Institutions shall multiply liabilities resulting from the institutions own operating expenses by 0%.

2. Institutions shall multiply liabilities resulting from secured lending and capital market driven transactions as defined in Article 188 if they are collateralised by assets that would qualify as liquid assets according to Article 404 by:

(a) 0% up to the value of the liquid assets according to Article 406;

(b) 100% for the remaining liability.

3. Institutions shall multiply liabilities resulting from secured lending and capital market driven transactions as defined in Article 188 by 25% if the assets would not qualify as liquid assets according to Article 404 and the lender is the central bank or another public sector entity of the Member State in which the credit institution was authorised.

4. Institutions shall multiply liabilities resulting from deposits that have to be maintained:

(a) by the depositor in order to obtain clearing, custody or cash management services from the institution;

(b) in the context of common task sharing within an institutional protection scheme meeting the requirements of Article 108(7) or as a legal or statutory minimum deposit by another entity being a Member of the same institutional protection scheme;

by 5% in the case of point (a) to the extent to which they are covered by a Deposit Guarantee Scheme according to Directive 94/19/EC or an equivalent deposit guarantee scheme in a third country and by 25% otherwise.

Clearing, custody or cash management services referred to in point (a) only covers such services to the extent that they are rendered in the context of an established relationship on which the depositor has substantial dependency. They shall not merely consist in correspondent banking or prime brokerage services and the institution shall have objective evidence that the client is unable to withdraw those amounts over a 30 day horizon without compromising its operational functioning.

5. Institutions shall multiply liabilities resulting from deposits by clients that are not financial customers by 75% to the extent they do not fall under paragraph 4.

6. Institutions shall take payables and receivables expected over the 30 day horizon from the contracts listed in Annex II into account on a net basis across counterparties and shall multiply them by 100% in case of a net amount payable. Net basis shall mean also net of collateral to be received that qualifies as liquid assets under Article 404.

7. Institutions shall multiply other liabilities that do not fall under paragraphs 1 to 5 by 100%.

8. By derogation from paragraph 7, competent authorities may grant the permission to apply a lower percentage on a case-by-case basis when where all of the following conditions are fulfilled:

   (a) the depositor is a parent or subsidiary institution of the institution or another subsidiary of the same parent institution or linked to the institution by a relationship within the meaning of Article 12(1) of Directive 83/349/EEC;

   (b) there are reasons to expect a lower outflow over the next 30 days even under combined idiosyncratic and market-wide stress scenario;

   (c) a corresponding symmetric or more conservative inflow is applied by the depositor by derogation from Article 413;

   (d) the institution and the depositor are established in the same Member State unless Article 18(1)(b) applies.

   Where such lower outflow is permitted to be applied, the competent authorities shall inform EBA about the decision and its reasons. The conditions for such lower outflows shall be regularly reviewed by the competent authorities.

Article 411
Additional Outflows

1. Collateral other than assets corresponding to Article 404(1) a) to c), which is posted by the institution for contracts listed in Annex II, shall be subject to an additional outflow of 15% of the market value of assets corresponding to Article 404(1)(d) and 20% of the market value of other assets.

2. If the competent authority considers the dealings of an institution in capital market driven transactions defined in Article 188 or in the contracts listed in Annex II material in relation to the potential liquidity outflows of the institution, the institution shall add an additional outflow for the additional collateral needs resulting, according to the contracts that the institution has entered into, from a material deterioration in the credit quality of the institution such as a downgrade in its external credit assessment by three notches. The extent of this material deterioration shall be reviewed regularly and notified to the competent authority.

3. The institution shall add an additional outflow corresponding to collateral needs that would result from the impact of an adverse market scenario on the institution's dealings in the contracts listed in Annex II if the latter are material.

EBA shall develop draft regulatory technical standards to determine the conditions of application in relation to the notion of materiality and methods for the measurement of this additional outflow.

EBA shall submit those draft regulatory technical standards to the Commission by 1 January 2013.

Power is delegated to the Commission to adopt the regulatory technical standards referred to in the second subparagraph in accordance with the procedure laid down in Articles 10 to 14 of Regulation (EU) No 1093/2010.

4. The institution shall add an additional outflow corresponding to the market value of securities or other assets sold short and to be delivered within the 30 days horizon unless the institution owns the securities to be delivered or has borrowed them at terms requiring their return only after the 30 day horizon and the securities do not form part of the institutions liquid assets.

Article 412
Outflows from credit and liquidity facilities

1. Institutions shall report outflows from credit and liquidity facilities, which shall be determined as a percentage of the maximum amount that can be drawn. This maximum amount that can be drawn may be assessed net of the value according to Article 406 of collateral to be provided if the institution can reuse the collateral and if the collateral in the form of liquid assets in accordance with Article 404. The collateral to be provided may not be assets issued by the counterparty of the facility or one of its affiliated entities. If the necessary information is available to the institution, the maximum amount that can be drawn for credit and liquidity facilities provided to SSPEs shall be determined as the maximum amount that could be drawn given an SSPEs own obligations coming due over the next 30 days.

2. The maximum amount that can be drawn of undrawn credit and liquidity facilities shall be multiplied by 5% if they qualify for the retail exposure class under the Standardised or IRB approaches for credit risk.

3. The maximum amount that can be drawn of undrawn credit and liquidity facilities shall be multiplied by 10% where they meet the following conditions:

(a) they do not qualify for the retail exposure class under the Standardised or IRB approaches for credit risk;

(b) they have been provided to clients that are not financial customers;

(c) they have not been provided for the purpose of replacing funding of the client in situations where he is unable to obtain its funding requirements in the financial markets.

4. The maximum amount that can be drawn of other undrawn credit and liquidity facilities shall be multiplied by 100%. This applies in particular to the following:

(a) liquidity facilities that the institution has granted to SSPEs;

(b) arrangements under which the institution is required to buy or swap assets from an SSPE.

5. Institutions, which have been set up and are sponsored by a Member State central or regional government may apply the treatments in paragraphs 2 and 3 by derogation from paragraph 4 also to credit and liquidity facilities that are provided to institutions for the sole purpose of directly or indirectly funding promotional loans qualifying for the exposure classes referred to in those paragraphs. Those promotional loans shall be available only to persons who are not financial customers on a non-competitive, not for profit basis in order to promote public policy objectives of that Member State central or regional government. It shall only be possible to draw on such facilities following a request for a promotional loan and up to the amount of such request.

Article 413
Inflows

1. Institutions shall report their capped liquidity inflows. Capped liquidity inflows shall be the liquidity inflows limited to 75% of liquidity outflows. Institutions may exempt liquidity inflows from deposits placed with other institutions and qualifying for the treatments set out in Article 108(6) or Article 108(7) from this limit.

2. The liquidity inflows shall be measured over the next 30 days. They shall comprise only contractual inflows from exposures that are not past due and for which the bank has no reason to expect non-performance within the 30-day time horizon. The inflow shall be taken into account in full with the exception of the following:

(a) monies due from customers that are not financial customers shall be reduced by 50% of their value or by the contractual commitments to those customers to extend funding, whichever is higher. This does not apply to monies due from secured lending and capital market driven transactions as defined in Article 188 that are collateralised by liquid assets according to Article 404;

(b) monies due from secured lending and capital market driven transactions as defined in Article 188 if they are collateralised by liquid assets, shall not be taken into account up to the value net of haircuts of the liquid assets and shall be taken into account in full for the remaining monies due;

(c) monies due that the institution owing those monies treats according to Article 410(4), any undrawn credit or liquidity facilities and any other commitments received shall not be taken into account.

3. Payables and receivables expected over the 30 day horizon from the contracts listed in Annex II shall be reflected on a net basis across counterparties and shall be multiplied by 100% of a net amount receivable. Net basis shall mean also net of collateral to be received that qualifies as liquid assets under Article 404.

4. Competent authorities may grant the permission to apply, by derogation from paragraph 2 point c), a higher inflow on a case by case basis for credit and liquidity facilities when all of the following conditions are fulfilled:

(a) there are reasons to expect a higher inflow even under idiosyncratic stress;

(b) the provider is a parent or subsidiary institution of the institution or another subsidiary of the same parent institution or linked to the institution by a relationship within the meaning of Article 12(1) of Directive 83/349/EEC;

(c) the institution and the provider shall be established in the same Member State unless Article 18(1)(b) applies.

Where such higher inflow is permitted to be applied, the competent authorities shall inform EBA about the decision and its reasons. The conditions for such higher inflows shall be regularly reviewed by the competent authorities.

5. Institutions shall not report inflows from any of the liquid assets reported in accordance with Article 404 other than payments due on the assets that are not reflected in the market value of the asset.

6. Institutions shall not report inflows from new issuance of any obligations.

7. Institutions shall take liquidity inflows which are to be received in third countries where there are transfer restrictions or which are denominated in non-convertible currencies into account only to the extent that they correspond to outflows in the third country or currency in question..

Title III
Reporting on stable funding

Article 414
Items providing stable funding

1. The following items shall be reported to competent authorities separately in order to allow an assessment of the availability of stable funding:

(a) own funds;

(b) the following liabilities not included in point (a):

(i) retail deposits as defined in Article 409(1);

(ii) of the deposits in (i), those that qualify for the treatment in Article 409(2).

(iii) deposits that qualify for the treatment in Article 410(3);

(iv) of the deposits in (iii), those that are subject to a deposit guarantee according to Directive 94/19/EC or equivalent third country deposit guarantees within the terms of Article 409(2);

(v) of the deposits in (iii), those that fall under point (b) in Article 410(3)

(vi) amounts deposited not falling under (i) or (iii) if they are not deposited financial customers;

(vii) all funding obtained from financial customers;

(viii) separately for amounts falling under (vi) and (vii) respectively, funding from secured lending and capital market driven transactions as defined in Article 188

– collateralised by liquid assets as set out in Article 404;

– collateralised by any other assets;

(ix) liabilities resulting from securities issued qualifying for the treatment in Article 124;

(x) other liabilities resulting from securities issued;

(xi) any other liabilities.

2. Where applicable, all items shall be presented in the following five buckets according to the closer of their maturity date and the earliest date at which they can contractually be called:

(a) within three months,

(b) between three and 6 months;

(c) between 6 and 9 months;

(d) between 9 and 12 months;

(e) after 12 months.

Article 415
Items requiring stable funding

1. The following items shall be reported to competent authorities separately in order to allow an assessment of the needs for stable funding:

   (a) the assets referred to in Article 404, broken down by asset type;

   (b) securities and money market instruments not included in (a);

   (c) equity securities of non-financial entities listed on a major index in a recognised exchange;

   (d) other equity securities;

   (e) gold;

   (f) other precious metals;

   (g) non-renewable loans and receivables, separately those the borrowers of which are:

      (i) natural persons other than commercial sole proprietor and partnerships and deposits placed by small and medium sized enterprises where the aggregate deposit placed by that client or group of connected clients is less than 1 million EUR;

      (ii) sovereigns, central banks and PSEs;

      (iii) clients not referred to in (i) and (ii) other than financial customers;

      (iv) any other borrowers;

   (h) derivatives receivables;

   (i) any other assets;

   (j) undrawn credit facilities that qualify as 'medium risk' or 'medium/low risk' under Annex I.

2. Where applicable, all items shall be presented in the five buckets described in Article 414(2).

PART SEVEN
LEVERAGE

Article 416
Calculation of the leverage ratio

1. Institutions shall calculate their leverage ratio according to the methodology set out in paragraphs 2 to 10.

2. The leverage ratio shall be calculated as an institution's capital measure divided by that institution's total exposure measure and shall be expressed as a percentage.

   Institutions shall calculate the leverage ratio as the simple arithmetic mean of the monthly leverage ratios over a quarter.

3. For the purposes of paragraph 2, the capital measure shall be the Tier 1 capital.

4. The total exposure measure is the sum of the exposure values of all assets and off-balance sheet items not deducted when determining the capital measure referred to in paragraph 3.

   Where institutions include relevant entities in which they hold significant investments in their consolidation according to the relevant accounting framework, but not in their prudential consolidation according to Chapter 2 of Title II of Part One, they shall reduce their exposure measure by the amount that is obtained by multiplying the amount defined in point (a) with the factor defined in point (b):

   (a) the sum of the exposure values of all the assets of those relevant entities which are included in the consolidation according to the relevant accounting framework, but not in the prudential consolidation according to Chapter 2 of Title II of Part One;

   (b) the sum of the deductions from Tier 1 items specified in point (i) of Article 33(1) and in point (d) of Article 53 divided by the total amount of Tier 1 items.

   Institutions shall effect the valuation of assets and off-balance sheet items in accordance with Article 94.

5. Institutions shall determine the exposure value of assets in accordance with the following principles:

   (a) the exposure values of assets, excluding items listed in Annex II and credit derivatives, means exposure values as defined in Article 106(1);

   (b) physical or financial collateral, guarantees or credit risk mitigation purchased shall not be used to reduce exposure values of assets;

   (c) netting of loans and deposits shall not be permitted.

6. Institutions shall determine the exposure value of items listed in Annex II and of credit derivatives in accordance with either the Mark-to-Market Method set out in Article 269 or the Original Exposure Method set out in Article 270. Institutions may use the Original Exposure Method to determine the exposure value of items listed in Annex II and of credit derivatives only if they also use this method for determining the exposure value of these items for the purposes of meeting the own funds requirements set out in Article 87.

   In determining the exposure value of items listed in Annex II and of credit derivatives, institutions shall take into account the effects of contracts for novation and other netting agreements, except contractual cross-product netting agreements, in accordance with Article 289.

7. Institutions shall determine the exposure value of repurchase transactions, securities or commodities lending or borrowing transactions, long settlement transactions and margin lending transactions in accordance with Article 215(1) to (3) and shall take into account the effects of master netting agreements, except contractual cross-product netting agreements, in accordance with Article 201.

8. Institutions shall determine the exposure value of off-balance sheet items, except the items listed in Annex II, credit derivatives, repurchase transactions, securities or commodities lending or borrowing transactions, long settlement transactions and margin lending transactions, in accordance with Article 106(1), subject to the following modifications to the specific credit risk adjustments listed in that Article:

   (a) the specific credit risk adjustment for undrawn credit facilities, which may be cancelled unconditionally at any time without notice, referred to in the first indent of paragraph 4 of Annex I, is 10%;

   (b) the specific credit risk adjustment for all other off-balance-sheet items listed in Annex I is 100%.

9. Institutions shall determine the exposure values of items listed in Annex II and of credit derivatives that are off-balance sheet items in accordance with the approach set out in paragraph 6.

   Institutions shall determine the exposure values of repurchase transactions, securities or commodities lending or borrowing transactions, long settlement transactions and margin lending transactions that are off-balance sheet items in accordance with the approach set out in paragraph 7.

10. For the purpose of the calculations set out in paragraphs 6, 7 and 9 institutions may choose not to apply the principle set out in point (b)of paragraph 5.

Article 417
Reporting requirement

1. Institutions shall submit to the competent authorities all necessary information on the leverage ratio and its components as determined in Article 416. Competent authorities shall take into account this information when undertaking the supervisory review referred to in Article 92 of Directive [inserted by OP].

Competent authorities shall submit the information received from institutions to EBA upon its request to facilitate the review referred to in Article 482.

2. EBA shall develop draft implementing technical standards to determine the contents and format of the uniform reporting template for the reporting requirement referred to in paragraph 1, the instructions on how to use such template and the frequencies and dates of reporting.

EBA shall submit those draft implementing technical standards to the Commission by 1 January 2013.

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

PART EIGHT
DISCLOSURE BY INSTITUTIONS

Title I
General Principles

Article 418
Scope of disclosure requirements

1. Institutions shall publicly disclose the information laid down in Title II, subject to the provisions laid down in Article 419.

2. Permission by the competent authorities under Part three of the instruments and methodologies referred to in Title III shall be subject to the public disclosure by institutions of the information laid down therein.

3. Institutions shall adopt a formal policy to comply with the disclosure requirements laid down in this Part, and have policies for assessing the appropriateness of their disclosures, including their verification and frequency. Institutions shall also have policies for assessing whether their disclosures convey their risk profile comprehensively to market participants.

   Where those disclosures do not convey the risk profile comprehensively to market participants, institutions shall publicly disclose the information necessary in addition to that required in accordance with paragraph 1. However, they shall only be required to disclose information which is material and not proprietary or confidential in accordance with Article 419.

4. Institutions shall, if requested, explain their rating decisions to small and medium-size enterprises and other corporate applicants for loans, providing an explanation in writing when asked. The administrative costs of the explanation shall be proportionate to the size of the loan.

Article 419
Non-material, proprietary or confidential information

1. Institutions may omit one or more of the disclosures listed in Title II if the information provided by such disclosures is not regarded as material, except for the disclosures laid down in Article 424.

   Information shall be regarded as material in disclosures if its omission or misstatement could change or influence the assessment or decision of a user relying on that information for the purpose of making economic decisions.

2. Institutions may also omit one or more items of information included in the disclosures listed in Titles II and III if those items include information which is regarded as proprietary or

confidential in accordance with the second and third subparagraphs, except for the disclosures laid down in Article 424.

Information shall be regarded as proprietary to an institution if disclosing it publicly would undermine its competitive position. It may include information on products or systems which, if shared with competitors, would render an institution's investments therein less valuable.

Information shall be regarded as confidential if there are obligations to customers or other counterparty relationships binding an institution to confidentiality.

3. In the cases referred to in paragraph 2, the institution concerned shall state in its disclosures the fact that the specific items of information are not disclosed, the reason for non-disclosure, and publish more general information about the subject matter of the disclosure requirement, except where these are to be classified as proprietary or confidential.

Article 420
Frequency of disclosure

Institutions shall publish the disclosures required by this Part at least on an annual basis.

Annual disclosures shall be published in conjunction with the date of publication of the financial statements.

Institutions shall assess the need to publish some or all disclosures more frequently than annually in the light of the relevant characteristics of their business such as scale of operations, range of activities, presence in different countries, involvement in different financial sectors, and participation in international financial markets and payment, settlement and clearing systems. That assessment shall pay particular attention to the possible need for more frequent disclosure of items of information laid down in Article 424, and points (b) to (e) of Article 425, and information on risk exposure and other items prone to rapid change.

Article 421
Means of disclosures

1. Institutions may determine the appropriate medium, location and means of verification to comply effectively with the disclosure requirements laid down in this Part. To the degree feasible, all disclosures shall be provided in one medium or location.

2. Equivalent disclosures made by institutions under accounting, listing or other requirements may be deemed to constitute compliance with this Part. If disclosures are not included in the financial statements, institutions shall indicate where they can be found.

Title II
Technical criteria on transparency and disclosure

Article 422
Risk management objectives and policies

1. Institutions shall disclose their risk management objectives and for each separate category of risk, including the risks referred to under this Title. These disclosures shall include:

   (a) the strategies and processes to manage those risks;

   (b) the structure and organisation of the relevant risk management function including information on its authority and statute, or other appropriate arrangements;

   (c) the scope and nature of risk reporting and measurement systems;

   (d) the policies for hedging and mitigating risk, and the strategies and processes for monitoring the continuing effectiveness of hedges and mitigants;

   (e) a declaration approved by the management body on the adequacy of risk management arrangements of the institution providing assurance that the risk management systems put in place are adequate with regard to institution's profile and strategy;

   (f) a concise risk statement approved by the management body succinctly describing the institution's overall risk profile associated with the business strategy. This statement shall include key ratios and figures providing external stakeholders with a concise but comprehensive view of how risk profile of the institution interacts with the risk tolerance set by the management body.

2. Institutions shall disclose the following information, including regular, at least annual updates, regarding governance arrangements:

   (a) the number of directorships held by members of the management body;

   (b) the recruitment policy for the selection of members of the management body and their actual knowledge, skills and expertise;

   (c) the policy on diversity with regard to selection of members of the management body, its objectives and any relevant targets set out in that policy, and the extent to which these objectives and targets have been achieved;

   (d) whether or not the institution has set up a separate risk committee and the number of times the risk committee has met;

   (e) the description of the information flow on risk to the management body in its supervisory function.

Article 423
Scope of application

Institutions shall disclose the following information regarding the scope of application of the requirements of this Regulation in accordance with Directive [inserted by OP]:

(a) the name of the institution to which the requirements of this Regulation apply;

(b) an outline of the differences in the basis of consolidation for accounting and prudential purposes, with a brief description of the entities therein, explaining whether they are:

   (i) fully consolidated;

   (ii) proportionally consolidated;

   (iii) deducted from own funds;

   (iv) neither consolidated nor deducted;

(c) any current or foreseen material practical or legal impediment to the prompt transfer of own funds or repayment of liabilities among the parent undertaking and its subsidiaries;

(d) the aggregate amount by which the actual own funds are less than required in all subsidiaries not included in the consolidation, and the name or names of such subsidiaries;

(e) if applicable, the circumstance of making use of the provisions laid down in Articles 6 and 8

Article 424
Own funds

1. Institutions shall disclose the following information regarding their own funds:

   (a) a full reconciliation of Common Equity Tier 1 items, Additional Tier 1 items, Tier 2 items and filters and deductions applied pursuant to Articles 29 to 32, 33, 53, 63 and 74 to own funds of the institution and the balance sheet in the audited financial statements of the institution;

   (b) a description of the main features of the Common Equity Tier 1 and Additional Tier 1 instruments and Tier 2 instruments issued by the institution;

   (c) the full terms and conditions of all Common Equity Tier 1, Additional Tier 1 and Tier 2 instruments;

   (d) separate disclosure of the nature and amounts of the following:

      (i) each prudential filter applied pursuant to Articles 29 to 32;

      (ii) each deduction made pursuant to Articles 33, 53 and 63;

      (iii) items not deducted in accordance with Articles 44, 45, 53, 63 and 74;

(e) a description of all restrictions applied to the calculation of own funds in accordance with this Regulation and the instruments, prudential filters and deductions to which those restrictions apply;

(f) where institutions disclose capital ratios calculated using elements of own funds determined on a basis other than that laid down in this Regulation, a comprehensive explanation of the basis on which those capital ratios are calculated.

2. EBA shall develop draft implementing technical standards to specify uniform templates for disclosure under points (a), (b), (d) and (e) of paragraph 1.

EBA shall submit those draft implementing technical standards to the Commission by 31 December 2013.

Power is conferred on the Commission to adopt the implementing technical standards referred to in the first sub-paragraph in accordance with the procedure laid down in Articles 10 to 14 of Regulation (EU) No 1093/2010.

Article 425
Own funds requirements

Institutions shall disclose the following information regarding the compliance by the institution with the requirements laid down in Articles 87 and Article 72 of Directive [inserted by OP]:

(a) a summary of the institution's approach to assessing the adequacy of its internal capital to support current and future activities;

(b) for institutions calculating the risk-weighted exposure amounts in accordance with Chapter 2 of Part Three, Title II, 8% of the risk-weighted exposure amounts for each of the exposure classes specified in Article 107;

(c) for institutions calculating risk-weighted exposure amounts in accordance with Chapter 3 of Part Three, Title II, 8% of the risk-weighted exposure amounts for each of the exposure classes specified in Article 142. For the retail exposure class, this requirement applies to each of the categories of exposures to which the different correlations in Article 149(1) to (4) correspond. For the equity exposure class, this requirement applies to:

    (i) each of the approaches provided in Article 150;

    (ii) exchange traded exposures, private equity exposures in sufficiently diversified portfolios, and other exposures;

    (iii) exposures subject to supervisory transition regarding own funds requirements;

    (iv) exposures subject to grandfathering provisions regarding own funds requirements;

(d) own funds requirements calculated in accordance with points (b) and (c) of Article 87;

(e) own funds requirements calculated in accordance with Part Three, Title III, Sections 2 to 4 and disclosed separately.

The institutions calculating the risk-weighted exposure amounts in accordance with Article 148(5) or 150(2) shall disclose the exposures assigned to each category in Table 1 in paragraph 5 of Article 148(5), or to each risk weight mentioned in Article 150(2).

Article 426
Exposure to counterparty credit risk

Institutions shall disclose the following information regarding the institution's exposure to counterparty credit risk as defined in Title III, Chapter 6:

(a) a discussion of the methodology used to assign internal capital and credit limits for counterparty credit exposures;

(b) a discussion of policies for securing collateral and establishing credit reserves;

(c) a discussion of policies with respect to wrong-way risk exposures;

(d) a discussion of the impact of the amount of collateral the institution would have to provide given a downgrade in its credit rating;

(e) gross positive fair value of contracts, netting benefits, netted current credit exposure, collateral held and net derivatives credit exposure. Net derivatives credit exposure is the credit exposure on derivatives transactions after considering both the benefits from legally enforceable netting agreements and collateral arrangements;

(f) measures for exposure value under the methods set out in Sections 3 to 6 of Title III, Chapter 6 whichever method is applicable;

(g) the notional value of credit derivative hedges, and the distribution of current credit exposure by types of credit exposure;

(h) the notional amounts of credit derivative transactions, segregated between use for the institution's own credit portfolio, as well as in its intermediation activities, including the distribution of the credit derivatives products used, broken down further by protection bought and sold within each product group;

(i) the estimate of α if the institution has received the permission of the competent authorities to estimate α.

Article 427
Capital buffers

1. An institution shall disclose the following information in relation to its compliance with the requirement for a countercyclical capital buffer referred to in Title VII, Chapter 4 of Directive [inserted by OP]:

   (a) the geographical distribution of its credit exposures relevant for the calculation of its countercyclical capital buffer;

(b) the composition of its institution specific countercyclical capital buffer.

2. EBA shall develop draft regulatory technical standards specifying the disclosure requirements set out in paragraph 1.

EBA shall submit those draft regulatory technical standards to the Commission by 31 December 2014.

Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with the procedure laid down in Articles 10 to 14 of Regulation (EU) No 1093/2010.

Article 428
Credit risk adjustments

Institutions shall disclose the following information regarding the institution's exposure to credit risk and dilution risk:

(a) the definitions for accounting purposes of 'past due' and 'impaired';

(b) a description of the approaches and methods adopted for determining specific and general credit risk adjustments;

(c) the total amount of exposures after accounting offsets and without taking into account the effects of credit risk mitigation, and the average amount of the exposures over the period broken down by different types of exposure classes;

(d) the geographic distribution of the exposures, broken down in significant areas by material exposure classes, and further detailed if appropriate;

(e) the distribution of the exposures by industry or counterparty type, broken down by exposure classes, and further detailed if appropriate;

(f) the residual maturity breakdown of all the exposures, broken down by exposure classes, and further detailed if appropriate;

(g) by significant industry or counterparty type, the amount of:

(i) impaired exposures and past due exposures, provided separately;

(ii) Specific and general credit risk adjustments;

(iii) charges for specific and general credit risk adjustments during the reporting period;

(h) the amount of the impaired exposures and past due exposures, provided separately, broken down by significant geographical areas including, if practical, the amounts of specific and general credit risk adjustments related to each geographical area;

(i) the reconciliation of changes in the specific and general credit risk adjustments for impaired exposures, shown separately. The information shall comprise:

(i) a description of the type of specific and general credit risk adjustments;

(ii) the opening balances;

(iii) the amounts taken against the credit risk adjustments during the reporting period;

(iv) the amounts set aside or reversed for estimated probable losses on exposures during the reporting period, any other adjustments including those determined by exchange rate differences, business combinations, acquisitions and disposals of subsidiaries, and transfers between credit risk adjustments;

(v) the closing balances.

Specific credit risk adjustments and recoveries recorded directly to the income statement shall be disclosed separately.

Article 429
Use of ECAIs

For institutions calculating the risk-weighted exposure amounts in accordance with Part Three, Title II, Chapter 2, the following information shall be disclosed for each of the exposure classes specified in Article 107:

(a) the names of the nominated ECAIs and ECAs and the reasons for any changes;

(b) the exposure classes for which each ECAI or ECA is used;

(c) a description of the process used to transfer the issuer and issue credit assessments onto items not included in the trading book;

(d) the association of the external rating of each nominated ECAI or ECA with the credit quality steps prescribed in Part Three, Title II, Chapter 2, taking into account that this information needs not be disclosed if the institution complies with the standard association published by EBA;

(e) the exposure values and the exposure values after credit risk mitigation associated with each credit quality step prescribed in Part Three, Title II, Chapter 2 as well as those deducted from own funds.

Article 430
Exposure to market risk

The institutions calculating their own funds requirements in accordance with points (b) and (c) of Article 87(3) shall disclose those requirements separately for each risk referred to in those provisions. In addition, the own funds requirement for specific interest rate risk of securitisation positions shall be disclosed separately.

Article 431
Operational risk

Institutions shall disclose the approaches for the assessment of own funds requirements for operational risk that the institution qualifies for; a description of the methodology set out in Article 301(2), if used by the institution, including a discussion of relevant internal and external factors considered in the institution's measurement approach, and in the case of partial use, the scope and coverage of the different methodologies used.

Article 432
Exposures in equities not included in the trading book

Institutions shall disclose the following information regarding the exposures in equities not included in the trading book:

(a) the differentiation between exposures based on their objectives, including for capital gains relationship and strategic reasons, and an overview of the accounting techniques and valuation methodologies used, including key assumptions and practices affecting valuation and any significant changes in these practices;

(b) the balance sheet value, the fair value and, for those exchange-traded, a comparison to the market price where it is materially different from the fair value;

(c) the types, nature and amounts of exchange-traded exposures, private equity exposures in sufficiently diversified portfolios, and other exposures;

(d) the cumulative realised gains or losses arising from sales and liquidations in the period; and

(e) the total unrealised gains or losses, the total latent revaluation gains or losses, and any of these amounts included in the original or additional own funds.

Article 433
Exposure to interest rate risk on positions not included in the trading book

Institutions shall disclose the following information on their exposure to interest rate risk on positions not included in the trading book:

(a) the nature of the interest rate risk and the key assumptions (including assumptions regarding loan prepayments and behaviour of non-maturity deposits), and frequency of measurement of the interest rate risk;

(b) the variation in earnings, economic value or other relevant measure used by the management for upward and downward rate shocks according to management's method for measuring the interest rate risk, broken down by currency.

Article 434
Exposure to securitisation positions

Institutions calculating risk weighted exposure amounts in accordance with Part Three, Title II, Chapter 5 or own funds requirements in accordance with Article 326 or Article 327 shall disclose the following information, where relevant, separately for their trading and non-trading book:

(a) a description of the institution's objectives in relation to securitisation activity;

(b) the nature of other risks including liquidity risk inherent in securitised assets;

(c) the type of risks in terms of seniority of underlying securitisation positions and in terms of assets underlying those latter securitisation positions assumed and retained with re-securitisation activity;

(d) the different roles played by the institution in the securitisation process;

(e) an indication of the extent of the institution's involvement in each of the roles referred to in point (d);

(f) a description of the processes in place to monitor changes in the credit and market risk of securitisation exposures including, how the behaviour of the underlying assets impacts securitisation exposures and a description of how those processes differ for re-securitisation exposures;

(g) a description of the institution's policy governing the use of hedging and unfunded protection to mitigate the risks of retained securitisation and re-securitisation exposures, including identification of material hedge counterparties by relevant type of risk exposure;

(h) the approaches to calculating risk weighted exposure amounts that the institution follows for its securitisation activities including the types of securitisation exposures to which each approach applies;

(i) the types of SSPE that the institution, as sponsor, uses to securitise third-party exposures including whether and in what form and to what extent the institution has exposures to those SSPEs, separately for on- and off-balance sheet exposures, as well as a list of the entities that the institution manages or advises and that invest in either the securitisation positions that the institution has securitised or in SSPEs that the institution sponsors;

(j) a summary of the institution's accounting policies for securitisation activities, including:

  (i) whether the transactions are treated as sales or financings;

  (ii) the recognition of gains on sales;

  (iii) the methods, key assumptions, inputs and changes from the previous period for valuing securitisation positions;

  (iv) the treatment of synthetic securitisations if not covered by other accounting policies;

(v) how assets awaiting securitisation are valued and whether they are recorded in the institution's non-trading book or the trading book;

(vi) policies for recognising liabilities on the balance sheet for arrangements that could require the institution to provide financial support for securitised assets;

(k) the names of the ECAIs used for securitisations and the types of exposure for which each agency is used;

(l) where applicable, a description of the Internal Assessment Approach as set out in Part Three, Title II, Chapter 5, Section 3, including the structure of the internal assessment process and relation between internal assessment and external ratings, the use of internal assessment other than for IAA capital purposes, the control mechanisms for the internal assessment process including discussion of independence, accountability, and internal assessment process review, the exposure types to which the internal assessment process is applied and the stress factors used for determining credit enhancement levels, by exposure type;

(m) an explanation of significant changes to any of the quantitative disclosures in points (n) to (q) since the last reporting period;

(n) separately for the trading and the non-trading book, the following information broken down by exposure type:

(i) the total amount of outstanding exposures securitised by the institution, separately for traditional and synthetic securitisations and securitisations for which the institution acts only as sponsor;

(ii) the aggregate amount of on-balance sheet securitisation positions retained or purchased and off-balance sheet securitisation exposures;

(iii) the aggregate amount of assets awaiting securitisation;

(iv) for securitised facilities subject to the early amortisation treatment, the aggregate drawn exposures attributed to the originator's and investors' interests respectively, the aggregate capital requirements incurred by the institution against the originator's interest and the aggregate capital requirements incurred by the institution against the investor's shares of drawn balances and undrawn lines;

(v) the amount of securitisation positions that are deducted from own funds or risk-weighted at 1250 %;

(vi) a summary of the securitisation activity of the current period, including the amount of exposures securitised and recognised gain or loss on sale;

(o) separately for the trading and the non-trading book, the following information:

(i) the aggregate amount of securitisation positions retained or purchased and the associated capital requirements, broken down between securitisation and re-securitisation exposures and further broken down into a meaningful number of risk-weight or capital requirement bands, for each capital requirements approach used;

(ii) the aggregate amount of re-securitisation exposures retained or purchased broken down according to the exposure before and after hedging/insurance and the exposure to financial guarantors, broken down according to guarantor credit worthiness categories or guarantor name;

(p) for the non-trading book and regarding exposures securitised by the institution, the amount of impaired/past due assets securitised and the losses recognised by the institution during the current period, both broken down by exposure type;

(q) for the trading book, the total outstanding exposures securitised by the institution and subject to a capital requirement for market risk, broken down into traditional/synthetic and by exposure type.";

(r) where applicable, whether the institution has provided support within the terms of Article 243(1) and the impact on own funds.

Article 435
Remuneration policy

1. Institutions shall disclose the following information, regarding the remuneration policy and practices of the institution for those categories of staff whose professional activities have a material impact on its risk profile:

(a) information concerning the decision-making process used for determining the remuneration policy, including if applicable, information about the composition and the mandate of a remuneration committee, the external consultant whose services have been used for the determination of the remuneration policy and the role of the relevant stakeholders;

(b) information on link between pay and performance;

(c) the most important design characteristics of the remuneration system, including information on the criteria used for performance measurement and risk adjustment, deferral policy and vesting criteria;

(d) information on the performance criteria on which the entitlement to shares, options or variable components of remuneration is based;

(e) the main parameters and rationale for any variable component scheme and any other non-cash benefits;

(f) aggregate quantitative information on remuneration, broken down by business area;

(g) aggregate quantitative information on remuneration, broken down by senior management and members of staff whose actions have a material impact on the risk profile of the institution, indicating the following:

(i) the amounts of remuneration for the financial year, split into fixed and variable remuneration, and the number of beneficiaries;

(ii) the amounts and forms of variable remuneration, split into cash, shares, share-linked instruments and other types;

(iii) the amounts of outstanding deferred remuneration, split into vested and unvested portions;

(iv) the amounts of deferred remuneration awarded during the financial year, paid out and reduced through performance adjustments;

(v) new sign-on and severance payments made during the financial year, and the number of beneficiaries of such payments;

(vi) the amounts of severance payments awarded during the financial year, number of beneficiaries and highest such award to a single person.

(h) the number of individuals being remunerated EUR 1 million or more per financial year, broken down into pay bands of EUR 500 000.

2. For institutions that are significant in terms of their size, internal organisation and the nature, scope and the complexity of their activities, the quantitative information referred to in this point shall also be made available to the public at the level of persons who effectively direct the business of the institution within the meaning of Article 13(1) of Directive [inserted by OP].

Institutions shall comply with the requirements set out in this point in a manner that is appropriate to their size, internal organisation and the nature, scope and complexity of their activities and without prejudice to Directive 95/46/EC.

Article 436
Leverage

1. Institutions shall disclose the following information regarding their leverage ratio as defined in Article 416 and their management of the risk of excessive leverage as defined in point (B) of Article 4(2) of Directive [inserted by OP]:

(a) the leverage ratio;

(b) a breakdown of the total exposure measure;

(c) a description of the processes used to manage the risk of excessive leverage;

(d) a description of the factors that had an impact on the leverage ratio during the period to which the disclosed leverage ratio refers.

2. EBA shall develop draft implementing technical standards to determine the uniform disclosure template for the disclosure referred to in paragraph 1 and the instructions on how to use such template.

EBA shall submit those draft implementing technical standards to the Commission by 30 June 2014.

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

Title III
Qualifying requirements for the use of particular instruments or methodologies

Article 437
Use of the IRB Approach to credit risk

Institutions calculating the risk-weighted exposure amounts under the IRB Approach shall disclose the following information

(a) the competent authority's permission of the approach or approved transition;

(b) an explanation and review of:

(i) the structure of internal rating systems and relation between internal and external ratings;

(ii) the use of internal estimates other than for calculating risk-weighted exposure amounts in accordance with Part Three, Title II, Chapter 3;

(iii) the process for managing and recognising credit risk mitigation;

(iv) the control mechanisms for rating systems including a description of independence, accountability, and rating systems review;

(c) a description of the internal ratings process, provided separately for the following exposure classes:

(i) central governments and central banks;

(ii) institutions;

(iii) corporate, including SMEs, specialised lending and purchased corporate receivables;

(iv) retail, for each of the categories of exposures to which the different correlations in Article 149(1) to 149(4) correspond;

(v) equities;

(d) the exposure values for each of the exposure classes specified in Article 142. Exposures to central governments and central banks, institutions and corporates where institutions use own estimates of LGDs or conversion factors for the calculation of risk-weighted exposure amounts shall be disclosed separately from exposures for which the institutions do not use such estimates;

(e) for each of the exposure classes central governments and central banks, institutions, corporate and equity, and across a sufficient number of obligor grades (including default) to allow for a meaningful differentiation of credit risk, institutions shall disclose:

(i) the total exposures, including for the exposure classes central governments and central banks, institutions and corporate, the sum of outstanding loans and exposure values for undrawn commitments; and for equities the outstanding amount;

(ii) the exposure-weighted average risk weight;

(iii) for the institutions using own estimates of conversion factors for the calculation of risk-weighted exposure amounts, the amount of undrawn commitments and exposure-weighted average exposure values for each exposure class;

(f) For the retail exposure class and for each of the categories as defined under point (c)(iv), either the disclosures outlined under (e) above (if applicable, on a pooled basis), or an analysis of exposures (outstanding loans and exposure values for undrawn commitments) against a sufficient number of EL grades to allow for a meaningful differentiation of credit risk (if applicable, on a pooled basis);

(g) the actual specific credit risk adjustments in the preceding period for each exposure class (for retail, for each of the categories as defined under point (c)(iv) and how they differ from past experience;

(h) a description of the factors that impacted on the loss experience in the preceding period (for example, has the institution experienced higher than average default rates, or higher than average LGDs and conversion factors);

(i) the institution's estimates against actual outcomes over a longer period. At a minimum, this shall include information on estimates of losses against actual losses in each exposure class (for retail, for each of the categories as defined under point (c)(iv) over a period sufficient to allow for a meaningful assessment of the performance of the internal rating processes for each exposure class (for retail for each of the categories as defined under point (c)(iv). Where appropriate, the institutions shall further decompose this to provide analysis of PD and, for the institutions using own estimates of LGDs and/or conversion factors, LGD and conversion factor outcomes against estimates provided in the quantitative risk assessment disclosures above.

(j) for all exposure classes specified in Article 142 and for each category of exposure to which the different correlations in Article 149 (1) to 149(4) correspond:

(i) for the institutions using own LGD estimates for the calculation of risk-weighted exposure amounts, the exposure-weighted average LGD and PD in percentage for each relevant geographical location of credit exposures;

(ii) for the institutions that do not use own LGD estimates, the exposure-weighted average PD in percentage for each relevant geographical location of credit exposures.

For the purposes of point (c), the description shall include the types of exposure included in the exposure class, the definitions, methods and data for estimation and validation of PD and, if applicable, LGD and conversion factors, including assumptions employed in the derivation of these variables, and the descriptions of material deviations from the definition of default as set out in Article 174, including the broad segments affected by such deviations.

For the purposes of point (j), the relevant geographical location of credit exposures means exposures in the Member States in which the institution has been authorised and Member States or third countries in which institutions carry out activities through a branch or a subsidiary.

Article 438
Use of credit risk mitigation techniques

The institutions applying credit risk mitigation techniques shall disclose the following information:

(a) the policies and processes for, and an indication of the extent to which the entity makes use of, on- and off-balance sheet netting;

(b) the policies and processes for collateral valuation and management;

(c) a description of the main types of collateral taken by the institution;

(d) the main types of guarantor and credit derivative counterparty and their creditworthiness;

(e) information about market or credit risk concentrations within the credit mitigation taken;

(f) for institutions calculating risk-weighted exposure amounts under the Standardised Approach or the IRB Approach, but not providing own estimates of LGDs or conversion factors in respect of the exposure class, separately for each exposure class, the total exposure value (after, where applicable, on- or off-balance sheet netting) that is covered — after the application of volatility adjustments — by eligible financial collateral, and other eligible collateral;

(g) for institutions calculating risk-weighted exposure amounts under the Standardised Approach or the IRB Approach, separately for each exposure class, the total exposure (after, where applicable, on- or off-balance sheet netting) that is covered by guarantees or credit derivatives. For the equity exposure class, this requirement applies to each of the approaches provided in Article 150.

Article 439
Use of the Advanced Measurement Approaches to operational risk

The institutions using the Advanced Measurement Approaches set out in Articles 310 to 313 for the calculation of their own funds requirements for operational risk shall disclose a description of the use of insurances and other risk transfer mechanisms for the purpose of mitigation of this risk.

Article 440
Use of Internal Market Risk Models

Institutions calculating their capital requirements in accordance with Article 352 shall disclose the following information:

(a) for each sub-portfolio covered:

(i) the characteristics of the models used;

(ii) where applicable, for the internal models for incremental default and migration risk and for correlation trading, the methodologies used and the risks measured through the use of an internal model including a description of the approach used by the institution to determine liquidity horizons, the methodologies used to achieve a capital assessment that is consistent with the required soundness standard and the approaches used in the validation of the model;

(iii) a description of stress testing applied to the sub-portfolio;

(iv) a description of the approaches used for back-testing and validating the accuracy and consistency of the internal models and modeling processes;

(b) the scope of permission by the competent authority;

(c) a description of the extent and methodologies for compliance with the requirements set out in Articles 99 and 100;

(d) the highest, the lowest and the mean of the following:

(i) the daily value-at-risk measures over the reporting period and as per the period end;

(ii) the stressed value-at-risk measures over the reporting period and as per the period end;

(iii) the risk numbers for incremental default and migration risk and for the specific risk of the correlation trading portfolio over the reporting period and as per the period-end;

(e) the elements of the own funds requirement as specified in Article 353;

(f) the weighted average liquidity horizon for each sub-portfolio covered by the internal models for incremental default and migration risk and for correlation trading;

(g) a comparison of the daily end-of-day value-at-risk measures to the one-day changes of the portfolio's value by the end of the subsequent business day together with an analysis of any important overshooting during the reporting period.

PART NINE
DELEGATED AND IMPLEMENTING ACTS

Article 441
Delegated Acts

The Commission shall be empowered to adopt delegated acts in accordance with Article 445, concerning the following aspects:

(a) clarification of the definitions set out in Articles 4, 22, 137, 148, 188, 237, 267, 294, 371 and 400 to ensure uniform application of this Regulation

(b) clarification of the definitions set out in Articles 4, 22, 137, 148, 188, 237, 267, 294, 371 and 400 in order to take account, in the application of this Regulation of developments on financial markets;

(c) amendment of the list of exposure classes in Articles 107 and 142 in order to take account of developments on financial markets;

(d) the amount specified in point c of Article 118, Article 142(5)(a), Article 148(4) and Article 158(4), to take into account the effects of inflation;

(e) the list and classification of off-balance sheet items in Annexes I and II;

(f) adjustment of the categories of investment firms in Article 90(1) and Article 91(1) to take account of developments on financial markets;

(g) clarification of the requirement laid down in Article 92 to ensure uniform application of this Regulation.

(h) a clarification of exemptions provided for in Article 389;

(i) the extension by twelve months of the duration of the requirement to provide own funds which are at all times more than or equal to the amount specified in Article 476 beyond the periods provided for in paragraphs 1 and 2 of that Article;

(j) the modification of the capital measure and the total exposure measure of the leverage ratio referred to in Article 416(2) in order to correct any shortcomings discovered on the basis of the reporting referred to in Article 417(1) before the leverage ratio has to be published by institutions as set out in Article 436(1)(a). This delegation of power shall be subject to the procedure referred to in Article 446.

The Commission may adopt a measure as referred to under point (i) of paragraph 1 more than once, provided that the requirement to provide own funds which are at all times more than or equal to the amount specified in Article 476 is extended for consecutive periods of twelve months. However, the requirement may not be extended beyond 31 December 2018. If the requirement is not extended before the expiry of the relevant twelve months period, the Commission may not adopt any further measures under paragraph 1(i).

By 30 June 2015, EBA shall report to the Commission whether the evolving economic situation and developments in relevant regulatory requirements would justify an extension of the requirements set out in Article 476.

Article 442
Technical adjustments and corrections

The Commission shall be empowered to adopt delegated acts in accordance with Article 445, to make technical adjustment and corrections of non-essential elements in the following provisions in order to take account of developments on financial markets, in particular new financial products, to make adjustments to developments after the adoption of this Regulation in other EU legislative acts on financial services and accounting including accounting standards based on Regulation No. (EU) 1605/2002, or to reflect convergence of supervisory practice:

(a) the own funds requirements for credit risk laid down in Articles 106 to 129, and in Articles 138 to 187;

(b) the effects of credit risk mitigation in accordance with Articles 189 to 236 ;

(c) the own funds requirements for securitisation laid down in Articles 238 to 261;

(d) the own funds requirements for counterparty credit risks in accordance with articles 267 to 300;

(e) the own funds requirements for operational risk laid down in Articles 304 to 313;

(f) the own funds requirements for market risk laid down in Articles 314 to 367;

(g) the own funds requirements for settlement Risk laid down in Articles 368 and 369;

(h) the own funds requirements for credit valuation adjustment risk laid down in Articles 373, 374 and 375;

(i) Part Two and Article 95 as a result of developments in accounting standards or requirements which take account of Union legislation or with regard to the convergence of supervisory practices.

Article 443
Prudential requirements

The Commission shall be empowered to adopt delegated acts in accordance with Article 445, to impose stricter prudential requirements, for a limited period of time, for all exposures or for exposures to one or more sectors, regions or Member States, where this is necessary to address changes in the intensity of micro-prudential and macro-prudential risks which arise from market developments emerging after the entry into force of this Regulation, in particular upon the recommendation or opinion of the ESRB, concerning

(a) a temporary increase in the level of own funds laid down in Article 87;

(b) the prudential filters laid down in Articles 29 to 32;

(c) the deductions from elements of own funds set out in Articles 33, 53 and 63;

(d) the own funds requirements for credit risk laid down in Articles 106 to 129, and in Articles 138 to 187;

(e) the effects of credit risk mitigation in accordance with Articles 189 to 236;

(f) the own funds requirements for securitisation laid down in Articles 238 to 261;

(g) the own funds requirements for credit risks in accordance with articles 268 to 300;

(h) the own funds requirements for operational risk laid down in Articles 304 to 313;

(i) the own funds requirements for market risk laid down in Articles 314 to 367;

(j) the own funds requirements for settlement Risk laid down in Articles 368 and 369;

(k) the own funds requirements for credit valuation adjustment risk laid down in Articles 373, 374 and 375.

This delegation of power shall be subject to the procedure referred to in Article 446.

Article 444
Liquidity

1. The Commission shall be empowered to adopt a delegated act in accordance with Article 445 to specify in detail the general requirement set out in Article 401. Such specification shall be based on the items to be reported according to Part Six, Title II. The delegated act shall also specify under which circumstances competent authorities have to impose specific in- and outflow levels on credit institutions in order to capture specific risks to which they are exposed.

2. The Commission shall be empowered to modify the items referred to in paragraph 1 or add additional items only if one of the following conditions is met:

   (a) a liquidity coverage requirement based on those criteria, considered either individually or cumulatively, would have a material detrimental impact on the business and risk profile of European institutions or on financial markets or the economy; or

   (b) modification is appropriate to align them with internationally agreed standards for liquidity supervision.

   For the purposes of point (a), in assessing the impact of a liquidity coverage requirement based on those criteria, the Commission shall take into account the reports referred to in paragraphs 1 and 2 of Article 481.

3. The Commission shall adopt the first delegated act referred to in paragraph 1 at the latest by 31 December 2015. A delegated act adopted in accordance with this Article shall, however, not apply before 1 January 2015.

Article 445
Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The delegation of powers referred to in Articles 441 to 444 shall be conferred for an indeterminate period of time from the date referred to in Article 488.

3. The delegation of power referred to in Articles 441 to 444 may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of the delegated acts already in force.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. A delegated act adopted pursuant to Articles 441 to 444 shall enter into force only if no objection has been expressed by the European Parliament or the Council within a period of 2 months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by 2 moths at the initiative of the European Parliament or the Council.

Article 446
Urgency procedure

1. Delegated acts adopted under this Article shall enter into force without delay and shall apply as long as no objection is expressed in accordance with paragraph 2. The notification of a delegated act to the European Parliament and to the Council shall state the reasons for the use of the urgency procedure.

2. Either the European Parliament or the Council may object to a delegated act in accordance with the procedure referred to in Article 445(5). In such a case, the Commission shall repeal the act without delay following the notification of the decision to object by the European Parliament or the Council.

Article 447
European Banking Committee

1. For the adoption of implementing acts, the Commission shall be assisted by the European Banking Committee established by Commission Decision 2004/10/EC. That committee shall be a committee within the meaning of Article 3(2) of Regulation (EU) No 182/2011.

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No. 182/2011 shall apply.

PART TEN
TRANSITIONAL PROVISIONS, REPORTS AND REVIEWS

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 448
Own funds requirements

1. By way of derogation from points (a) and (b) of Article 87(1), institutions shall satisfy the following own funds requirements:

   (a) at all times during the period from 1 January 2013 to 31 December 2013:

      (i) a Common Equity Tier 1 capital ratio of a level that falls within a range with a lowest value of 3.5% and a highest value of 4.5%;

      (ii) a Tier 1 capital ratio of a level that falls within a range with a lowest value of 4.5 % and a highest value of 6%;

   (b) at all times during the period from 1 January 2014 to 31 December 2014:

      (i) a Common Equity Tier 1 capital ratio of a level that falls within a range of 4 % to 4.5 %;

      (ii) a Tier 1 capital ratio of a level that falls within a range of 4.5 % to 6%.

2. Competent authorities shall:

   (a) determine the levels of the Common Equity Tier 1 and Tier 1 capital ratios in the ranges specified in points (a) and (b) of paragraph 1 that institutions shall satisfy;

   (b) publish the determination made in accordance with point (a).

SECTION 2
UNREALISED GAINS AND LOSSES MEASURED AT FAIR VALUE

Article 449
Unrealised losses measured at fair value

1. By way of derogation from Article 32, during the period from 1 January 2013 to 31 December 2017 institutions shall include in the calculation of their Common Equity Tier 1 items only the applicable percentage of unrealised losses measured at fair value, excluding those referred to in Article 30.

2. The applicable percentage for the purposes of paragraph 1 shall fall within following ranges:

(a) 0 % to 100 % during the period from 1 January 2013 to 31 December 2013;

(b) 20 % to 100 % during the period from 1 January 2014 to 31 December 2014;

(c) 40 % to 100 % during the period from 1 January 2015 to 31 December 2015;

(d) 60 % to 100 % during the period from 1 January 2016 to 31 December 2016; and

(e) 80 % to 100 % for the period from1 January 2017 to 31 December 2017.

3. Competent authorities shall:

(a) determine the applicable percentage in the ranges specified in points (a) to (e) of paragraph 2;

(b) publish the determination made in accordance with point (a).

Article 450
Unrealised gains measured at fair value

1. By way of derogation from Article 32, during the period from 1 January 2013 to 31 December 2017, institutions shall not remove from their Common Equity Tier 1 items the applicable percentage of unrealised gains measured at fair value, excluding those referred to in Article 30. The resulting residual amount shall be removed from Common Equity Tier 1 items.

2. For the purposes of paragraph 1, the applicable percentage shall be 0 % during the period from 1 January 2013 to 31 December 2013, and shall, after that date, fall within the following ranges:

(a) 0 % to 20 % during the period from 1 January 2014 to 31 December 2014;

(b) 0 % to 40 % during the period from 1 January 2015 to 31 December 2015;

(c) 0 % to 60 % during the period from 1 January 2016 to 31 December 2016;

(d) 0 % to 80 % for the period from 1 January 2017 to 31 December 2017.

3. By way of derogation from Article 59, institutions shall include the applicable percentage of the residual amount removed from Common Equity Tier 1 capital in accordance with paragraph 1 in Tier 2 items, to the extent that those unrealised gains measured at fair value

would have been recognised as additional own funds according to national transposition for Directive 2006/48/EC. The applicable percentage shall fall within the following ranges:

(a) 100 % during the period from 1 January 2013 to 31 December 2013;

(b) 80 % during the period from 1 January 2014 to 31 December 2014;

(c) 60 % during the period from 1 January 2015 to 31 December 2015;

(d) 40 % during the period from 1 January 2016 to 31 December 2016.

(e) 20 % during the period from 1 January 2017 to 31 December 2017.

4. Competent authorities shall:

(a) determine the applicable percentage of unrealised gains in the ranges specified in points (a) to (d) of paragraph 2 that is not removed from Common Equity Tier 1 capital;

(b) publish the determination made in accordance with point (a).

SECTION 3
DEDUCTIONS

SUB-SECTION 1
DEDUCTIONS FROM COMMON EQUITY TIER 1 ITEMS

Article 451
Deductions from Common Equity Tier 1 items

1. By way of derogation from Article 33(1), during the period from 1 January 2013 to 31 December 2017, the following shall apply:

(a) institutions shall deduct from Common Equity Tier 1 items the applicable percentage specified in Article 458 of the amounts required to be deducted pursuant to points (a) to (h) of Article 33(1), excluding deferred tax assets that rely on future profitability and arise from temporary differences;

(b) institutions shall apply the relevant provisions laid down in Article 453 to the residual amounts of items required to be deducted pursuant to points (a) to (h) of Article 33(1), excluding deferred tax assets that rely on future profitability and arise from temporary differences;

(c) institutions shall deduct from Common Equity Tier 1 items the applicable percentage specified in Article 458 of the total amount required to be deducted pursuant to points (c) and (i) of Article 33(1) after applying Article 452;

(d) institutions shall apply the requirements laid down in Article 453(4) or Article 453(10), as applicable, to the total residual amount of items required to be deducted pursuant to points (c) and (i) of Article 33(1) after applying Article 452.

2. Institutions shall determine the portion of the total residual amount referred to point (d) of paragraph 1, that is subject to Article 453(4), by dividing the amount specified in point (a) by the amount specified in point (b):

(a) the amount of deferred tax assets that are dependent on future profitability and arise from temporary differences referred to in point (a) of Article 452(2);

(b) the sum of the amounts referred to in points (a) and (b) of Article 452(2).

3. Institutions shall determine the portion of the total residual amount referred to point (d) of paragraph 1 that is subject to Article 453(10) by dividing the amount specified in point (a) by the amount specified in point (b):

(a) the amount of direct and indirect holdings of the Common Equity Tier 1 instruments referred to in point (b) of Article 452(2);

(b) the sum of the amounts referred to in points (a) and (b) of Article 452(2).

Article 452
Exemption from deduction from Common Equity Tier 1 items

1. For the purposes of this Article, relevant Common Equity Tier 1 items shall comprise the Common Equity Tier 1 items of the institution calculated after applying the provisions of Article 3 and making the deductions pursuant to points (a) to (h) and (j), (k) and (l) of Article 33(1), excluding deferred tax assets that rely on future profitability and arise from temporary differences.

2. By way of derogation from Article 45(1), during the period from 1 January 2013 to 31 December 2017, institutions shall not deduct the items listed in points (a) and (b) which in aggregate are equal to or less than 15 % of relevant Common Equity Tier 1 items of the institution:

(a) deferred tax assets that are dependent on future profitability and arise from temporary differences and in aggregate are equal to or less than 10 % of relevant Common Equity Tier 1 items;

(b) where an institution has a significant investment in a relevant entity, the direct and indirect holdings by the institution of the Common Equity Tier 1 instruments of that entity that in aggregate are equal to or less than 10 % of relevant Common Equity Tier 1 items.

3. By way of derogation from Article 45(2), the items exempt from deduction pursuant to paragraph 2 shall be risk weighted at 250 %. The items referred to in point (b) of paragraph 2 shall be subject to the requirements of Title IV of Part Three, as applicable.

Article 453
Items not deducted from Common Equity Tier 1

1. By way of derogation from points (a) to (i) Article 33(1), during the period from 1 January 2013 to 31 December 2017, institutions shall apply this Article to the residual amounts of items referred to in points (b) and (d) of Article 451(1):

2. Institutions shall apply the following to the residual amount of losses of the current financial year referred to in point (a) of Article 33(1):

   (a) losses that are material are deducted from Tier 1 items;

   (b) losses that are not material are not deducted.

3. Institutions shall deduct the residual amount of the intangible assets referred to in point (b) of Article 33(1)(b) from Tier 1 items.

4. The residual amount of the deferred tax assets referred to in point (c) of Article 33(1) shall not be deducted and shall be subject to a risk weight of 0 %.

5. The residual amount of the items referred to in point (d) of Article 33(1) shall be deducted half from Tier 1 items and half from Tier 2 items.

6. The residual amount of the assets of a defined benefit pension fund referred to in point (e) of Article 33(1) shall not be deducted from any element of own funds and shall be included in Common Equity Tier 1 items to the extent that amount would have been recognised as original own funds according to the national transposition measures for points (a) to (ca) of Article 57 of Directive 2006/48/EC.

7. Institutions shall apply the following to the residual amount of holdings of own Common Equity Tier 1 instruments referred to in point (f) of Article 33(1):

   (a) the amount of direct holdings is deducted from Tier 1 items;

   (b) the amount of indirect holdings, including own Common Equity Tier 1 instruments that an institution could be obliged to purchase by virtue of an existing or contingent contractual obligation is not deducted and is subject to a risk weight in accordance with Chapter 2 or 3 of Title II of Part Three and to the requirements laid down in Title IV of Part Three, as applicable.

8. Institutions shall apply the following to the residual amount of holdings of Common Equity Tier 1 instruments of a relevant entity where the institution has reciprocal cross holdings with that entity referred to in point (g) of Article 33(1):

   (a) where an institution does not have a significant investment in that relevant entity, the amount of its holding of the Common Equity Tier 1 instruments of that entity is treated as falling under point (h) of Article 33(1);

   (b) where an institution has a significant investment in that relevant entity, the amount of its holdings of Common Equity Tier 1 instruments of that entity is treated as falling under point (i) of Article 33(1).

9. Institutions shall apply the following to the residual amounts of items referred to in point (h) of Article 33(1):

   (a) the amounts required to be deducted that relate to direct holdings are deducted half from Tier 1 items and half from Tier 2 items;

   (b) the amounts that relate to indirect holdings are not deducted and are subject to a risk weights in accordance with Chapter 2 or 3 of Title II of Part Three and to the requirements laid down in Title IV of Part Three, as applicable;

10. Institutions shall apply the following to the residual amounts of the items referred to in point (i) of Article 33(1):

   (a) the amounts required to be deducted that relate to direct holdings are deducted half from Tier 1 items and half from Tier 2 items;

   (b) the amounts that relate to indirect holdings are not deducted and are subject to risk weights in accordance with Chapter 2 or 3 of Title II of Part Three and to the requirements laid down in Title IV of Part Three, as applicable.

SUB-SECTION 2
DEDUCTIONS FROM ADDITIONAL TIER 1 ITEMS

Article 454
Deductions from Additional Tier 1 items

By way of derogation from Article 53, during the period from 1 January 2013 to 31 December 2017, the following shall apply:

(a) institutions shall deduct from Additional Tier 1 items the applicable percentage specified in Article 458 of the amounts required to be deducted pursuant to Article 53;

(b) institutions shall apply the requirements laid down in Article 455 to the residual amounts of the items required to be deducted pursuant to Article 53.

Article 455
Items not deducted from Additional Tier 1 items

1. By way of derogation from Article 53, during the period from 1 January 2013 to 31 December 2017, the requirements laid down in this Article shall apply to the residual amounts referred to in point (b) of Article 454.

2. Institutions shall apply the following to residual amount of the items referred to in point (a) of Article 53:

   (a) direct holdings of own Additional Tier 1 instruments that are shares are deducted at book value from Tier 1 items;

(b) direct holdings of own Additional Tier 1 instruments that are not shares are not deducted and are risk weighted in accordance with Chapter 2 or 3 of Title II of Part Three and subject to the requirements of Title IV of Part Three, as applicable;

(c) indirect holdings of own Additional Tier 1 instruments, including own Additional Tier 1 instruments that an institution could be obliged to purchase by virtue of an existing or contingent contractual obligation, are not deducted and are risk weighted in accordance with Chapter 2 or 3 of Title II of Part Three and subject to the requirements of Title IV of Part Three, as applicable.

3. Institutions shall apply the following to the residual amount of the items referred to in point (b) of Article 53:

(a) where an institution does not have a significant investment in a relevant entity with which it has reciprocal cross holdings, the amount of its direct and indirect holdings of those Additional Tier 1 instruments of that entity is treated as falling within point (c) of Article 53;

(b) where the institution has a significant investment in a relevant entity with which it has reciprocal cross holdings, the amount of its direct and indirect holdings of those Additional Tier 1 instruments of that entity is treated as falling within point (d) of Article 53.

4. Institutions shall apply the following to the residual amount of the items referred to in points (c) and (d) of Article 53:

(a) the amount relating to direct holdings required to be deducted in accordance with points (c) and (d) of Article 53 are deducted half from Tier 1 items and half from Tier 2 items;

(b) the amount relating to indirect holdings required to be deducted in accordance with points (c) and (d) of Article 53 shall not be deducted and shall be subject to a risk weight in accordance with Chapter 2 or 3 of Title II of Part Three and to the requirements of Title IV of Part Three, as applicable.

SUB-SECTION 3
DEDUCTIONS FROM TIER 2 ITEMS

Article 456
Deductions from Tier 2 items

1. By way of derogation from Article 63, during the period from 1 January 2013 to 31 December 2017, the following shall apply:

(a) institutions shall deduct from Tier 2 items the applicable percentage specified in Article 458 of the amounts required to be deducted pursuant to Article 63;

(b) Institutions shall apply the requirements laid down in Article 457 to the residual amounts required to be deducted pursuant to Article 63.

Article 457
Deductions from Tier 2 items

1. By way of derogation from Article 63, during the period from 1 January 2013 to 31 December 2017, the requirements laid down in this Article shall apply to the residual amounts referred to in point (b) of Article 456.

2. Institutions shall apply the following to the residual amount of items referred to in point (a) of Article 63:

   (a) direct holdings of own Tier 2 instruments that are shares are deducted at book value from Tier 2 items;

   (b) direct holdings of own Tier 2 instruments that are not shares are not deducted and are risk weighted in accordance with Chapter 2 or 3 of Title II of Part Three and subject to the requirements of Title IV of Part Three, as applicable;

   (c) indirect holdings of own Tier 2 instruments, including own Tier 2 instruments that an institution could be obliged to purchase by virtue of an existing or contingent contractual obligation are not deducted and are risk weighted in accordance with Chapter 2 or 3 of Title II of Part Three and subject to the requirements of Title IV of Part Three, as applicable.

3. Institutions shall apply the following to the residual amount of the items referred to in point (b) of Article 63:

   (a) where an institution does not have a significant investment in a relevant entity with which it has reciprocal cross holdings, the amount of its direct and indirect holdings of the Tier 2 instruments of that entity is treated as falling within point (c) of Article 63;

   (b) where the institution has a significant investment in a relevant entity with which it has reciprocal cross holdings, the amount of direct and indirect holdings of the Tier 2 instruments of that relevant entity are treated as falling within point (d) of Article 63.

4. Institutions shall apply the following to the residual amount of the items referred to in points (c) and (d) of Article 63:

   (a) the amount relating to direct holdings that is required to be deducted in accordance with points (c) and (d) of Article 63 is deducted half from Tier 1 items and half from Tier 2 items;

   (b) the amount relating to indirect holdings that is required to be deducted in accordance with points (c) and (d) of Article 63 is not be deducted and are subject to a risk weight under Chapter 2 or 3 of Title II of Part Three and the requirements laid down in Title IV of Part Three, as applicable.

SUB-SECTION 4
APPLICABLE PERCENTAGES FOR DEDUCTION

Article 458

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

1. The applicable percentage for the purposes of points (a) and (c) of Article 451(1), point (a) of Article 454 and point (a) of Article 456shall fall within the following ranges:

   (a) 0 % to 100 % for the period from 1 January 2013 to 31 December 2013;

   (b) 20 % to 100 % for the period from 1 January 2014 to 31 December 2014;

   (c) 40 % to 100 % for the period from 1 January 2015 to 31 December 2015;

   (d) 60 % to 100 % for the period from 1 January 2016 to 31 December 2016;

   (e) 80 % to 100 % for the period from 1 January 2017 to 31 December 2017.

2. Competent authorities shall:

   (a) determine the applicable percentage in the ranges specified in paragraph 1 for each of the following:

      (i) the items referred to in points (a) to (h) of Article 33(1), excluding deferred tax assets that rely on future profitability and arise from temporary differences;

      (ii) deferred tax assets that rely on future profitability and arise from temporary differences and the items referred to in point (i) of Article 33(1);

      (iii) the items referred to in points (a) to (d) of Article 53;

      (iv) the items referred to in points (a) to (d) of Article 63;

   (b) publish the determination made in accordance with point (a).

SECTION 4
MINORITY INTEREST AND ADDITIONAL TIER 1 AND TIER 2 INSTRUMENTS ISSUED BY SUBSIDIARIES

Article 459

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 III of Part Two, during the period from 1 January 2013 to 31 December 2017, recognition in consolidated own funds of the of items that would qualify as consolidated reserves in accordance with national transposition measures pursuant to 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:

(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) as a result of paragraph 2 of Article 76;

(c) 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 [inserted by OP];

(d) 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 100 % for the period from 1 January 2013 to 31 December 2013;

(b) 0 % to 80 % for the period from 1 January 2014 to 31 December 2014;

(c) 0 % to 60 % for the period from 1 January 2015 to 31 December 2015;

(d) 0 % to 40 % for the period from 1 January 2016 to 31 December 2016;

(e) 0 % to 20% for the period from 1 January 2017 to 31 December 2017.

4. Competent authorities shall:

(a) determine the applicable percentage in the ranges specified in paragraph 3;

(b) publish the determination made in accordance with point (a).

Article 460

Recognition of in consolidated own funds of minority interests and qualifying Additional Tier1 and Tier 2 capital

1. By way of derogation from point (b) of Article 79, point (b) of Article 80 and point (b) of Article 82, during the period from 1 January 2013 to 31 December 2017, the percentages referred to in those points 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 to 1 in the period from 1 January 2013 to 31 December 2013;

(b) 0.2 to 1 in the period from 1 January 2014 to 31 December 2014;

(c) 0.4 to 1 in the period from 1 January 2015 to 31 December 2015;

(d) 0.6 to 1 in the period from 1 January 2016 to 31 December 2016; and

(e) 0.8 to 1 in the period from 1 January 2017 to 31 December 2017.

3. Competent authorities shall:

(a) determine the value of the applicable factor in the ranges specified in paragraph 2;

(b) publish the determination made in accordance with point (a).

SECTION 5
ADDITIONAL FILTERS AND DEDUCTIONS

Article 461
Additional filters and deductions

1. By way of derogation from Articles 29 to 33, 53 and 63, during the period from 1 January 2013 to 31 December 2017, institutions shall make adjustments to include in or deduct from Common Equity Tier 1 items, Tier 1 items, Tier 2 items or own funds items the applicable percentage of filters or deductions required under national transposition measures for Articles 57 and 66 of Directive 2006/48/EC, and for Articles 13 and 16 of Directive 2006/49/EC, and which are not required in accordance with Part Two.

2. For the purposes of paragraph 1, the applicable percentage shall fall within the following ranges:

(a) 0 % to 100 % for the period from 1 January 2013 to 31 December 2013;

(b) 0 % to 80 % for the period from 1 January 2014 to 31 December 2014;

(c) 0 % to 60 % for the period from 1 January 2015 to 31 December 2015;

(d) 0 % to 40 % for the period from 1 January 2016 to 31 December 2016; and

(e) 0 % to 20 % for the period from 1 January 2017 to 31 December 2017.

3. For each filter or deduction referred to in paragraph 1, competent authorities shall:

(a) determine the applicable percentages in the ranges specified in paragraph 2;

(b) publish the determination made in accordance with point (a).

4. EBA shall develop draft regulatory technical standards to specify the conditions according to which competent authorities shall determine whether adjustments made to own funds, or elements thereof, in accordance with national transposition measures for Directive 2006/48/EC or Directive 2006/49/EC that are not included in Part Two should for the purposes

of this Article be made to Common Equity Tier 1 items, Additional Tier 1 items, Tier 1 items, Tier 2 items or own funds.

EBA shall submit those draft regulatory technical standards to the Commission by 1 January 2013.

Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first sub-paragraph in accordance with the procedures laid down in Articles 10 to 14 of Regulation (EU) No 1093/2010.

Chapter 2
Grandfathering of capital instruments

SECTION 1
INSTRUMENTS CONSTITUTING STATE AID

Article 462
Grandfathering of State aid instruments

1. By way of derogation from Articles 24 to 27, 48, 49, 59 and 60 during the period from 1 January 2013 to 31 December 2017, this Article applies to capital instruments where the following conditions are met:

   (a) the instruments were issued prior to 20 July 2011;

   (b) the instruments constitute State aid;

   (c) the instruments were considered compatible with the internal market by the Commission under Article 107 TFEU.

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 26 are not met;

   (b) the instruments were issued by an undertaking referred to in Article 25 and the conditions laid down in Articles 26, or Article 27 as applicable, are not met.

3. 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 the conditions laid down in Article 49(1) not being met.

4. 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 the items not being referred to in Article 59 or the conditions laid down in Article 60 not being met.

SECTION 2
INSTRUMENTS NOT CONSTITUTING STATE AID

SUB-SECTION 1
GRANDFATHERING ELIGIBILITY AND LIMITS

Article 463
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 that were issued prior to 20 July 2011 and are not those referred to in Article 462(1).

2. By way of derogation from Articles 24 to 27, 48, 49, 59 and 60 , this Article shall apply during the period from 1 January 2013 to 31 December 2021.

3. Subject to the limit specified in Article 464(2), capital within the meaning of Article 22 of Directive 86/365/EC, 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 capital not meeting the conditions laid down in Articles 262, or Article 27 as applicable.

4. Subject to the limit specified Article 464(3), 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/shall qualify as Additional Tier 1 items, notwithstanding the conditions laid down in Article 49 not being met.

5. Subject to the limits specified in Article 464(4), items, and the related share premium accounts, that qualified under national transposition measures for points (f), (g) or (h) of Article 57 of Directive 2006/48/EC shall qualify as Tier 2 items, notwithstanding those items not being included in Article 59 or the conditions laid down in Article 60 not being met.

Article 464
Limits for grandfathering of items within Common Equity Tier 1, Additional Tier 1 and Tier 2 items

1. During the period from 1 January 2013 to 31 December 2021, the extent to which instruments referred to in Article 463 shall qualify as own funds shall be limited in accordance with this Article.

2. The amount of items referred to Article 463(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):

   (a) the nominal amount of capital referred to in Article 463(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 Article 463(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) the sum of the amounts specified in points (c) to (f):

(a) the nominal amount of instruments referred to in Article 463(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 463(4) which on 31 December 2012 which 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 463(4) that were in issue on 31 December 2012 but do not qualify as Additional Tier 1 instruments pursuant to Article 467(4);

(f) the share premium accounts related to the instruments referred to in point (e).

4. The amount of items referred to Article 463(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) the sum of amounts specified in points (e) to (h):

(a) the nominal amount of instruments referred to in Article 463(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, 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 463(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 463(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/EEC ;

(f) the share premium accounts related to the instruments referred to in point (e);

(g) the nominal amount of instruments referred to in Article 463(5) that were in issue on 31 December 2012 that do not qualify as Tier 2 items pursuant to Article 468(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) 0 % to 90 % during the period from 1 January 2013 to 31 December 2013;

(b) 0 % to 80 % during the period from 1 January 2014 to 31 December 2014;

(c) 0 % to 70 % during the period from 1 January 2015 to 31 December 2015;

(d) 0 % to 60 % during the period from 1 January 2016 to 31 December 2016;

(e) 0 % to 50 % during the period from 1 January 2017 to 31 December 2017;

(f) 0 % to 40 % during the period from 1 January 2018 to 31 December 2018;

(g) 0 % to 30 % during the period from 1 January 2019 to 31 December 2019;

(h) 0 % to 20 % during the period from 1 January 2020 to 31 December 2020;

(i) 0 % to 10 % during the period from 1 January 2021 to 31 December 2021.

6. Competent authorities shall:

(a) determine the applicable percentages in the ranges specified in paragraph 5;

(b) publish the determination made in accordance with point (a).

Article 465

Items excluded from grandfathering in Common Equity Tier 1 or Additional Tier 1 items in other elements of own funds

1. By way of derogation from Articles 48, 49, 59 and 60 , during the period from 1 January 2013 to 31 December 2021, institutions may treat as items referred to in Article 463(4), capital, and the related share premium accounts, referred to in Article 463(3) that are excluded from Common Equity Tier 1 items because they exceed the applicable percentage specified in Article 464(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 464(3).

2. By way of derogation from Articles 48, 49, 59 and 60 , during the period from 1 January 2013 to 31 December 2021, institutions may treat the following as items referred to in Article 463(5), to the extent that their inclusion does not exceed the applicable percentage limit referred to in Article 464(4):

(a) capital, and the related share premium accounts, referred to in Article 463(3) that are excluded from Common Equity Tier 1 items because they exceed the applicable percentage specified in Article 464(2);

(b) instruments, and the related share premium accounts, referred to in Article 463(4) that exceed the applicable percentage referred to in Article 464(3).

3. EBA shall develop draft regulatory technical standards to specify the conditions for treating own funds instruments referred to in paragraphs 1 and 2 as falling under Article 464(4) or 464(5) during the period from 1 January 2013 to 31 December 2021.

EBA shall submit those draft regulatory technical standards to the Commission by 1 January 2013.

Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first sub-paragraph in accordance with the procedure laid down in Articles 10 to 14 of Regulation (EU) No 1093/2010.

Article 466
Amortisation of items grandfathered as Tier 2 items

The items referred to Article 463(5) that qualify as Tier 2 items pursuant to Article 463(5) or Article 464(2) shall be subject to the requirements laid down in Article 61.

SUB-SECTION 2
INCLUSION OF INSTRUMENTS WITH A CALL AND INCENTIVE TO REDEEM IN ADDITIONAL TIER 1 AND TIER 2 ITEMS

Article 467
Hybrid instruments with a call and incentive to redeem

1. By way of derogation from Article 48 and 49, during the period from 1 January 2013 to 31 December 2021, instruments referred to in Article 463(4) that qualified under the national transposition measures for Article 57(ca) 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 the requirements laid down in paragraphs 2 to 7.

2. The instruments shall qualify as Additional Tier 1 instruments provided 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 49 are met from 1 January 2013.

3. The instruments shall qualify as Additional Tier 1 instruments in accordance with Article 463(4) between 1 January 2013 and the date of their effective maturity and thereafter qualify as Additional Tier 1 items without limit provided:

   (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 49 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 463(4), from 1 January 2013 where the following conditions are met:

(a) the institution was able to exercise a call with an incentive to redeem between 20 July 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 49 are not met from the date of the effective maturity of the instruments.

5. The instruments shall qualify as Additional Tier 1 instruments in accordance with Article 463(4) between 1 January 2013 and 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 49 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 463(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 20 July 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 49 were not met from the date of the effective maturity of the instruments.

Article 468
Tier 2 items with an incentive to redeem

1. By way of derogation from Articles 59 and 60 , during the period from 1 January 2013 to 31 December 2021, items referred to in Article 463(5) that qualified under the national transposition measures for points (f), (g) 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 the requirements laid down in paragraphs 2 to 7.

2. The items shall qualify as Tier 2 instruments provided:

(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 60 are met.

3. The items shall qualify as Tier 2 items in accordance with Article 463(5) between 1 January 2013 and the date of their effective maturity, and shall qualify thereafter as Tier 2 items without limit, provided 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 60 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 2013 where the following conditions are met:

(a) the institution was able to exercise a call with an incentive to redeem only between 20 July 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 60 are not met from the date of the effective maturity of the items.

5. The items shall qualify as Tier 2 items in accordance with Article 463(5) between 1 January 2013 and 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 60 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 463(5) where:

(a) the institution was able to exercise a call with an incentive to redeem only prior to or on 20 July 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 60 are not met from the date of the effective maturity of the items.

Article 469
Effective maturity

For the purposes of Articles 467 and 468, effective maturity shall be determined as follows:

(a) for the items referred to in paragraphs 3and 5 of those Articles, it is 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, it is the date of the first call with an incentive to redeem occurring between 20 July 2011 and 1 January 2013;

(c) for the items referred to in paragraph 6 of those Articles, it is the date of the first call with an incentive to redeem prior to 20 July 2011.

Chapter 3
Transitional provisions for disclosure of own funds

Article 470
Disclosure of own funds

1. Institutions shall apply during the period from 1 January 2013 to 31 December 2021.

2. During the period from 1 January 2013 to 31 December 2015, institutions shall disclose the extent to which the level of Common Equity Tier 1 capital and Tier 1 capital exceed the requirements laid down in Article 448.

3. During the period from 1 January 2013 to 31 December 2017, institutions shall disclose the following additional information about their own funds:

   (a) the nature and effect on Common Equity Tier 1 capital, Additional Tier 1 capital, Tier 2 capital and own funds of the individual filters and deductions applied in accordance with Articles 449 to 452, 454, 456 and 459;

   (b) the amounts of minority interests and Additional Tier 1 and Tier 2 instruments, and related retained earnings and share premium accounts, issued by subsidiaries that are included in consolidated Common Equity Tier 1 capital, Additional Tier 1 capital, Tier 2 capital and own funds in accordance with Section 4 of Chapter 1;

   (c) the effect on Common Equity Tier 1 capital, Additional Tier 1 capital, Tier 2 capital and own funds of the individual filters and deductions applied in accordance with Article 461;

(d) the nature and amount of items that qualify as Common Equity Tier 1 items, Tier 1 items and Tier 2 items by virtue of applying the derogations specified in Section 2 of Chapter 2.

4. During the period from 1 January 2013 to 31 December 2021, institutions shall disclose the amount of instruments that qualify as Common Equity Tier 1 instruments, Additional Tier 1 instruments and Tier 2 instruments by virtue of applying Article 463.

Chapter 4
Large exposures, own funds requirements, leverage and the Basel I floor

Article 471
Transitional provisions for large exposures

1. The provisions on large exposures as laid down in Articles 376 to 392 shall not apply to investment firms whose main business consists exclusively of the provision of investment services or activities in relation to the financial instruments set out in points 5, 6, 7, 9 and 10 of Section C of Annex I to Directive 2004/39/EC and to whom Directive 93/22/EEC did not apply on 31 December 2006. This exemption is available until 31 December 2014 or the date of entry into force of any amendments pursuant to paragraph 2, whichever is the earlier.

2. By 31 December 2014, the Commission shall, on the basis of public consultations and in the light of discussions with the competent authorities, report to the Parliament and the Council on:

   (a) an appropriate regime for the prudential supervision of investment firms whose main business consists exclusively of the provision of investment services or activities in relation to the commodity derivatives or derivatives contracts set out in points 5, 6, 7, 9 and 10 of Section C of Annex I to Directive 2004/39/EC;

   (b) the desirability of amending Directive 2004/39/EC to create a further category of investment firm whose main business consists exclusively of the provision of investment services or activities in relation to the financial instruments set out in points 5, 6, 7, 9 and 10 of Section C of Annex I to Directive 2004/39/EC relating to energy supplies.

   On the basis of this report, the Commission may submit proposals for amendments to this Regulation.

Article 472
Own funds requirements under the IRB approach

1. By way of derogation from Chapter 3 of Part Three, until 31 December 2017, the competent authority may exempt from the IRB treatment certain categories of equity exposures held by institutions and EU subsidiaries of institutions in that Member State as at 31 December 2007. The competent authority shall publish the categories of equity exposures which benefit from this treatment in accordance with Article 133 of Directive [inserted by OP].

The exempted position shall be measured as the number of shares as at 31 December 2007 and any additional share arising directly as a result of owning those holdings, provided they do not increase the proportional share of ownership in a portfolio company.

If an acquisition increases the proportional share of ownership in a specific holding the exceeding Part of the holding shall not be subject to the exemption. Nor shall the exemption apply to holdings that were originally subject to the exemption, but have been sold and then bought back.

Equity exposures subject to this provision shall be subject to the capital requirements calculated in accordance with the Standardised Approach under Part III, Title 2, Chapter II and the requirements set out in Title IV of Part Three, as applicable.

Competent authorities shall notify the Commission and EBA of the implementation of this paragraph.

2. In the calculation of risk weighted exposure amounts for the purposes of Article 109(4), until 31 December 2015 the same risk weight shall be assigned in relation to exposures to the central governments or central banks of Member States denominated and funded in the domestic currency of any Member State as would be applied to such exposures denominated and funded in their domestic currency.

3. EBA shall develop draft regulatory technical standards to specify the conditions according to which Member States shall afford the exemption referred to in paragraph 1.

EBA shall submit those draft regulatory technical standards to the Commission by 1 January 2013.

Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first sub-paragraph in accordance with the procedure laid down in Articles 10 to 14 of Regulation (EU) No 1093/2010.

Article 473
Own funds requirements for covered bonds

1. Until 31 December 2014, the 10 % limit for senior units issued by French Fonds Communs de Créances or by equivalent securitisation entities laid down in points (d) and (e) of Article 124(1) shall not apply, provided that:

(a) the securitised residential or commercial immovable property exposures were originated by a member of the same consolidated group of which the issuer of the covered bonds is also a member, or by an entity affiliated to the same central body to which the issuer of the covered bonds is also 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 also a member, or an entity affiliated to the same central body to which the issuer of the covered bonds is also affiliated, retains the whole first loss tranche supporting those senior units.

2. By 1 January 2013, the Commission shall review the appropriateness of the derogation set out in paragraph 1 and, if relevant, the appropriateness of extending similar treatment to any other form of covered bond. In the light of that review, the Commission may, if appropriate, adopt delegated acts in accordance with Article 445 to make that derogation permanent or make legislative proposals to extend it to other forms of covered bonds.

3. Until 31 December 2014, for the purposes of point (c) in Article 124(1), institutions' senior unsecured exposures which qualified for a 20% risk weight under national law before the entry into force of this regulation shall be considered to qualify for credit quality step 1.

4. Until 31 December 2014, for the purposes of Article 124(3), institutions' senior unsecured exposures to which qualified for a 20% risk weight under national law before the entry into force of this regulation shall be considered to qualify for a 20% risk weight.

Article 474
Exemption for Commodities dealers

1. The provisions on capital requirements as set out in this Regulation shall not apply to investment firms whose main business consists exclusively of the provision of investment services or activities in relation to the financial instruments set out in points 5, 6, 7, 9 and 10 of Section C of Annex I to Directive 2004/39/EC and to whom Directive 93/22/EEC did not apply on 31 December 2006.

   This exemption shall apply until 31 December 2014 or the date of entry into force of any modifications pursuant to paragraphs 2 and 3, whichever is the earlier.

2. By 31 December 2014, the Commission shall, on the basis of public consultations and in the light of discussions with the competent authorities, report to the Parliament and the Council on:

   (a) an appropriate regime for the prudential supervision of investment firms whose main business consists exclusively of the provision of investment services or activities in relation to the commodity derivatives or derivatives contracts set out in points 5, 6, 7, 9 and 10 of Section C of Annex I to Directive 2004/39/EC;

   (b) the desirability of amending Directive 2004/39/EC to create a further category of investment firm whose main business consists exclusively of the provision of investment services or activities in relation to the financial instruments set out in points 5, 6, 7, 9 and 10 of Section C of Annex I to Directive 2004/39/EC relating to energy supplies, including electricity, coal, gas and oil.

3. On the basis of the report referred to in paragraph 2, the Commission may submit proposals for amendments to this regulation.

Article 475
Leverage

1. By way of derogation from Article 416 and 417, during the period between 1 January 2013 and 31 December 2021, institutions shall calculate and report the leverage ratio by using both of the following as the capital measure:

   (a) Tier 1 capital ;

   (b) Tier 1 capital, subject to the derogations laid down in Chapters 2 and 3 of this Title.

2. By way of derogation from Article 436(1), institutions may choose whether to disclose the information on the leverage ratio based on either just one or both of the definitions of the capital measure specified in points (a) and (b) of paragraph 1. Where institutions change their decision on which leverage ratio to disclose, the first disclosure that occurs after such change shall contain a reconciliation of the information on all leverage ratios disclosed up to the moment of the change.

3. By way of derogation from Article 416(2), during the period from 1 January 2013 to 31 December 2017, competent authorities may permit institutions to calculate the end-of-quarter leverage ratio where they consider that institutions may not have data of sufficiently good quality to calculate a leverage ratio that is an arithmetic mean of the monthly leverage ratios over a quarter.

Article 476
Transitional provisions – Basel I floor

1. Until 31 December 2015, institutions calculating risk-weighted exposure amounts in accordance with Part Three, Title II, Chapter 3 and institutions using the Advanced Measurement Approaches as specified in Part Three, Title III, Chapter 4 for the calculation of their own funds requirements for operational risk shall meet both of the following requirements:

   (a) They shall hold own funds as required by Part Three Title II Chapter 1;

   (b) They shall meet a temporary capital ratio of not less 6.4%. The temporary capital ratio is the own funds of the institution expressed as a percentage of the risk-adjusted assets and off-balance sheet items as set out in Annex IV.

2. The competent authorities may, after having consulted EBA, waive the application of paragraph 1(b) to institutions provided that all the requirements for the Internal Ratings Based Approach set out in Part Three, Title II, Chapter 3, Section 6 and the qualifying criteria for the use of the Advanced Measurement Approach set out in Part Three, Title III, Chapter 4 are met.

Title II
Reports and reviews

Article 477
Cyclicality of capital requirements

The Commission, in cooperation with EBA, ESRB and the Member States, and taking into account the contribution of the European Central Bank, shall periodically monitor whether this Regulation taken as a whole, together with Directive [inserted by OP] has significant effects on the economic cycle and, in the light of that examination, shall consider whether any remedial measures are justified. By 31 December 2013, the EBA shall report to the Commission if and how methodologies of institutions under the IRB Approach should converge with a view to more comparable capital requirements while mitigating pro-cyclicality.

Based on that analysis and taking into account the contribution of the European Central Bank, the Commission shall draw up a biennial report and submit it to the European Parliament and to the Council, together with any appropriate proposals. Contributions from credit taking and credit lending parties shall be adequately acknowledged when the report is drawn up.

Article 478
Own funds requirements for exposures in the form of covered bonds

The Commission shall, by 31 December 2015 and after consulting the EBA, report to the Parliament and the Council, together with any appropriate proposals, whether the risk weights laid down in Article 124 and the own funds requirements for specific risk in Article 325(5) are adequate for all the instruments that qualify for these treatments and whether the criteria in Article 124 should be made stricter.

Article 479
Large exposures

By 31 December 2013 the Commission shall review and report on the application of Article 389(1)(j) and 389(2), including whether exemptions in Article 389(2) should be discretionary, and shall submit this report to the European Parliament and the Council and, if appropriate, a legislative proposal.

With respect to the potential elimination of the national discretion under Article 389(2)(c) and its potential application at the Union level, the review shall in particular take into account the efficiency of group's risk management while ensuring that sufficient safeguards are in place to ensure financial stability in all Member states in which an entity of a group is incorporated.

Article 480
Level of application

1. By 31 December 2013, the Commission shall review and report on the application of Part One, Title II, and Article 108(6) and 108(7) and shall submit this report to the European Parliament and the Council, and, if appropriate, a legislative proposal.

2. By 31 December 2014, the Commission shall report on whether and how the liquidity coverage requirement laid down in Article 401 should apply to investment firms and shall, after consulting EBA, submit this report to the European Parliament and the Council, and, if appropriate, a legislative proposal.

Article 481
Liquidity requirements

1. EBA shall monitor and evaluate the reports made in accordance with Article 403(1), across currencies and across different business models. EBA shall, and after consulting the ESRB, annually and for the first time by 31 December 2013 report to the Commission whether a specification of the general liquidity coverage requirement in Article 401 based on the criteria for liquidity reporting in Part Six Title II, considered either individually or cumulatively, is likely to have a material detrimental impact on the business and risk profile of Union institutions or on financial markets or the economy and bank lending, with a particular focus on lending to small and medium enterprises and on trade financing, including lending under official export credit insurance schemes.

   EBA shall in its report review in particular the appropriateness of the calibration of the following:

   (a) the mechanisms restricting the value of liquidity inflows;

   (b) the outflows in accordance with Article 410(5);

   (c) the appropriate haircuts for purposes of Article 406 for assets held in accordance with the derogations laid down to in Article 407.

2. EBA shall, by 31 December 2013, report to the Commission on appropriate uniform definitions of high and of extremely high liquidity and credit quality of transferable assets for purposes of Article 404. EBA shall in particular test the adequacy of the following criteria and the appropriate levels for such definitions:

   (a) minimum trade volume of the assets

   (b) minimum outstanding volume of the assets

   (c) transparent pricing and post-trade information

   (d) credit quality steps referred to in Sub-section 2 of Annex VI

   (e) proven record of price stability

(f) average volume traded and average trade size

(g) maximum bid/ask spread

(h) remaining time to maturity

(i) minimum turnover ratio

3. By 31 December 2015, EBA shall report to the Commission on whether and how it would be appropriate to ensure that institutions use stable sources of funding, including an assessment of the impact on the business and risk profile of Union institutions or on financial markets or the economy and bank lending, with a particular focus on lending to small and medium enterprises and on trade financing, including lending under official export credit insurance schemes.

By 31 December 2016, the Commission shall, on the basis of these reports, submit a report, and if appropriate a legislative proposal to the European Parliament and Council.

Article 482
Leverage

1. The Commission shall submit by 31 December 2016 a report on the impact and effectiveness of the leverage ratio to the European Parliament and the Council. Where appropriate, the report shall be accompanied by a legislative proposal on the introduction of one or more levels for the leverage ratio that institutions would be required to meet, suggesting an adequate calibration for those levels and any appropriate adjustments to the capital measure and the total exposure measure as defined in Article 416.

2. For the purposes of paragraph 1, the EBA shall report to the Commission by 31 October 2016 on at least the following:

(a) whether the requirements laid out in Articles 75 and 85 of Directive [inserted by OP] in accordance with Articles 72 and 92 of Directive [inserted by OP] for addressing the risk of excessive leverage ensure sound management of this risk by institutions and, if not, which further enhancement they need in order to ensure these objectives;

(b) whether – and if so, which - changes to the calculation methodology detailed in Article 416 would be necessary to ensure that the leverage ratio can be used as an appropriate indicator of an institution's risk of excessive leverage;

(c) whether, in the context of the calculation of the total exposure measure of the leverage ratio, the exposure value of items listed in Annex II and credit derivatives determined by using the Original Exposure Method differs in a material way from the exposure value determined by using the Mark-to-Market Method;

(d) whether using either own funds or Common Equity Tier 1 capital as the capital measure of the leverage ratio could be more appropriate for the intended purpose of tracking the risk of excessive leverage and, if so, what would be the appropriate calibration of the leverage ratio;

(e) whether the 10% conversion factor for commitments that are unconditionally cancellable is appropriately conservative based on the evidence collected during the observation period;

(f) whether the frequency and format of the disclosure of items referred to in Article 436 are adequate;

(g) whether 3% would be an appropriate level for the leverage ratio based on Tier 1 capital and, if not, what level would be the appropriate one;

(h) whether introducing the leverage ratio as a requirement for institutions would necessitate any changes to the leverage ratio framework provided by this Regulation and, if so, which ones;

(i) whether introducing the leverage ratio as a requirement for institutions would effectively constrain the risk of excessive leverage on the part of those institutions and, if so, whether the level for the leverage ratio should be the same for all institutions or should differ for different types of institution and, in the latter case, what additional calibrations would be required.

3. The report referred to in paragraph 2 shall cover at least the period from 1 January 2013 until 30 June 2016 and shall take account of at least the following:

(a) the impact of introducing the leverage ratio, determined in accordance with Article 416, as a requirement that institutions would have to meet on:

(i) financial markets in general and markets for repurchase transactions, derivatives and covered bonds in particular;

(ii) the robustness of institutions;

(iii) business models and balance-sheet structures of institutions;

(iv) the migration of exposures to entities which are not subject to prudential supervision;

(v) financial innovation, in particular the development of instruments with embedded leverage;

(vi) institutions' risk-taking behaviour;

(vii) clearing, settlement and custody activities;

(viii) cyclicality of the capital measure and the total exposure measure of the leverage ratio;

(ix) bank lending, with a particular focus on lending to small and medium enterprises and on trade financing, including lending under official export credit insurance schemes;

(b) the interaction of the leverage ratio with the risk-based own funds requirements and the liquidity requirements as specified in this Regulation;

(c) the impact of accounting differences between accounting standards applicable under Regulation (EC) No 1606/2002, accounting standards applicable under Directive 86/635/EC and other relevant accounting standards on the comparability of the leverage ratio.

Article 483
Exposures to transferred credit risk

By 31 December 2013 the Commission shall report to the European Parliament and the Council on the application and effectiveness of the provisions of Part Five in the light of international market developments.

Article 484
Counterparty Credit Risk and the Original Exposure Method

By 31 December 2016 the Commission shall review and report on the application of Article 270 and shall submit this report to the European Parliament and the Council, and, if appropriate, a legislative proposal.

Article 485
Retail exposures

The Commission shall within 24 months after the entry into force of this Regulation, report on the impact of the own funds requirements laid down in this Regulation on lending to small and medium-sized enterprises and natural persons and shall submit this report to the European Parliament and the Council, and, if appropriate, a legislative proposal.

For these purposes, EBA shall report the following to the Commission with regard to Article 118:

(a) a comparison between actual unexpected credit losses on lending to small and medium sized enterprises and natural persons within the European Union over a full economic cycle and the unexpected credit losses based on the credit risk weights applicable to lending to small and medium-sized enterprises;

(b) an analysis whether the limit of EUR 1 million constrains the appropriate application of the risk-weighting.

Article 486
Definition of eligible capital

By 31 December 2013 the Commission shall review and report on the appropriateness of the definition of eligible capital being applied for the purposes of Title IV of Part Two and Part Four and shall submit this report to the European Parliament and the Council, and, if appropriate, a legislative proposal.

PART ELEVEN
FINAL PROVISIONS

Article 487

1. Subject to paragraph 2, this Regulation shall apply from 1 January 2013.

2. Article 436(1) shall apply from 1 January 2015.

Article 488

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the European Parliament	*For the Council*
The President	*The President*

Annex I
Classification of Off-balance-sheet items

1. Full risk:

– Guarantees having the character of credit substitutes,

– Credit derivatives,

– Acceptances,

– Endorsements on bills not bearing the name of another institution,

– Transactions with recourse,

– Irrevocable standby letters of credit having the character of credit substitutes,

– Assets purchased under outright forward purchase agreements,

– Forward deposits,

– The unpaid portion of partly-paid shares and securities,

– Asset sale and repurchase agreements as defined in Article 12(3) and (5) of Directive 86/635/EEC,

– Other items also carrying full risk.

2. Medium risk:

– Documentary credits issued and confirmed (see also 'Medium/low risk'),

– Warranties and indemnities (including tender, performance, customs and tax bonds) and guarantees not having the character of credit substitutes,

– Irrevocable standby letters of credit not having the character of credit substitutes,

– Undrawn credit facilities (agreements to lend, purchase securities, provide guarantees or acceptance facilities) with an original maturity of more than one year,

– Note issuance facilities (NIFs) and revolving underwriting facilities (RUFs),

– Other items also carrying medium risk and as communicated to EBA.

3. Medium/low risk:

– Documentary credits in which underlying shipment acts as collateral and other self-liquidating transactions,

– Undrawn credit facilities which comprise agreements to lend, purchase securities, provide guarantees or acceptance facilities with an original maturity of up to and including one year which may not be cancelled unconditionally at any time without notice or that do not

effectively provide for automatic cancellation due to deterioration in a borrower's creditworthiness,

– Other items also carrying medium/low risk and as communicated to EBA.

4. Low risk:

– Undrawn credit facilities comprising agreements to lend, purchase securities, provide guarantees or acceptance facilities which may be cancelled unconditionally at any time without notice, or that do effectively provide for automatic cancellation due to deterioration in a borrower's creditworthiness. Retail credit lines may be considered as unconditionally cancellable if the terms permit the institution to cancel them to the full extent allowable under consumer protection and related legislation; and

– Other items also carrying low risk and as communicated to EBA.

Annex II
Types of derivatives

1. Interest-rate contracts:

   (a) single-currency interest rate swaps;

   (b) basis-swaps;

   (c) forward rate agreements;

   (d) interest-rate futures;

   (e) interest-rate options purchased;

   (f) other contracts of similar nature.

2. Foreign-exchange contracts and contracts concerning gold:

   (a) cross-currency interest-rate swaps;

   (b) forward foreign-exchange contracts;

   (c) currency futures;

   (d) currency options purchased;

   (e) other contracts of a similar nature;

   (f) contracts of a nature similar to (a) to (e) concerning gold.

3. Contracts of a nature similar to those in points 1(a) to (e) and 2(a) to (d) concerning other reference items or indices. This includes as a minimum all instruments specified in points 4 to 7, 9 and 10 of Section C of Annex I to Directive 2004/39/EC not otherwise included in points 1 or 2.

Annex III
Items subject to supplementary reporting of liquid assets

1. cash;

2. central bank reserves, to the extent that these reserves can be drawn down in times of stress;

3. transferable securities representing claims on or claims guaranteed by sovereigns, central banks, public sector entities, regional governments and local authorities, the Bank for International Settlements, the International Monetary Fund, the European Commission, or multilateral development banks and satisfying all of the following conditions:

   (a) they are assigned a 0% risk-weight under Section 2 of Title III, Chapter 2;

   (b) they are traded in large, deep and active repurchase agreement or cash markets characterized by a low level of concentration;

   (c) they have a proven record as a reliable source of liquidity by either repurchase agreement or sale even during stressed market conditions;

   (d) they are not an obligation of an institution or any of its affiliated entities.

4. transferable securities other than those referred to in point (3) representing claims on or claims guaranteed by sovereigns or central banks issued in domestic currencies by the sovereign or central bank in the currency and country in which the liquidity risk is being taken or issued in foreign currencies, to the extent that holding of such debt matches the liquidity needs of the bank's operations in that third country;

5. transferable securities representing claims on or claims guaranteed by sovereigns, central banks, public sector entities, regional governments and local authorities, or multilateral development banks and satisfying all of the following conditions.

   (a) they are assigned a 20% risk-weight under Section 2 of Title III, Chapter 2;

   (b) they are traded in large, deep and active repurchase agreement or cash markets characterized by a low level of concentration;

   (c) they have a proven record as a reliable source of liquidity by either repurchase agreement or sale even during stressed market conditions;

   (d) they are not an obligation of an institution or any of its affiliated entities.

6. transferable securities other than those referred to in points (3) to (5) that qualify for a 20% or better risk weight under Section 2 of Title III, Chapter 2 or are internally rated as having an equivalent credit quality, and fulfil any of the following conditions:

   (a) they do not represent a claim on an SSPE, an institution or any of its affiliated entities;

   (b) they are bonds as defined in Article 22(4) of Directive 85/611/EEC qualify for the treatment in Article 124

Annex IV
Risk-adjusted assets and off-balance sheet items for the temporary capital ratio

Part 1 - Definitions

1. "Zone A" comprises all the Member States and all other countries which are full members of the Organisation for Economic Cooperation and Development (OECD) and those countries which have concluded special lending arrangements with the International Monetary Fund (IMF) associated with the Fund's general arrangements to borrow (GAB). Any country which reschedules its external sovereign debt is, however, precluded from Zone A for a period of five years;

2. "Zone B" comprises all countries not in Zone A;

3. "Zone A credit institutions" means all credit institutions authorised in the Member States, including their branches in third countries, and all credit institutions authorised in other Zone A countries, including their branches;

4. "Zone B credit institutions" means all credit institutions authorised outside Zone A, including their branches within the Union;

5. "non-bank sector" means all borrowers other than credit institutions, central governments and central banks, regional governments and local authorities, the European Union, the European Investment Bank (EIB) and multilateral development banks;

6. multilateral development banks referred to in Article 112.

Part 2 - Risk-adjusted assets and off-balance-sheet items

7. Degrees of credit risk, expressed as percentage weightings, shall be assigned to asset items in accordance with Part 3 and 4, and exceptionally Part 5. The balance-sheet value of each asset shall then be multiplied by the relevant weighting to produce a risk-adjusted value.

8. In the case of the off-balance-sheet items listed in Annex I, a two-stage calculation as prescribed in Point 17 shall be used.

9. In the case of the off-balance-sheet items referred to in Point 17, the potential costs of replacing contracts in the event of counterparty default shall be calculated by means of one of the two methods set out in Annex II. Those costs shall be multiplied by the relevant counterparty weightings in points 11-15, except the 100 % weightings as provided for there shall be replaced by 50 % weightings to produce risk-adjusted values.

10. The total of the risk-adjusted values of the assets and off-balance-sheet items mentioned in points 8 and 9 shall be the denominator of the solvency ratio.

Part 3 - Risk weightings

11. The following weightings shall be applied to the various categories of asset items, although the competent authorities may fix higher weightings as they see fit:

12. Zero weighting

(a) cash in hand and equivalent items;

(b) asset items constituting claims on Zone A central governments and central banks;

(c) asset items constituting claims on the European Union;

(d) asset items constituting claims carrying the explicit guarantees of Zone A central governments and central banks or of the European Union;

(e) asset items constituting claims on Zone B central governments and central banks denominated and funded in the national currencies of the borrowers;

(f) asset items constituting claims carrying the explicit guarantees of Zone B central governments and central banks denominated and funded in the national currency common to the guarantor and the borrower;

(g) asset items secured to the satisfaction of the competent authorities, by collateral in the form of Zone A central government or central bank securities or securities issued by the European Union or by cash deposits placed with the lending institution or by certificates of deposit or similar instruments issued by and lodged with the latter;

13. 20% weighting

(a) asset items constituting claims on the EIB;

(b) asset items constituting claims on multilateral development banks;

(c) asset items constituting claims carrying the explicit guarantee of the EIB;

(d) asset items constituting claims carrying the explicit guarantees of multilateral development banks;

(e) asset items constituting claims on Zone A regional governments or local authorities, subject to Part 4;

(f) asset items constituting claims carrying the explicit guarantees of Zone A regional governments or local authorities, subject to Part 4;

(g) asset items constituting claims on Zone A credit institutions but not constituting such institutions' own funds;

(h) asset items constituting claims with a maturity of one year or less, on Zone B credit institutions, other than securities issued by such institutions which are recognised as components of their own funds;

(i) asset items carrying the explicit guarantees of Zone A credit institutions;

(j) asset items constituting claims with a maturity of one year or less carrying the explicit guarantees of Zone B credit institutions;

(k) asset items secured, to the satisfaction of the competent authorities, by collateral in the form of securities issued by the EIB or by multilateral development banks;

(l) cash items in the process of collection;

14. 50% weighting

(a) loans fully and completely secured, to the satisfaction of the competent authorities, by mortgages on residential property which is or will be occupied or let by the borrower, and loans fully and completely secured, to the satisfaction of the competent authorities, by shares in Finnish residential housing companies, operating in accordance with the Finnish Housing Company Act of 1991 or subsequent equivalent legislation, in respect of residential property which is or will be occupied or let by the borrower;

(b) "mortgage-backed securities" which may be treated as loans referred to in point (a), if the competent authorities consider, having regard to the legal framework in force in each Member State, that they are equivalent in the light of the credit risk. Without prejudice to the types of securities which may be included in and are capable of fulfilling the conditions in this point 1, "mortgage-backed securities" may include instruments within the meaning of Annex I C (1) and C (3) of Directive 2004/39/EC. The competent authorities must in particular be satisfied that:

   (i) such securities are fully and directly backed by a pool of mortgages which are of the same nature as those defined in point (a) and are fully performing when the mortgage-backed securities are created;

   (ii) an acceptable high-priority charge on the underlying mortgage-asset items is held either directly by investors in mortgage-backed securities or on their behalf by a trustee or mandated representative in the same proportion to the securities which they hold;

(c) prepayments and accrued income: these assets shall be subject to the weighting corresponding to the counterparty where a credit institution is able to determine it in accordance with Directive 86/635/EEC. Otherwise, where it is unable to determine the counterparty, it shall apply a flat-rate weighting of 50%;

15. 100% weighting

(a) asset items constituting claims on Zone B central governments and central banks except where denominated and funded in the national currency of the borrower;

(b) asset items constituting claims on Zone B regional governments or local authorities;

(c) asset items constituting claims with a maturity of more than one year on Zone B credit institutions;

(d) asset items constituting claims on the Zone A and Zone B non-bank sectors;

(e) tangible "Assets" within the meaning of Article 4(10) of Directive 86/635/EEC;

(f) holdings of shares, participation and other components of the own funds of other credit institutions which are not deducted from the own funds of the lending institutions;

(g) all other assets except where deducted from own funds.

16. The following treatment shall apply to off-balance-sheet items other than those covered in point 17. They shall first be grouped according to the risk groupings set out in Annex II. The full value of the full-risk items shall be taken into account, 50% of the value of the medium-risk items and 20% of the medium/low-risk items, while the value of low-risk items shall be set at zero. The second stage shall be to multiply the off-balance-sheet values, adjusted as described above, by the weightings attributable to the relevant counterparties in accordance with the treatment of asset items prescribed in points 11-15 and Part 4. In the case of asset sale and repurchase agreements and outright forward purchases, the weightings shall be those attaching to the assets in question and not to the counterparties to the transactions. The portion of unpaid capital subscribed to the European Investment Fund may be weighted at 20%.

17. The methods set out in Annex II shall be applied to the off-balance-sheet items listed in Annex I except for:

    (a) contracts traded on recognised exchanges,

    (b) foreign-exchange contracts (except contracts concerning gold) with an original maturity of 14 calendar days or less.

18. Where off-balance-sheet items carry explicit guarantees, they shall be weighted as if they had been incurred on behalf of the guarantor rather than the counterparty. Where the potential exposure arising from off-balance-sheet transactions is fully and completely secured, to the satisfaction of the competent authorities, by any of the asset items recognised as collateral in points 12(g) and 13(k), weightings of zero or 20 % shall apply depending on the collateral in question.

19. The Member States may apply a 50% weighting to off-balance-sheet items which are sureties or guarantees having the character of credit substitutes and which are fully guaranteed, to the satisfaction of the competent authorities, by mortgages meeting the conditions set out in point 14(a), subject to the guarantor having a direct right to such collateral.

20. Where asset and off-balance-sheet items are given a lower weighting because of the existence of explicit guarantees or collateral acceptable to the competent authorities, the lower weighting shall apply only to that part which is guaranteed or which is fully covered by the collateral.

Part 4 - Weighting of claims for regional governments or local authorities of the Member States

21. Notwithstanding the requirements of point 13, the Member States may fix a weighting of zero for their own regional governments and local authorities if there is no difference in risk between claims on the latter and claims on their central governments because of the revenue-raising powers of the regional governments and local authorities and the existence of specific institutional arrangements the effect of which is to reduce the chances of default by the latter. A zero-weighting fixed in accordance with these criteria shall apply to claims on and off-balance-sheet items incurred on behalf of the regional governments and local authorities in question and claims on others and off-balance-sheet items incurred on behalf of others and guaranteed by those regional governments and local authorities or secured, to the satisfaction of the competent authorities concerned, by collateral in the form of securities issued by those regional governments or local authorities.

22. The Member States shall notify EBA if they believe a zero-weighting to be justified according to the criteria laid down in point 21. Other Member States may offer the credit institutions under the supervision of their competent authorities the possibility of applying a zero-weighting where they undertake business with the regional governments or local authorities in question or where they hold claims guaranteed by the latter, including collateral in the form of securities.

Part 5 - Other weighting

23. Without prejudice to point 21, the Member States may apply a weighting of 20% to asset items which are secured, to the satisfaction of the competent authorities concerned, by collateral in the form of securities issued by Zone A regional governments or local authorities, by deposits placed with Zone A credit institutions other than the lending institution, or by certificates of deposit or similar instruments issued by such credit institutions.

24. The Member States may apply a weighting of 10% to claims on institutions specialising in the inter-bank and public-debt markets in their home Member States and subject to close supervision by the competent authorities where those asset items are fully and completely secured, to the satisfaction of the competent authorities of the home Member States, by a combination of asset items mentioned in points 12 and 13 recognised by the latter as constituting adequate collateral.

25. The Member States shall notify EBA of any provisions adopted pursuant to points 23 and 24 and of the grounds for such provisions.

Part 6 - Administrative bodies and non-commercial undertakings

26. For the purposes of point 13, the competent authorities may include within the concept of regional governments and local authorities non-commercial administrative bodies responsible to regional governments or local authorities or authorities which, in the view of the competent authorities, exercise the same responsibilities as regional and local authorities.

27. The competent authorities may also include within the concept of regional governments and local authorities, churches and religious communities constituted in the form of a legal person under public law, in so far as they raise taxes in accordance with legislation conferring on them the right to do so. However, in this case the options set out in Part 4 shall not apply.

Annex 5

Correlation table

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Article 329(1)		Annex I point 26
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Article 330(1)		Annex I point 33
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Article 335(3)		Annex I point 43
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Article 341(3)		Annex III point 2(1)
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Article 341(5)		
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Article 342(2)		Annex III point 2(1)
Article 342(3)		Annex III point 2(1)
Article 343(1)		Annex III point 3(1)
Article 343(2)		Annex III point 3(2)
Article 343(3)		Annex III point 3(2)
Article 343(4)		
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Article 345		
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Article 346(5)		Annex IV point 6
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Article 347(2)		Annex IV point 9
Article 347(3)		Annex IV point 10
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Article 348(1)		Annex IV point 13
Article 348(2)		Annex IV point 14
Article 348(3)		Annex IV point 15
Article 348(4)		Annex IV point 16
Article 348(5)		Annex IV point 17
Article 348(6)		Annex IV point 18
Article 349(1)		Annex IV point 19
Article 349(2)		Annex IV point 20
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Article 353(1)		Annex V point 10b
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Article 354(1)		Annex V point 10
Article 354(2)		Annex V point 10a
Article 355(1)		Annex V point 7
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Article 355(3)		Annex V point 9
Article 355(4)		Annex V point 10
Article 355(5)		Annex V point 8
Article 356(1)		Annex V point 11
Article 356(2)		Annex V point 12
Article 356(3)		Annex V point 12
Article 357(1)		Annex V point 2
Article 357(2)		Annex V point 2
Article 357(3)		Annex V point 5
Article 357(4)		
Article 358(1)		Annex V point 3
Article 358(2)		
Article 359(1)		Annex V point 5
Article 360(1)		Annex V point 5
Article 360(2)		
Article 361		Annex V point 5a
Article 362		Annex V point 5b
Article 363(1)		Annex V point 5c
Article 363(2)		Annex V point 5d
Article 363(3)		Annex V point 5d
Article 363(4)		Annex V point 5d
Article 363(5)		Annex V point 5d
Article 363(6)		Annex V point 5d
Article 363(7)		
Article 364(1)		Annex V point 5a
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Article 365(1)		Annex V point 5f
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Article 365(3)		Annex V point 5h
Article 365(4)		Annex V point 5h
Article 365(5)		Annex V point 5i
Article 365(6)		Annex V point 5
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Article 367(4)		Annex V point 5l
Article 367(5)		Annex V point 5l
Article 367(6)		Annex V point 5l
Article 368		Annex II point 1
Article 369(1)		Annex II point 2
Article 369(2)		Annex II point 3
Article 369(3)		
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Article 375		
Article 376		Article 28(1)
Article 377		
Article 378		
Article 379(1)	Article 106(1)	
Article 379(2)	Article 106(1)	

Article 379(3)		Article 29(1)
Article 379(4)		Article 30(1)
Article 379(5)		Article 29(2)
Article 379(6)	Article 106(2)	
Article 379(7)	Article 106(3)	
Article 379(8)		
Article 380	Article 107	
Article 381	Article 108	
Article 382	Article 109	
Article 383(1)	Article 110(1)	
Article 383(2)	Article 110(2)	
Article 384(1)	Article 111(1)	
Article 384(2)	Article 111(4)	
Article 384(3)	Article 30(4)	
Article 384(4)		Article 31
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Article 387		Article 32(1)
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Article 388(2)	Article 112(2)	
Article 388(3)	Article 112(3)	
Article 388(4)		
Article 389(1)	Article 113(3)	
Article 389(2)	Article 113(4)	

Article 390(1)	Article 114(1)	
Article 390(2)	Article 114(2)	
Article 390(3)	Article 114(3)	
Article 391(1)	Article 115(1)	
Article 391(2)	Article 115(2)	
Article 392(1)	Article 117(1)	
Article 392(2)	Article 117(2)	
Article 393		
Article 394(1)	Article 122a(1)	
Article 394(2)	Article 122a(2)	
Article 394(3)	Article 122a(3)	
Article 394(4)	Article 122a(4)	
Article 395		
Article 396		
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Article 419(1)	Annex XII, Part I, point 1 and Article 146(1)	
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Article 419(3)	Article 146(3)	
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Article 423	Annex XII, Part II, point 2	
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Article 426	Annex XII, Part II, point 5	
Article 427		
Article 428	Annex XII, Part II, point 6	
Article 429	Annex XII, Part II, point 7	
Article 430	Annex XII, Part II, point 9	
Article 431	Annex XII, Part II, point 11	
Article 432	Annex XII, Part II, point 12	
Article 433	Annex XII, Part II, point 13	
Article 434	Annex XII, Part II, point 14	
Article 435(1)	Annex XII, Part II, point 15	
Article 435(2)		
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Article 437	Annex XII, Part III, point 1	
Article 438	Annex XII, Part III, point 2	
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Article 443		
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Article 445(1)	Article 151a	
Article 445(2)	Article 151a	
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Article 445(4)		
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Article 446		
Article 447		
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Article 476	Article 152(5)	
Article 477		
Article 478		
Article 479		
Article 480		
Article 481		
Article 482		
Article 483		
Article 484		
Article 485		
Article 486		
Article 487		
Article 488		
Annex I	Annex II	
Annex II	Annex IV	
Annex III		
Annex IV, Part 1	Article 152(5) and Article 1 points 14 to 19 of Directive 2000/12/EC	
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Annex IV, Part 4	Article 152(5) and Article 44 of Directive 2000/12/EC	
Annex IV, Part 5	Article 152(5) and Article 45 of Directive 2000/12/EC	
Annex IV, Part 6	Article 152(5) and Article 46 of Directive 2000/12/EC	

LEGISLATIVE FINANCIAL STATEMENT FOR PROPOSALS

1. FRAMEWORK OF THE PROPOSAL/INITIATIVE

1.1. Title of the proposal/initiative

1.2. Policy area(s) concerned in the ABM/ABB structure

1.3. Nature of the proposal/initiative

1.4. Objective(s)

1.5. Grounds for the proposal/initiative

1.6. Duration and financial impact

1.7. Management method(s) envisaged

2. MANAGEMENT MEASURES

2.1. Monitoring and reporting rules

2.2. Management and control system

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3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE

3.1. Heading(s) of the multiannual financial framework and expenditure budget line(s) affected

3.2. Estimated impact on expenditure

3.2.1. Summary of estimated impact on expenditure

3.2.2. Estimated impact on operational appropriations

3.2.3. Estimated impact on appropriations of an administrative nature

3.2.4. Compatibility with the current multiannual financial framework

3.2.5. Third-party participation in financing

3.3. Estimated impact on revenue

LEGISLATIVE FINANCIAL STATEMENT FOR PROPOSALS

1. FRAMEWORK OF THE PROPOSAL/INITIATIVE

1.1. Title of the proposal/initiative

Proposal for a Regulation of the European Parliament and of the Council on prudential requirements for credit institutions and investment firms

1.2. Policy area(s) concerned in the ABM/ABB structure[1]

Internal Market – financial markets Internal Market – financial institutions

1.3. Nature of the proposal/initiative

☒ The proposal/initiative relates to **a new action**

☐ The proposal/initiative relates to **a new action following a pilot project/preparatory action**[2]

☐ The proposal/initiative relates to **the extension of an existing action**

☐ The proposal/initiative relates to **an action redirected towards a new action**

1.4. Objectives

1.4.1. The Commission's multiannual strategic objective(s) targeted by the proposal/initiative

First and foremost, this initiative is linked to the strategic objective of improving the regulation and supervision of financial markets. The unprecedented level of fiscal support to banks needs to be matched with a robust reform addressing the regulatory shortcomings exposed during the financial crisis. This reform of EU bank regulation reflects the outcome of internationally coordinated work on the Basel III bank capital and liquidity framework and is aligned with another strategic objective of setting global standards through cooperation and agreement with international partners.

1.4.2. Specific objective(s) and ABM/ABB activity(ies) concerned

Specific objective No.1. (Internal Market – financial institutions) Improve the capital requirements regime of the banking, insurance and pension sectors Specific objective No.1. (Internal Market – financial markets)

[1] ABM: Activity-Based Management – ABB: Activity-Based Budgeting.
[2] As referred to in Article 49(6)(a) or (b) of the Financial Regulation.

Promote stability and integrity in financial markets through adequate supervision, robust market infrastructures and a high level of transparency

In addition to the above two specific objectives identified in the MARKT management plan for 2011, the initiative is geared towards contributing to the following specific objectives which have been identified in the impact assessments accompanying the proposals:

- enhancing bank risk management;

- preventing regulatory arbitrage opportunities;

- enhancing legal clarity;

- reducing compliance burden;

- enhancing level playing field;

- enhancing supervisory cooperation and convergence;

- reducing the cyclicality of bank lending;

ABM/ABB activity(ies) concerned

Financial markets, financial institutions

1.4.3. *Expected result(s) and impact*

Specify the effects which the proposal/initiative should have on the beneficiaries/groups targeted.

The proposals should lead to enhanced capitalisation and improved liquidity risk management of the EU banking sector. In turn, this should lead to the lower frequency of systemic banking crises in the future. The enhanced financial stability is expected to yield concomitant net economic benefits of annual increase in the EU GDP in the range of 0.3%-2%. These benefits will accrue to a wide range of stakeholders, including individual, SME and large corporate bank borrowers and creditors, governments, and the EU citizens in general.

The European Banking Authority (EBA) will play an important role in order to achieve these results, as the proposals ask it to develop some 50+ binding technical standards (BTS) on various policy issues. BTS – which would eventually be endorsed by the Commission – will be key to ensure that provisions of highly technical nature are implemented uniformly across the EU and that the proposed policies work as intended. EBA's work, therefore, should contribute to the effective attainment of the relevant strategic and specific objectives outlined in sections 1.4.1 and 1.4.2.

1.4.4. *Indicators of results and impact*

Specify the indicators for monitoring implementation of the proposal/initiative.

1. Expected results:

- enhanced financial stability via improved regulation and supervision of banks;

- improved EU bank capitalisation and enhanced liquidity risk management.

Indicators:

- dynamics of the cost of protection against default of financial institutions;

- percentage of banks successfully passing EU stress tests;

- capital ratios and capital buffers above the capital requirement, held by the EU banks.

2. Expected result:

- enhanced effectiveness of the EU bank regulation and supervision

Indicator:

- number of binding technical standards developed by EBA on time

1.5. Grounds for the proposal/initiative

1.5.1. *Requirement(s) to be met in the short or long term*

Based on the two proposals, some 60% of the BTS that EBA is asked to prepare will be due in 2013 which requires an increase in its FTE count in order for it to handle the workload. The

increase in the FTEs will need to be sustained in the subsequent years to amend the already developed BTS and to prepare the remaining 40% of the BTS. Also, in the long run, additional BTS development-related work will come from future legislative proposals in the area of EU banking regulation.

1.5.2. *Added value of EU involvement*

There are several major justifications for the added value of EU involvement through this initiative. They include:

- a need to enhance the integration of the EU internal banking market;

- address several market and regulatory failures that were brought to light by the financial crisis;

- correct for regulatory arbitrage opportunities which are made possible by the current legislation; and

- ensure a consistent EU approach for tackling various issues covered by the scope of the initiative, which would do away with the need for Member States to pursue individual approaches that risk fragmenting the Internal Market.

Most importantly, only a common EU-level approach could be expected to effectively provide for financial stability and tame excessive financial pro-cyclicality, as currently policies that are directed toward these key systemic aspects are either geared to national needs or are absent altogether.

1.5.3. *Lessons learned from similar experiences in the past*

As regards BTS, 2011 is a first year of operation of EBA. Therefore, first sets of BTS that are linked to the existing legislative framework are yet to be delivered to the Commission.

1.5.4. *Coherence and possible synergy with other relevant instruments*

The proposal is coherent with regulation with the Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority)

1.6. Duration and financial impact

☐ Proposal/initiative of **limited duration**

- ☐ Proposal/initiative in effect from [DD/MM]YYYY to [DD/MM]YYYY
- ☐ Financial impact from YYYY to YYYY

☒ Proposal/initiative of **unlimited duration**

- Implementation with a start-up period from YYYY to YYYY,
- followed by full-scale operation.

1.7. Management mode(s) envisaged[3]

☐ **Centralised direct management** by the Commission

☐ **Centralised indirect management** with the delegation of implementation tasks to:

- ☐ executive agencies
- ☒ bodies set up by the Communities[4]
- ☐ national public-sector bodies/bodies with public-service mission
- ☐ persons entrusted with the implementation of specific actions pursuant to Title V of the Treaty on European Union and identified in the relevant basic act within the meaning of Article 49 of the Financial Regulation

☐ **Shared management** with the Member States

☐ **Decentralised management** with third countries

☐ **Joint management** with international organisations ***(to be specified)***

If more than one management mode is indicated, please provide details in the "Comments" section.

Comments

[3] Details of management modes and references to the Financial Regulation may be found on the BudgWeb site: http://www.cc.cec/budg/man/budgmanag/budgmanag_en.html

[4] As referred to in Article 185 of the Financial Regulation.

2. MANAGEMENT MEASURES

2.1. Monitoring and reporting rules

Specify frequency and conditions.

According to Article 81 of the Regulation (EU) No 1093/2010, by 2 January 2014, and every three years thereafter, the Commission shall publish a general report on the experience acquired as a result of the operation of EBA and the procedures laid down in the Regulation. That report shall evaluate, inter alia, the degree of convergence in supervisory practices reached by national supervisors and whether resources of EBA are adequate to carry out its responsibilities. The report would be forwarded to the European Parliament and to the Council.

2.2. Management and control system

2.2.1. Risk(s) identified

Three impact assessments have been conducted concerning the two proposals, identifying costs and benefits of different policy options to address the identified problems.

With respect to the responsibilities of EBA, there is a risk that effectiveness of the proposed rules is undermined by its inability – due to the lack of human resources - to deliver the BTS of high quality and in line with the dates set out in the Commission's proposal.

2.2.2. Control method(s) envisaged

Management and control systems of EBA are outlined in Chapter III of the Regulation (EU) No 1093/2010

Also, as mentioned under section 2.1, under Article 81 of this regulation, the Commission will be expected to publish every three years a report on the experience acquired as a result of the operation of EBA and the procedures laid down in the Regulation.

2.3. Measures to prevent fraud and irregularities

Specify existing or envisaged prevention and protection measures.

According to Article 66 of the Regulation (EU) No 1093/2010, for the purposes of combating fraud, corruption and any other illegal activity, Regulation (EC) No 1073/1999 shall apply to EBA without any restriction. EBA shall accede to the Inter-institutional Agreement concerning internal investigations by OLAF and shall immediately adopt appropriate provisions for all staff of EBA.

The funding decisions and the agreements and the implementing instruments resulting from them shall explicitly stipulate that the Court of Auditors and OLAF may, if need be, carry out on-the-spot checks on the beneficiaries of monies disbursed by the EBA as well as on the staff responsible for allocating these monies.

3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE

3.1. Heading(s) of the multiannual financial framework and expenditure budget line(s) affected

- Existing expenditure budget lines

In order of multiannual financial framework headings and budget lines.

Heading of multiannual financial framework	Budget line	Type of expenditure	Contribution			
	Number 1A Competitiveness for Growth and Employment	DA/NDA (5)	from EFTA[6] countries	from candidate countries[7]	from third countries	within the meaning of Article 18(1)(aa) of the Financial Regulation
	12.04.02.01 EBA subsidy under Titles 1 and 2 (Staff and administrative expenditure)	DA	YES	NO	NO	NO

- New budget lines requested

In order of multiannual financial framework headings and budget lines.

Heading of multiannual financial framework	Budget line	Type of expenditure	Contribution			
	Number [Heading……………………………………..]	Diff./non-diff.	from EFTA countries	from candidate countries	from third countries	within the meaning of Article 18(1)(aa) of the Financial Regulation
	[XX.YY.YY.YY]		YES/NO	YES/NO	YES/NO	YES/NO

5 DA= Differentiated appropriations / DNA= Non-Differentiated Appropriations

6 EFTA: European Free Trade Association.

7 Candidate countries and, where applicable, potential candidate countries from the Western Balkans.

3.2. Estimated impact on expenditure

3.2.1. Summary of estimated impact on expenditure

EUR million (to 3 decimal places)

Heading of multiannual financial framework:	Number 1A	Competitiveness for Growth and Employment

DG: MARKT			Year **2013**[8]	Year **2014**	Year **2015**	**TOTAL**
• Operational appropriations						
12.04.02.01	Commitments	(1)	0,690	0,590	0,590	**1,870**
	Payments	(2)	0,690	0,590	0,590	**1,870**
Appropriations of an administrative nature financed from the envelop of specific programs[9]						
Number of budget line		(3)				
TOTAL appropriations for DG MARKT	Commitments	=1+1a +3	0,690	0,590	0,590	**1,870**
	Payments	=2+2a +3	0,690	0,590	0,590	**1,870**

• TOTAL operational appropriations	Commitments	(4)	0,690	0,590	0,590	**1,870**

8 Year N is the year in which implementation of the proposal/initiative starts.

9 Technical and/or administrative assistance and expenditure in support of the implementation of EU programmes and/or actions (former "BA" lines), indirect research, direct research.

	Payments	(5)	0,690	0,590	0,590	**1,870**
• TOTAL appropriations of an administrative nature financed from the envelop of specific programs		(6)				
TOTAL appropriations under HEADING <1A> of the multiannual financial framework	Commitments	=4+ 6	0,690	0,590	0,590	**1,870**
	Payments	=5+ 6	0,690	0,590	0,590	**1,870**

If more than one heading is affected by the proposal / initiative:

• TOTAL operational appropriations	Commitments	(4)				
	Payments	(5)				
• TOTAL appropriations of an administrative nature financed from the envelop of specific programs		(6)				
TOTAL appropriations under HEADINGS 1 to 4 of the multiannual financial framework (Reference amount)	Commitments	=4+ 6				
	Payments	=5+ 6				

Heading of multiannual financial framework:	**5**	" Administrative expenditure "

EUR million (to 3 decimal places)

		Year **N**	Year **N+1**	Year **N+2**	Year **N+3**	… enter as many years as necessary to show the duration of the impact (see point 1.6)			**TOTAL**
DG: <…….>									
• Human resources									
• Other administrative expenditure									
TOTAL DG <…….>	Appropriations								

TOTAL appropriations under HEADING 5 of the multiannual financial framework	(Total commitments = Total payments)								

EUR million (to 3 decimal places)

		Year **2013**[10]	Year **2014**	Year **2015**	**TOTAL**
TOTAL appropriations under HEADINGS 1 to 5 of the multiannual financial framework	Commitments	0,690	0,590	0,590	**1,870**
	Payments	0,690	0,590	0,590	**1,870**

10 Year N is the year in which implementation of the proposal/initiative starts.

3.2.2. *Estimated impact on operational appropriations*

– ☐ The proposal/initiative does not require the use of operational appropriations

– ☒ The proposal/initiative requires the use of operational appropriations, as explained below:

The specific objectives of the proposal are outlined under section 1.4.2. The main type of output that EBA is expected to produce using the requested resources is binding technical standards (BTS). The proposals require EBA to develop some 55 BTS with 60% of them due in 2013. However, due to the nature of the initiative the below table cannot be filled out as it is not possible to attribute BTS to a single specific objective, since - as a rule - one BTS contributes to the achievement of multiple specific objectives simultaneously. For instance, a BTS on consistent application of deductions from the regulatory capital would contribute to i) enhancing bank risk management; ii) preventing regulatory arbitrage opportunities; iii) enhancing legal clarity; iv) enhancing level playing field; and v) enhancing supervisory cooperation and convergence.

Commitment appropriations in EUR million (to 3 decimal places)

Indicate objectives and outputs			Year **N**		Year **N+1**		Year **N+2**		Year **N+3**		… enter as many years as necessary to show the duration of the impact (see point 1.6)						**TOTAL**	
	OUTPUTS																	
⇩	Type of output[11]	Average cost of the ouput	Number of ouputs	Cost	Number of ouputs	Cost	Number of ouputs	Cost	Number of ouputs	Cost	Number of ouputs	Cost	Number of ouputs	Cost	Number of ouputs	Cost	Total number of ouputs	Total cost
SPECIFIC OBJECTIVE No 1[12]…																		
- Output																		
- Output																		
- Output																		

[11] Outputs are products and services to be supplied (e.g.: number of student exchanges financed, number of km of roads built, etc.).

[12] As described in Section 1.4.2. "Specific objective(s)…"

Sub-total for specific objective N°1																		
SPECIFIC OBJECTIVE No 2…																		
- Output																		
Sub-total for specific objective N°2																		
TOTAL COST																		

3.2.3. Estimated impact on appropriations of an administrative nature - Not Applicable

3.2.3.1. Summary

– ☐ The proposal/initiative does not require the use of administrative appropriations

– ☐ The proposal/initiative requires the use of administrative appropriations, as explained below:

EUR million (to 3 decimal places)

	Year **N** [13]	Year **N+1**	Year **N+2**	Year **N+3**	… enter as many years as necessary to show the duration of the impact (see point 1.6)			**TOTAL**
HEADING 5 of the multiannual financial framework								
Human resources								
Other administrative expenditure								
Subtotal HEADING 5 of the multiannual financial framework								
Outside HEADING 5[14] of the multiannual financial framework								
Human resources								
Other expenditure of an administrative nature								
Subtotal outside HEADING 5 of the multiannual financial framework								
TOTAL								

[13] Year N is the year in which implementation of the proposal/initiative starts.

[14] Technical and/or administrative assistance and expenditure in support of the implementation of EU programmes and/or actions (former "BA" lines), indirect research, direct research.

3.2.3.2. Estimated requirements of human resources

– ☐ The proposal/initiative does not require the use of human resources

– ☐ The proposal/initiative requires the use of human resources, as explained below:

Estimate to be expressed in full amounts (or at most to one decimal place)

		Year **N**	Year **N+1**	Year **N+2**	Year **N+3**	… enter as many necessary to sho duration of the i (see point 1.		
lishment plan posts (officials and temporary agents)								
XX 01 01 01 (Headquarters and Commission's Representation Offices)								
XX 01 01 02 (Delegations)								
XX 01 05 01 (Indirect research)								
10 01 05 01 (Direct research)								
• External personnel (in Full Time Equivalent unit: FTE)[15]								
XX 01 02 01 (CA, INT, SNE from the "global envelope")								
XX 01 02 02 (CA, INT, JED, LA and SNE in the delegations)								
XX 01 04 ***yy*** [16]	- at Headquarters[17]							
	- in delegations							
XX 01 05 02 (CA, INT, SNE - Indirect research)								
10 01 05 02 (CA, INT, SNE - Direct research)								
Other budget lines (specify)								
TOTAL								

XX is the policy area or budget title concerned.

The human resources required will be met by staff from the DG who are already assigned to management of the action and/or have been redeployed within the DG, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of budgetary constraints.

Description of tasks to be carried out:

Officials and temporary agents	
External personnel	

[15] CA= Contract Agent; INT= agency staff ("*Intérimaire*"); JED= "*Jeune Expert en Délégation*" (Young Experts in Delegations); LA= Local Agent; SNE= Seconded National Expert;

[16] Under the ceiling for external personnel from operational appropriations (former "BA" lines).

[17] Essentially for Structural Funds, European Agricultural Fund for Rural Development (EAFRD) and European Fisheries Fund (EFF).

3.2.4. *Compatibility with the current multiannual financial framework*

– ☐ Proposal/initiative is compatible the current multiannual financial framework.

– ☒ Proposal/initiative will entail reprogramming of the relevant heading in the multiannual financial framework.

Explain what reprogramming is required, specifying the budget lines concerned and the corresponding amounts. New initiative of the Commission

– ☐ Proposal/initiative requires application of the flexibility instrument or revision of the multiannual financial framework[18].

Explain what is required, specifying the headings and budget lines concerned and the corresponding amounts.

3.2.5. *Third-party contributions*

– The proposal/initiative provides for the co-financing estimated below:

Appropriations in EUR million (to 3 decimal places)

	Year **2013**	Year **2014**	Year **2015**	Total
Specify the co-financing *body*	60% of total needs by Member States via EBA			
TOTAL appropriations cofinanced	1,035	0,885	0,885	2,805

18 See points 19 and 24 of the Interinstitutional Agreement.

3.3. Estimated impact on revenue

– ☒ Proposal/initiative has no financial impact on revenue.

– ☐ Proposal/initiative has the following financial impact:

☐ on own resources

☐ on miscellaneous revenue

EUR million (to 3 decimal places)

Budget revenue line:	Appropriations available for the ongoing budget exercise	Impact of the proposal/initiative[19]						
		Year **N**	Year **N+1**	Year **N+2**	Year **N+3**	… insert as many columns as necessary in order to reflect the duration of the impact (see point 1.6)		
Article ………….								

For miscellaneous assigned revenue, specify the budget expenditure line(s) affected.

Specify the method for calculating the impact on revenue.

[19] As regards traditional own resources (customs duties, sugar levies), the amounts indicated must be net amounts, i.e. gross amounts after deduction of 25% for collection costs.

Annex to Legislative Financial Statement for proposal for regulation on prudential requirements for credit institutions and investment firms and for proposal for directive on the taking up and pursuit of the business of credit institutions and the prudential supervision of credit institutions and investment firms

Applied methodology and main underlying assumptions

The costs related to tasks to be carried out by EBA stemming from the two proposals have been estimated for staff expenditure (Title 1), in conformity with the cost classification in the EBA draft budget for 2012 submitted to the Commission.

The two proposals of the Commission include provisions for EBA to develop some 55 sets of new binding technical standards (BTS) that should ensure that provisions of highly technical nature are consistently implemented across the EU.[20] According to the proposals, EBA is expected to deliver some 60% of the new BTS in 2013. To meet this goal, increase in staffing level is required already starting with 2013. As regards the nature of positions, the successful and timely delivery of new BTS will require, in particular, additional policy, legal and impact assessment officers.

Based on the estimates of the Commission services and EBA, the following assumptions were applied to assess the impact on number of FTEs required to develop BTS related to the two proposals:

– One policy officer drafts 2 BTS of average complexity per year; this implies that 17 policy officers are needed for 2013;

– One impact assessment officer is needed for 8 BTS processes; this implies that 4 impact assessment officers are needed for 2013;

– One legal officer is needed to draft 5 BTS; this implies that 7 legal officers are needed for 2013;

– Two additional support FTEs are needed to provide support to the above positions on a daily basis.

Hence, delivery of BTS that are falling due in 2013 requires 30 FTEs. According to EBA, by the end of 2011, there will be 14 experts working on BTS. In anticipation of the increase in BTS-related workload, in its draft budget for 2012 submitted to the Commission, EBA already requested additional 22 FTEs, of which 7 are earmarked for the work on BTS.[21] In its submission of draft budget for 2012,

[20] Since EBA is a body with highly specialised expertise, it was empowered to develop BTS in response to a need to introduce an effective instrument to establish harmonised regulatory technical standards in EU banking legislation to ensure, also through a single rulebook, a level playing field and adequate protection of depositors, investors and consumers across the Union. To this end, EBA prepares draft regulatory technical standards in areas defined by Union law, which do not involve policy choices, and which the Commission later endorses by means of delegated acts pursuant to Article 290 TFEU in order to give them binding legal effect. Before submitting draft BTS to the Commission, EBA has to conduct extensive preparatory work which includes consulting on draft BTS with interested parties and providing such parties with a reasonable opportunity to comment on proposed measures; carrying out regulatory impact assessments; legal drafting and other tasks.

[21] Other positions requested by EBA in the draft budget for 2012 are attributed to the expected increase in the workload of its oversight and operations departments. The request for an increase in other positions is linked to the evidence on resource utilisation emerging in the course of the first year of operation of EBA, and is geared towards ensuring the

EBA did not include a request for the remaining 9 FTEs needed because it was not aware of the number of BTS that it would be asked to develop by the two proposals. These positions, however, will be included in the forthcoming annual budget requests of EBA.

Other assumptions:

- based on the distribution of FTEs in 2012 draft budget, additional 9 FTEs are assumed to be comprised of 7 temporary agents (79%), 1 seconded national expert (14%) and 1 contractual agent (7%);

- average annual salary costs for different categories of personnel are based on DG BUDG guidance;

- salary weighting coefficient for London of 1.344;

- training costs assumed at €1,000 per FTE per year;

- mission costs of €9,700, estimated based on 2012 draft budget for missions per average FTE;

- recruiting-related costs (travel, hotel, medical examinations, installation and other allowances, removal costs, etc) of €27,700, estimated based on 2012 draft budget for recruiting per position to be filled in.

It was assumed that the workload behind the above increase in FTEs will be maintained in 2014 onwards, and is linked, in part, to amending the already developed BTS and, in part, to preparing the remaining 40% of BTS under the two legislative proposals and under other forthcoming legislative proposals in the area of banking regulation.

The method of calculating the increase in the required budget for the next three years is presented in more detail in table below. The calculation reflects the fact that that the Community budget funds 40% of the costs.

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effective execution of EBA's tasks with respect to breaches of law, presence in colleges of supervisors, consumer dimension, international dimension and other areas.

Cost type	Calculation	Amount (in thousands)			
		2013	2014	2015	Total
Title 1: Staff expenditure					
11 Salaries and allowances					
- of which temporary agents	=7*127*1,344	1.195	1.195	1.195	3.584
- of which SNEs	=1*73*1,344	98	98	98	294
- of which contract agents	=1*64*1,344	86	86	86	258
12 Expenditure related to recruitment					
	=9*27,7	249			249
13 Mission expenses					
	=9*9,7	87	87	87	262
15 Training	=9*1	9	9	9	27
Total Title 1: Staff expenditure		1.725	1.475	1.475	4.675
Of which Community contribution (40%)		690	590	590	1.870
Of which Member State contribution (60%)		1.035	885	885	2.805

The following table presents the proposed establishment plan for the seven temporary agent positions:

Function group and grade	Temporary posts
AD 16	
AD 15	
AD 14	
AD 13	
AD 12	
AD 11	
AD 10	
AD 9	2
AD 8	3
AD 7	2
AD 6	
AD 5	
AD total	7