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INFORMATION NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 575/2013 as regards requirements for credit risk, credit valuation adjustment risk, operational risk, market risk and the output floor - Outcome of the European Parliament's first reading (Strasbourg, 22 to 25 April 2024)

I. INTRODUCTION

In accordance with the provisions of Article 294 of the TFEU and the Joint declaration on practical arrangements for the codecision procedure¹, a number of informal contacts have taken place between the Council, the European Parliament and the Commission with a view to reaching an agreement on this file at first reading.

¹ OJ C 145, 30.6.2007, p. 5.

In this context, the chair of the Committee on Economic and Monetary Affairs (ECON) Irene TINAGLI (S&D, IT) presented on behalf of ECON a compromise amendment (amendment number 2) to the abovementioned proposal for a Regulation for which the rapporteur Jonás FERNÁNDEZ (S&D, ES) had prepared a draft report, and one amendment (amendment number 3) to the legislative resolution containing a statement. These amendments had been agreed during the informal contacts referred to above. No other amendments were tabled.

II. VOTE

When it voted on 24 April 2024, the plenary adopted the compromise amendment (amendment number 2) to the abovementioned proposal for a Regulation, as well as amendment number 3 to the legislative resolution. The Commission's proposal as thus amended constitutes the Parliament's first-reading position which is contained in its legislative resolution as set out in the Annex hereto².

The Parliament's position reflects what had been previously agreed between the institutions. The Council should therefore be in a position to approve the Parliament's position.

The act would then be adopted in the wording which corresponds to the Parliament's position.

² The version of the Parliament's position in the legislative resolution has been marked up to indicate the changes made by the amendments to the Commission's proposal. Additions to the Commission's text are highlighted in ***bold and italics***. The symbol "■" indicates deleted text.

P9_TA(2024)0363

Amending Regulation (EU) No 575/2013 as regards requirements for credit risk, credit valuation adjustment risk, operational risk, market risk and the output floor

European Parliament legislative resolution of 24 April 2024 on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EU) No 575/2013 as regards requirements for credit risk, credit valuation adjustment risk, operational risk, market risk and the output floor (COM(2021)0664 – C9-0397/2021 – 2021/0342(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2021)0664),
 - having regard to Article 294(2) and Article 114 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C9-0397/2021),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the opinion of the European Central Bank of 24 March 2022,¹
 - having regard to the opinion of the European Economic and Social Committee of 23 March 2022,²
 - having regard to the provisional agreement approved by the committee responsible under Rule 74(4) of its Rules of Procedure and the undertaking given by the Council representative by letter of 6 December 2023 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,
 - having regard to Rule 59 of its Rules of Procedure,
 - having regard to the report of the Committee on Economic and Monetary Affairs (A9-0030/2023),
1. Adopts its position at first reading hereinafter set out;
 2. Takes note of the statement by the Commission annexed to this resolution, which will be published in the C series of the *Official Journal of the European Union*;
 3. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially

¹ OJ C 233, 16.6.2022, p. 14.

² OJ C 290, 29.7.2022, p. 40.

amends or intends to substantially amend its proposal;

4. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Position of the European Parliament adopted at first reading on 24 April 2024 with a view to the adoption of Regulation (EU) 2024/... of the European Parliament and of the Council amending Regulation (EU) No 575/2013 as regards requirements for credit risk, credit valuation adjustment risk, operational risk, market risk and the output floor

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the European Commission,

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

Having regard to the opinion of the European Central Bank¹,

Having regard to the opinion of the European Economic and Social Committee²,

Acting in accordance with the ordinary legislative procedure³,

¹ OJ C 233, 16.6.2022, p. 14.

² OJ C 290, 29.7.2022, p. 40.

³ Position of the European Parliament of 24 April 2024.

Whereas:

- (1) In response to the global financial crisis of 2008-2009, the Union embarked on a wide-ranging reform of the prudential framework for institutions, as defined in Regulation (EU) No 575/2013 of the European Parliament and of the Council¹ with a view to increasing the resilience of the *Union* banking sector. One of the main elements of the reform consisted of the implementation of the international standards agreed in 2010 by the Basel Committee on Banking Supervision (BCBS), specifically the so-called ‘Basel III reform’ and the resulting Basel III standards. Thanks to that reform, the *Union* banking sector entered the COVID-19 crisis on a resilient footing. However, while the overall level of capital in institutions *in the Union* is now generally satisfactory, some of the problems that were identified in the wake of the global financial crisis have yet to be addressed.
- (2) To address those problems, provide legal certainty and signal the commitment of the Union to its international partners in the G20, it is of utmost importance to implement faithfully in Union law the outstanding elements of the Basel III reform agreed in 2017 (the ‘finalised Basel III framework’). At the same time, the implementation should avoid a significant increase in overall capital requirements for the Union banking system as a whole and take into account specificities of the Union economy. Where possible, adjustments to the international standards should be applied on a transitional basis. The implementation should help avoid competitive disadvantages for institutions in the Union, in particular in the area of trading activities, where those institutions directly compete with their international peers.

¹ Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and amending Regulation (EU) No 648/2012 (OJ L 176, 27.6.2013, p. 1).

Moreover, with the implementation of the finalised Basel III framework, the Union completes a decade-long process of reform. In that context, the Union should carry out an overall assessment of its banking system, taking into account all relevant dimensions. The Commission should be mandated to perform a holistic review of the framework for prudential and supervisory requirements. That review should take into consideration the various types of corporate forms, structures and business models across the Union. That review should also take into account the implementation of the output floor as part of the prudential rules on capital and liquidity, as well as its level of application. The review should assess whether the output floor and its level of application ensure an adequate level of depositor protection and safeguard financial stability in the Union, taking into account both the Union-wide and banking union developments in all its dimensions. In that regard, the Commission shall duly consider the corresponding statements and conclusions on the banking union of both the European Parliament and the European Council.

- (3) *On 27 June 2023, the Commission committed to carrying out a holistic, fair and balanced assessment of the state of the banking system and applicable regulatory and supervisory frameworks in the single market. In doing so, it will take into account the impact of the amendments introduced to Regulation (EU) No 575/2013 by this Regulation, as well as of the state of the banking union in all its dimensions. Among the issues to be analysed, the Commission will examine the implementation of the output floor, including its level of application. It will carry out that assessment based on input from the European Supervisory Authority (European Banking Authority) (EBA) established by Regulation (EU) No 1093/2010 of the European Parliament and of the Council¹ and from the European Central Bank and the single supervisory mechanism, and will consult with interested parties to ensure that the various perspectives are appropriately considered. The Commission will, where appropriate, submit a legislative proposal based on that report.*

¹ 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), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010, p. 12).

- (4) Regulation (EU) No 575/2013 enables institutions to calculate their own funds requirements either by using standardised approaches or by using internal model approaches. Standardised approaches require institutions to calculate the own funds requirements using fixed parameters, which are based on relatively conservative assumptions and laid down in Regulation (EU) No 575/2013. Internal model approaches, *that are to be approved by competent authorities*, allow institutions to estimate for themselves most or all of the parameters required to calculate the own funds requirements. The **BCBS** decided in December 2017 to introduce an aggregate output floor. That decision was based on an analysis carried out in the wake of the global financial crisis of 2008-2009, which revealed that internal models tend to underestimate the risks that institutions are exposed to, especially for certain types of exposures and risks, and hence, tend to result in insufficient own funds requirements. Compared to own funds requirements calculated using the standardised approaches, internal models produce, on average, lower own funds requirements for the same exposures.

- (5) The output floor represents one of the key measures of the Basel III reform. It aims to limit the unwarranted variability in the own funds requirements produced by internal models and the excessive reduction in capital that an institution using internal models can derive relative to an institution using the standardised approaches. **By** setting a lower limit on the own funds requirements that are produced by institutions' internal models of 72,5 % of the own funds requirements that would apply if standardised approaches were used by those institutions, *the output floor limits the risk of excessive reductions in capital. To that end, institutions using internal models should calculate two sets of total own funds requirements, with each set aggregating all own funds requirements without any double counting.* Implementing the output floor faithfully would increase the comparability of institutions' capital ratios, restore the credibility of internal models and ensure that there is a level playing field between institutions that use different approaches to calculate their own funds requirements.
- (6) *In order to ensure that own funds are appropriately distributed and available to protect savings where needed, the output floor should apply at all levels of consolidation, unless a Member State considers that that objective can be effectively achieved in other ways, in particular as regards groups, such as cooperative groups with a central body and affiliated institutions situated in that Member State. In such cases, a Member State should be able to decide not to apply the output floor on an individual or sub-consolidated basis to institutions in that Member State, provided that, at the highest level of consolidation in that Member State, the parent institution of those institutions in that Member State complies with the output floor on the basis of its consolidated situation.*

- (7) The **BCBS** has found the current Standardised Approach for credit risk (SA-CR) to be insufficiently risk sensitive in a number of areas, leading to inaccurate or inappropriate – either too high or too low – measurements of credit risk and hence, of own funds requirements. The provisions regarding the SA-CR should therefore be revised to increase the risk sensitivity of that approach in relation to several key aspects.
- (8) For rated exposures to other institutions, some of the risk weights should be recalibrated in accordance with the Basel III standards. In addition, the risk weight treatment for unrated exposures to institutions should be rendered more granular and decoupled from the risk weight applicable to the central government of the Member State in which the *borrowing institution* is established, as implicit government support for *such* institutions *should no longer be* assumed.

- (9) For subordinated *and prudentially assimilated debt exposures, as well as for* equity exposures, a more granular and stringent risk weight treatment is necessary to reflect the higher loss risk of subordinated debt and equity exposures as compared to debt exposures, and to prevent regulatory arbitrage between the *non-trading* book and the trading book. *Institutions in the Union* have long-standing, strategic equity investments in financial and non-financial corporates. As the standard risk weight for equity exposures increases over a five-year transitional period, existing strategic equity holdings in corporates and *certain* insurance undertakings under the *control or* significant influence of the institution should be grandfathered to avoid disruptive effects and to preserve the role of institutions *in the Union* as long-standing, strategic equity investors. *Given* the prudential safeguards and supervisory oversight to foster integration of the financial sector, for equity holdings in other institutions within the same group or covered by the same institutional protection scheme, the current regime should be maintained. In addition, to reinforce private and public initiatives to provide long-term equity to *unlisted Union* companies, investments *undertaken directly or indirectly, for instance through venture capital firms*, should not be considered speculative where those investments are made with the firm intention of the senior management to hold *them* for at least three years.

- (10) To stimulate certain sectors of the economy, the Basel III standards provide for a *discretion of competent authorities in carrying out their* supervisory *tasks* that enables institutions to apply, within certain limits, a preferential treatment to equity holdings *acquired* pursuant to legislative programmes that entail significant subsidies for the investment and involve government oversight and restrictions on the equity investments. Implementing that discretion in Union law should also help to foster long-term equity investments.
- (11) Corporate lending in the Union is predominantly provided by institutions which use the *Internal Ratings Based Approach* (the ‘IRB Approach’) for credit risk to calculate their own funds requirements. With the implementation of the output floor, those institutions will also need to apply the SA-CR, which relies on credit assessments *provided* by *nominated* external credit assessment institutions (ECAIs) to determine the credit quality of the corporate borrower. The mapping between external ratings and risk weights applicable to rated corporates should be more granular to bring such mapping in line with international standards on that matter.

- (12) Most **Union** corporates, however, do not seek external credit ratings ■ . To avoid a disruptive impact on bank lending to unrated corporates and to provide enough time to establish public or private initiatives aiming to increase the coverage of external credit ratings, it is necessary to provide for a transitional period ■ . During that transitional period, institutions using **the IRB Approach** should be able to apply a favourable treatment when calculating their output floor for investment grade exposures to unrated corporates, whilst initiatives to foster **a** widespread use of credit ratings should be established. **Any extension of the transitional period should be substantiated and limited to four years at most.**

- (13) After the *transitional* period, institutions should be able to refer to credit assessments by nominated ECAIs to calculate the own funds requirements for *a significant part* of their corporate exposures. *EBA, the European Supervisory Authority (European Insurance and Occupational Pensions Authority) (EIOPA) established by Regulation (EU) No 1094/2010 of the European Parliament and of the Council¹ and the European Supervisory Authority (European Securities and Markets Authority) (ESMA) established by Regulation (EU) No 1095/2010 of the European Parliament and of the Council², (collectively the ‘European Supervisory Authorities’) should monitor the use of the transitional arrangement and should consider relevant developments and trends in the ECAI market*, impediments to the availability of credit assessments by nominated ECAIs, in particular for corporates, and possible measures to address *those* impediments.

¹ Regulation (EU) No 1094/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/79/EC (OJ L 331, 15.12.2010, p. 48).

² Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84).

The transitional period should be used to significantly expand the availability of ratings for Union corporates. To that end, rating solutions beyond the currently existing rating ecosystem should be developed to incentivise especially larger Union corporates, to become externally rated. In addition to the positive externalities generated by the rating process, a wider rating coverage will foster, inter alia, the capital markets union. In order to achieve that goal, it is necessary to consider the requirements related to external credit assessments, or the establishment of additional institutions providing such assessments, which might entail substantial implementation efforts. Member States, in close cooperation with their central banks, should assess whether a request for the recognition of their central bank as an ECAI in accordance with Regulation (EC) No 1060/2009 of the European Parliament and the Council¹ and the provision of corporate ratings by the central bank for the purposes of Regulation (EU) No 575/2013 might be desirable in order to increase the coverage of external ratings ■ .

¹ *Regulation (EC) No 1060/2009 of the European Parliament and of the Council of 16 September 2009 on credit rating agencies (OJ L 302, 17.11.2009, p. 1).*

- (14) For *exposures secured by residential property* and *exposures secured by commercial immovable property*, more risk-sensitive approaches have been developed by the **BCBS** to better reflect different funding models and stages in the construction process.
- (15) The global financial crisis of 2008-2009 revealed a number of shortcomings of the current treatment under the standardised approach of *exposures secured by residential property and exposures secured by commercial immovable property*. Those shortcomings have been addressed in the Basel III standards. The Basel III standards *differentiate between exposures where the repayment is materially dependent on cash flows generated by the property and exposures where that is not the case. The former should be* subject to a dedicated risk weight treatment to reflect more accurately the risk associated with those exposures, but also to improve consistency with the treatment of *income producing real estate* under the **IRB** Approach ■ .

- (16) For *exposures secured by* residential *property* and *exposures secured by* commercial *immovable property*, the loan-splitting approach ■ should be kept, as that approach is sensitive to the type of borrower and reflects the risk mitigating effects of the *immovable property* collateral in the applicable risk weights, even in the case of *exposures featuring* high loan-to-value ratios. ■ *However, the loan-splitting approach* should be adjusted in accordance with the Basel III standards as it has been found to be too conservative for *certain* mortgages with very low loan-to-value ratios.

- (17) To ensure that the impact of the output floor on low-risk residential mortgage lending by institutions using *the IRB Approach* is spread over a sufficiently long period, and thus avoid the disruptions to that type of lending that could be caused by sudden increases in own funds requirements, it is necessary to provide for a specific transitional arrangement. For the duration of the *transitional period*, when calculating the output floor, ■ institutions *using the IRB Approach* should be able to apply a lower risk weight to the part of their ■ exposures ■ secured by *a mortgage on* residential property under the SA-CR. To ensure that the transitional arrangement is available only to low-risk mortgage exposures, appropriate eligibility criteria, based on established concepts used under the SA-CR, should be set. Compliance with those criteria should be verified by competent authorities. Because residential *property* markets can differ from one Member *State* to another, the decision on whether to *apply* the transitional arrangement should be left to individual Member States. The use of the transitional arrangement should be monitored by EBA. *Any extension of the transitional period should be substantiated and limited to four years at most.*

- (18) Due to the lack of clarity and the risk-sensitivity of the current treatment of speculative immovable property financing, own funds requirements for those exposures are often deemed to be too high or too low. That treatment should therefore be replaced by a dedicated treatment for land acquisition, development and construction exposures, comprising loans to companies or special purpose entities financing any ■ land acquisition for development and construction purposes, or development and construction of any residential property or commercial immovable property.
- (19) It is important to reduce the impact of cyclical effects on the valuation of immovable property securing a loan and to keep own funds requirements for mortgages more stable. ***In the case of a revaluation above the value at the time the loan was granted, provided that there is sufficient data, the*** value of the immovable property recognised for prudential purposes should therefore not exceed the average value of a comparable property measured over a sufficiently long ■ period, unless modifications to that property unequivocally increase its value. To avoid unintended consequences for the functioning of the covered bond markets, competent authorities should be able to allow institutions to revalue immovable property on a regular basis without applying those limits to value increases. Modifications that improve the energy ***performance or the resilience, protection and adaptation to physical risks*** of buildings and housing units ***could*** be considered as increasing the value of the immovable property.

- (20) The specialised lending business is conducted with special purpose entities that typically serve as borrowing entities, for which the return on investment is the primary source of repayment of the financing obtained. The contractual arrangements of the specialised lending model provide the lender with a substantial degree of control over the assets being financed, *while* the primary source of repayment for the obligation is the income generated by those assets. To reflect the associated risk more accurately, *that form of lending* should therefore be subject to specific own funds requirements for credit risk. In line with the ■ Basel III standards on assigning risk weights to specialised lending exposures, a dedicated specialised *lending exposures* class should be introduced under the SA-CR, thereby improving consistency with the already existing specific treatment of specialised lending *exposures* under the IRB *Approach*. A specific treatment for specialised lending exposures should be introduced, whereby a distinction should be made between ‘project finance’, ‘object finance’ and ‘commodity finance’ to better reflect the inherent risks of those sub-classes of the specialised *lending* exposures class. ■

- (21) While the new treatment under the standardised approach for unrated specialised lending exposures laid down in *the* Basel III standards is more granular than the current standardised treatment of exposures to corporates ■ , the former is not sufficiently risk-sensitive to be able to reflect the effects of comprehensive security packages and pledges usually associated with those exposures in the Union, which enable lenders to control the future cash flows to be generated over the life of the project or asset. Due to the lack of external rating coverage of specialised lending exposures in the Union, that new treatment might also create incentives for institutions to stop financing certain projects or take on higher risks in otherwise similarly treated exposures which have different risk profiles. Whereas the specialised lending exposures are mostly financed by institutions using the IRB *Approach* that have in place internal models for those exposures, the impact might be particularly significant in the case of object finance exposures, which could be at risk *of* discontinuation of the activities, in the particular context of the application of the output floor. To avoid unintended consequences of the lack of risk-sensitivity in the Basel III standards for unrated object finance exposures, object finance exposures that comply with a set of criteria capable of lowering their risk profile to high quality standards compatible with prudent and conservative management of financial risks, should benefit from a reduced risk weight *on a transitional basis. That transitional arrangement should be assessed in a report prepared by EBA.*

- (22) The classification of retail exposures under the SA-CR and the IRB *Approach* should be further aligned to ensure a consistent application of the corresponding risk weights to the same set of exposures. In line with the Basel III standards, rules should be laid down for a differentiated treatment of revolving retail exposures that meet a set of conditions of repayment or usage capable of lowering their risk profile. Those exposures should be defined as transactor exposures. Exposures to one or more natural persons that do not meet all of the conditions to be considered retail exposures should be assigned a risk weight of 100 % under the SA-CR.
- (23) The Basel III standards introduce a credit conversion factor of 10 % for unconditionally cancellable commitments in the SA-CR. That is likely to result in a significant impact on obligors that rely on the flexible nature of unconditionally cancellable commitments to finance their activities when dealing with seasonal fluctuations in their business or when managing unexpected short-term changes in working capital needs, especially during the recovery from the COVID-19 pandemic. It is therefore appropriate to provide for a transitional period during which institutions should be able to continue to apply a *lower* credit conversion factor to their unconditionally cancellable commitments, and, afterwards, to assess whether a potential gradual increase of the applicable credit conversion factors is warranted to allow institutions to adjust their operational practices and products without hampering credit availability to institutions' obligors. ■

- (24) *Institutions should play a key role in contributing to the recovery from the COVID-19 pandemic also by extending proactive debt restructuring measures towards worthy debtors facing or about to face difficulties in meeting their financial commitments. In that regard, institutions should not be discouraged from extending meaningful concessions to obligors where deemed appropriate as a result of a potential and unwarranted classification of counterparties as being in default where such concessions might restore the likelihood of those obligors paying the remainder of their debt obligations. When developing guidelines on the definition of default of an obligor or credit facility, EBA should duly consider the need for providing adequate flexibility to institutions.*
- (25) The global financial crisis of 2008-2009 has revealed that, in some cases, ■ institutions have also used *the IRB Approach* on portfolios unsuitable for modelling due to insufficient data, which had detrimental consequences for the reliability of the results ■ . It is therefore appropriate not to oblige institutions to use the *IRB Approach* for all of their exposures and to apply the roll-out requirement at the level of exposure classes. It is also appropriate to restrict the use of *the IRB Approach* for exposure classes where robust modelling is more difficult *in order* to increase the comparability and robustness of own funds requirements for credit risk under the *IRB Approach*.

- (26) Institutions' exposures to other institutions, other financial sector entities and large corporates typically exhibit low levels of default. For such low-default portfolios, it is difficult for institutions to obtain reliable estimates of ■ the loss given default (LGD), due to an insufficient number of observed defaults in those portfolios. That difficulty has resulted in an undesirable level of dispersion across ■ institutions in the level of estimated risk. Institutions should therefore use regulatory LGD values rather than internal LGD estimates for those low-default portfolios.
- (27) Institutions that use internal models to estimate the own funds requirements for credit risk with regard to equity exposures typically base their risk assessment on *publicly* available data, to which all institutions can be presumed to have identical access. Under those circumstances, differences in own funds requirements cannot be justified. In addition, equity exposures held in the *non-trading* book form a very small component of institutions' balance sheets. Therefore, to increase the comparability of institutions' own funds requirements and to simplify the regulatory framework, institutions should calculate their own funds requirements for credit risk with regard to equity exposures using the SA-CR, and the use of the IRB *Approach* should not be allowed for that purpose.

- (28) It should be ensured that the estimates of the probability of default, the LGD and the credit conversion factors of individual exposures of institutions that are allowed to use internal models to calculate own funds requirements for credit risk do not reach unsuitably low levels. It is therefore appropriate to introduce minimum values for own estimates and to oblige institutions to use the higher of their own estimates of risk parameters and the minimum values for those own estimates. Such *minimum values for* risk parameters ('input floors') should constitute a safeguard to ensure that own funds requirements do not fall below prudent levels. In addition, *such input floors* should mitigate model risk due to factors such as incorrect model specification, measurement error and data limitations. Input floors would also improve the comparability of capital ratios across institutions. In order to achieve those results, input floors should be calibrated in a sufficiently conservative manner.
- (29) *Input* floors that are calibrated too conservatively might discourage institutions from adopting the IRB *Approach* and the associated risk management standards. Institutions might also be incentivised to shift their portfolios to higher risk exposures to avoid the constraints imposed by *input* floors. To avoid such unintended consequences, *input* floors should appropriately reflect certain risk characteristics of the underlying exposures, in particular by taking on different values for different types of exposures, where appropriate.

- (30) Specialised lending exposures have risk characteristics that differ from those of general corporate exposures. It is thus appropriate to provide for a transitional period during which the LGD input floor applicable to specialised lending exposures is reduced. ***Any extension of the transitional period should be substantiated and limited to four years at most.***
- (31) In accordance with the Basel III standards, the IRB Approach for the sovereign exposure class should remain largely untouched, due to the special nature of and risks related to the underlying obligors. In particular, sovereign exposures should not be subject to input floors.
- (32) To ensure a consistent approach for all exposures to regional governments, local authorities and public sector entities, two new regional governments, local authorities and public sector entities exposure classes should be created, independent from both sovereign and institutions exposure classes. ***The treatment of assimilated exposures to regional governments, local authorities and public sector entities, which under the SA-CR would qualify for a treatment as exposures to central governments and central banks should not be assigned to those new exposure classes under the IRB Approach and should not be subject to input floors. Moreover, specific lower input floors under the IRB Approach should be calibrated for exposures to regional governments, local authorities and public sector entities, which are not assimilated, in order to appropriately reflect their risk profile compared to exposures to corporates.***

- (33) It should be clarified how the effect of a guarantee *should* be recognised for a guaranteed exposure **I** treated under the IRB *Approach using own estimates of LGD* where the guarantor belongs to a type of exposures *treated under the IRB Approach but without using own estimates of LGD*. In particular, the use of the substitution approach, whereby the risk parameters *related to* the underlying *exposure* are substituted with the ones of the guarantor, or of a method whereby the probability of default or LGD of the underlying obligor is adjusted using a specific modelling approach to take into account the effect of the guarantee, should not lead to an adjusted risk weight that is lower than the risk weight applicable to a comparable direct exposure to the guarantor. Consequently, where the guarantor is treated under the SA-CR, recognition of the guarantee under the IRB *Approach* should *generally* lead to assigning the SA-CR risk weight of the guarantor to the guaranteed exposure.

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- (34) *The finalised Basel III framework no longer requires an institution that adopted the IRB Approach for one exposure class to adopt that approach for all of its non-trading book exposures. To ensure a level playing field between institutions currently treating some exposures under the IRB Approach and those that do not, a transitional arrangement should allow institutions to revert to less sophisticated approaches under a simplified procedure. That procedure should allow competent authorities to oppose requests to revert to a less sophisticated approach that are made with a view to engaging in regulatory arbitrage. For the purposes of that procedure, the sole fact that the reversal to a less sophisticated approach results in a reduction of own funds requirements determined for the respective exposures should not be considered sufficient to oppose a request on grounds of regulatory arbitrage.*
- (35) *In the context of removing unwarranted variability in own funds requirements, existing discounting rules applied to artificial cash flows should be revised in order to remove any unintended consequences. EBA should be mandated to revise its guidelines on the return to non-defaulted status.*

- (36) *The introduction of the output floor could have a significant impact on the own funds requirements for securitisation positions held by institutions using the Securitisation Internal Ratings Based Approach or the Internal Assessment Approach. Although such positions are generally small relative to other exposures, the introduction of the output floor could affect the economic viability of the securitisation operation because of an insufficient prudential benefit of the transfer of risk. This could occur where the development of the securitisation market is part of the action plan on the capital markets union set out in the communication of the Commission of 24 September 2020 entitled ‘A Capital Markets Union for people and businesses – new action plan’ (the ‘capital markets union action plan’) and also where originator institutions might need to use securitisation more extensively in order to manage more actively their portfolios if they become bound by the output floor. During a transitional period, institutions using the Securitisation Internal Ratings Based Approach or the Internal Assessment Approach should be able to apply a favourable treatment for the purpose of calculating their output floor to their securitisation positions that are risk weighted using either of those Approaches. EBA should report to the Commission on the need to possibly review the prudential treatment of securitisation transactions, with a view to increasing the risk-sensitivity of the prudential treatment.*

- (37) Regulation (EU) 2019/876 of the European Parliament and of the Council¹ amended Regulation (EU) No 575/2013 to implement the Basel III standards on the fundamental review of the trading book finalised by the BCBS in 2019 (the ‘final FRTB standards’) only for reporting purposes. The introduction of binding own funds requirements based on those standards was left to a separate ■ legislative *proposal, following* the assessment of their impact on *institutions in the Union*.
- (38) *The final FRTB standards in relation to the boundary between the trading book and the non-trading book should be implemented in Union law, as they have significant bearing on the calculation of the own funds requirements for market risk. In line with the Basel III standards, the implementation of the boundary requirements should include the lists of instruments to be assigned to the trading book or the non-trading book, as well as the derogation allowing institutions to assign, subject to the approval of the competent authority, certain instruments usually held in the trading book, including listed equities, to the non-trading book, where positions in those instruments are not held with trading intent or do not hedge positions held with trading intent.*

¹ Regulation (EU) 2019/876 of the European Parliament and of the Council of 20 May 2019 amending Regulation (EU) No 575/2013 as regards the leverage ratio, the net stable funding ratio, requirements for own funds and eligible liabilities, counterparty credit risk, market risk, exposures to central counterparties, exposures to collective investment undertakings, large exposures, reporting and disclosure requirements, and Regulation (EU) No 648/2012 (OJ L 150, 7.6.2019, p. 1).

- (39) *In order to avoid a significant operational burden for institutions in the Union, all of the requirements implementing the final FRTB standards for the purpose of calculating the own funds requirements for market risk should have the same date of application. Therefore, the date of application of a limited number of FRTB requirements that were already introduced by Regulation (EU) 2019/876 should be aligned with the date of application of this Regulation. On 27 February 2023, EBA issued an opinion that if provisions referred to in Article 3(6) of Regulation (EU) 2019/876 entered into force and the applicable legal framework did not yet provide for the application of the FRTB-inspired approaches for capital calculation purposes, competent authorities referred to in Regulation (EU) No 1093/2010 should not prioritise any supervisory or enforcement action in relation to those requirements, until full implementation of the FRTB has been achieved, which is expected to be from 1 January 2025.*
- (40) In order to complete the reform agenda introduced after the global financial crisis of 2008-2009 and to address deficiencies in the current market risk framework, binding own funds requirements for market risk based on the final FRTB standards should be implemented in Union law. Recent estimates of the impact of the final FRTB standards on *institutions in the Union* ■ have shown that the implementation of those standards in the Union will lead to a large increase in the own funds requirements for market risk for certain trading and market making activities which are important to the Union economy. To mitigate that impact and to preserve the good functioning of financial markets in the Union, targeted adjustments should be introduced to the *implementation* of the final FRTB standards in Union law.

- (41) Institutions' trading activities in wholesale markets can easily be carried out across borders, including between Member States and third countries. The implementation of the final FRTB standards should therefore converge as much as possible across jurisdictions, both in terms of substance and timing. Otherwise, it would be impossible to ensure an international level playing field for those activities. The Commission should therefore monitor the implementation of the final FRTB standards in other BCBS member jurisdictions. In order to address, where necessary, potential distortions in the implementation of the final FRTB standards, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union (TFEU) should be delegated to the Commission. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making¹. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts. ***The measures introduced by means of delegated acts should remain temporary. Where it is appropriate for such measures to apply on a permanent basis, the Commission should submit a legislative proposal to the European Parliament and to the Council.***

¹ OJ L 123, 12.5.2016, p. 1.

- (42) The Commission should take into account the principle of proportionality in the calculation of the own funds requirements for market risk for institutions with a medium-sized trading book business and calibrate those requirements accordingly. Therefore, institutions with a medium-sized trading **book business** should be allowed to use a simplified standardised approach to calculate the own funds requirements for market risk, in line with the internationally agreed standards. In addition, the eligibility criteria for identifying institutions with medium-sized trading **book business** should remain consistent with the criteria for exempting such institutions from the FRTB reporting requirements introduced by Regulation (EU) 2019/876.
- (43) *In light of the updated design of the Union carbon emissions allowance market, its stability in recent years and the limited volatility of the prices for carbon credits, a specific risk weight for exposures to carbon trading under the EU Emissions Trading System (EU ETS) should be introduced under the alternative standardised approach.*

- (44) *Under the alternative standardised approach, exposures to instruments bearing residual risks are subject to a residual risk add-on charge to take into account risks that are not covered by the sensitivities-based method. Under the Basel III standards, an instrument and its hedge can be netted for the purposes of that charge only if they perfectly offset. However, institutions are able to hedge in the market, to a large extent, the residual risk of some of the instruments within the scope of the residual risk add-on charge thus reducing the overall risk of their portfolios, even though those hedges might not perfectly offset the risk of the initial position. To allow institutions to continue hedging without undue disincentives and in recognition of the economic rationale of reducing the overall risk, the implementation of the residual risk add-on charge should allow on a temporary basis, under strict conditions and supervisory approval, for the hedges of those instruments that can be hedged in the market to be excluded from the residual risk add-on charge.*

- (45) The BCBS has revised the international standard on operational risk to address weaknesses that emerged in the wake of the global financial crisis of 2008-2009. Besides a lack of risk-sensitivity in the standardised approaches, a lack of comparability arising from a wide range of internal modelling practices under the advanced measurement approach was identified. Therefore, and in order to simplify the operational risk framework, all existing approaches for estimating the own funds requirements for operational risk were replaced by a single non-model-based method, namely the new standardised approach for operational risk. Regulation (EU) No 575/2013 should be aligned with the finalised Basel III framework to contribute to a level playing field internationally for institutions established in the Union but operating also outside the Union, and to ensure that the operational risk framework at Union level remains effective.
- (46) The new standardised approach for operational risk introduced by the BCBS combines an indicator that relies on the size of the business of an institution with an indicator that takes into account the loss history of that institution. The finalised Basel III framework envisages a degree of *discretion* as to how the indicator that takes into account the loss history of an institution may be implemented. Jurisdictions are able to disregard historical losses for calculating the own funds requirements for operational risk for all relevant institutions, or to take historical loss data into account even for institutions below a certain business size. To ensure a level playing field within the Union and to simplify the calculation of own funds requirements for operational risk, *that discretion* should be exercised in a harmonised manner for the minimum own funds requirements by disregarding historical operational loss data for all institutions.

- (47) *When calculating the own funds requirements for operational risk, insurance policies might in the future be allowed to be used as an effective risk mitigation technique. To that end, EBA should report to the Commission on whether it is appropriate to recognise insurance policies as an effective risk mitigation technique and on the conditions, criteria and the standard formula to be used in such cases.*
- (48) *The extraordinary and unprecedented pace of monetary policy tightening in the aftermath of the COVID-19 pandemic might give rise to significant levels of volatility in the financial markets. Together with increased uncertainty leading to increased yields for public debt, that might, in turn, give rise to unrealised losses on certain institutions' holdings of public debt. In order to mitigate the considerable negative impact of the volatility in central government debt markets on institutions' own funds and thus on institutions' capacity to lend, a temporary prudential filter that would partially neutralise that impact should be reintroduced.*

- (49) *Public financing through the issuance of government bonds denominated in the domestic currency of another Member State might continue to be necessary to support public measures to fight the consequences of the severe, double economic shock caused by the COVID-19 pandemic and Russia's war of aggression against Ukraine. To avoid constraints on institutions investing in such bonds, it is appropriate to reintroduce the transitional arrangement for exposures to central governments or central banks where those exposures are denominated in the domestic currency of another Member State for the purposes of the treatment of such exposures under the credit risk framework.*
- (50) *Regulation (EU) 2019/630 of the European Parliament and of the Council¹ introduced a requirement for minimum loss coverage for non-performing exposures (NPEs), the so-called prudential backstop. The measure aimed to avoid the rebuilding of non-performing exposures held by institutions, while, at the same time, promoting pro-active management of NPEs by improving the efficiency of institutions' restructuring or enforcement proceedings. Against that background, some targeted changes should be applied to NPEs guaranteed by export credit agencies or public guarantors. Furthermore, certain institutions that meet stringent conditions and are specialised in the acquisition of NPEs should be excluded from the application of the prudential backstop.*

¹ *Regulation (EU) 2019/630 of the European Parliament and of the Council of 17 April 2019 amending Regulation (EU) No 575/2013 as regards minimum loss coverage for non-performing exposures (OJ L 111, 25.4.2019, p. 4).*

- (51) Information on the amount and quality of performing, non-performing and forborne exposures, as well as an ageing analysis of accounting past due exposures, should also be disclosed by *listed* small and non-complex institutions and by other ■ institutions. That disclosure obligation does not create an additional burden on those ■ institutions, as the disclosure of such limited set of information has already been implemented by EBA on the basis of the 2017 Council Action plan to tackle non-performing loans in Europe¹, which invited EBA to enhance disclosure requirements on asset quality and non-performing loans for all ■ institutions. That disclosure obligation is also fully consistent with the communication of the Commission of 16 December 2020 entitled ‘Tackling non-performing loans in the aftermath of the COVID-19 pandemic’².
- (52) It is necessary to reduce the compliance burden for disclosure purposes and to enhance the comparability of disclosures. EBA should therefore establish a centralised web-based platform that enables the disclosure of information and data submitted by institutions. That centralised web-based platform should serve as a single access point for institutions’ disclosures, while ownership of the information and data and the responsibility for their accuracy should remain with the institutions that produce them. The centralisation of the publication of disclosed information should be fully in line with the capital markets union action plan. *In addition, that centralised web-based platform should be interoperable with the European single access point.*

- (53) To allow for a greater integration of supervisory reporting and disclosures, EBA should publish institutions' disclosures in a centralised manner, while respecting the right of all institutions to publish data and information themselves. Such centralised disclosures should allow EBA to publish the disclosures of small and non-complex institutions, based on the information reported by those institutions to competent authorities and should thus significantly reduce the administrative burden to which small and non-complex institutions are subject. At the same time, the centralisation of disclosures should have no cost impact for other institutions, and increase transparency and reduce the cost ■ of access to prudential information *for market participants*. Such increased transparency should facilitate the comparability of data across institutions and promote market discipline.

(54) *Achieving the environmental and climate ambitions of the European Green Deal set out in the communication of the Commission of 11 December 2019 and contributing to the United Nations 2030 Agenda for Sustainable Development requires the channelling of large amounts of investments from the private sector towards sustainable investments in the Union. Regulation (EU) No 575/2013 should reflect the importance of environmental, social and governance (ESG) factors and a full understanding of the risks of exposures to activities that are linked to overall sustainability or ESG objectives. To ensure convergence across the Union and a uniform understanding of ESG factors and risks, general definitions should be laid down. ESG factors can have a positive or negative impact on the financial performance or solvency of an entity, sovereign or individual. Common examples of ESG factors include greenhouse gas emissions, biodiversity and water use and consumption in the environment area; human rights, and labour and workforce considerations in the social area; and rights and responsibilities of senior staff members and remuneration in the governance area.*

Assets or activities subject to the impact of environmental or social factors should be defined by reference to the ambition of the Union to become climate-neutral by 2050 as set out in Regulation (EU) 2021/1119 of the European Parliament and of the Council¹, a Regulation of the European Parliament and of the Council on nature restoration and amending Regulation (EU) 2022/869, and the relevant sustainability goals of the Union. The technical screening criteria in relation to the principle of ‘do no significant harm’ adopted in accordance with Regulation (EU) 2020/852 of the European Parliament and of the Council², as well as specific Union legal acts to avert climate change, environmental degradation and biodiversity loss should be used to identify assets or exposures for the purpose of assessing dedicated prudential treatments and risk differentials.

- (55) *Exposures* to ESG risks are not necessarily proportional to an institution’s size and complexity. *The levels* of exposures *to ESG risks* across the Union are also quite heterogeneous, with some *Member States* showing a potential mild transitional impact and others showing a potential high transitional impact on exposures related to activities that have a significant negative impact, *in particular* on the environment. The transparency requirements that institutions are subject *to* and the *disclosure* requirements with regard to sustainability laid down in other ■ existing ■ Union *legal acts* will provide more granular data in a few years’ time.

¹ Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality and amending Regulations (EC) No 401/2009 and (EU) 2018/1999 (‘European Climate Law’) (OJ L 243, 9.7.2021, p. 1).

² Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088 (OJ L 198, 22.6.2020, p. 13).

However, to properly assess the ESG risks that institutions might face, it is imperative that markets and *competent authorities* obtain adequate data from all entities exposed to those risks. *Institutions should be in a position to systematically identify and ensure adequate transparency as regards their exposures to activities that are deemed to do significant harm to one of the environmental objectives within the meaning of Regulation (EU) 2020/852.* In order to ensure that competent authorities have at their disposal data that are granular, comprehensive and comparable for the purposes of an effective supervision, information on exposures to ESG risks should be included in the supervisory reporting of institutions. *To guarantee comprehensive transparency towards the markets, disclosures of ESG risks should also be extended to all institutions.* The ■ granularity of that information should be consistent with the principle of proportionality, having regard to the size and complexity of the *institution concerned and the materiality of its exposures to ESG risks.* *When revising the implementing technical standards as regards the disclosure of ESG risks, EBA should assess means to enhance disclosures of ESG risks of cover pools of covered bonds and consider whether information on the relevant exposures of the pools of loans underlying covered bonds issued by institutions, whether directly or through the transfer of loans to a special purpose entity, should either be included in the revised implementing technical standards or in the regulatory and disclosure framework for covered bonds.*

- (56) As the transition of the Union economy towards a sustainable economic model gains momentum, sustainability risks become more prominent and potentially require further consideration. *An appropriate assessment of the availability and accessibility of reliable and consistent ESG data should form the basis for establishing a full link between ESG risk drivers and traditional categories of financial risks and sets of exposures. ESMA should also contribute to that evidence gathering by reporting on whether ESG risks are appropriately reflected in credit risk ratings of the counterparties or exposures that institutions might have. In a context of rapid and continuous developments around identification and quantification of ESG risks by both institutions and supervisors, it is also necessary to bring forward to the date of entry into force of this Regulation part of* EBA's mandate to assess and report on whether a dedicated prudential treatment of exposures related to assets or activities substantially associated with environmental or social objectives would be justified.

The existing EBA mandate should be broken into a series of reports due to the length and complexity of the assessment work to be conducted. Therefore, two successive and annual follow-up EBA reports should be prepared by the end of 2024 and 2025, respectively. According to the International Energy Agency, to reach the carbon neutrality objective by 2050, no new fossil fuel exploration and expansion can take place. That means that fossil fuel exposures are prone to representing a higher risk both at the micro level, as the value of such assets is set to decrease over time, and at the macro level, as financing fossil fuel activities jeopardises the objective of limiting the increase in the global temperature to 1,5°C above pre-industrial levels and therefore threatens financial stability. Competent authorities and market participants should, therefore, benefit from increased transparency by institutions on their exposures towards fossil fuel sector entities, including their activity in respect of renewable energy sources.

- (57) *To ensure that any adjustments for exposures for infrastructure do not undermine the climate ambitions of the Union, new exposures would get the risk weight discount only where the assets being financed contribute positively to one or more of the environmental objectives set out in Regulation (EU) 2020/852 and do not significantly harm the other objectives set out in that Regulation, or the assets being financed do not significantly harm any of the environmental objectives set out in that Regulation.*
- (58) It is essential for supervisors to have the necessary **powers** to assess and measure in a comprehensive manner the risks to which a banking group is exposed at a consolidated level and to have the flexibility to adapt their supervisory approaches to new sources of risk. It is important to avoid loopholes between prudential and accounting consolidation which can give rise to transactions that aim to move assets out of the scope of prudential consolidation, even though risks remain in the banking group. The lack of coherence in the definitions of ‘parent undertaking’, ‘subsidiary’ and ‘control’, and the lack of clarity in the definition of ‘ancillary services undertaking’, ‘financial holding company’ and ‘financial institution’ make it more difficult for supervisors to apply the applicable rules consistently in the Union and to detect and appropriately address risks at a consolidated level. Those definitions should therefore be amended and further clarified. In addition, it is deemed appropriate for EBA to investigate further whether those **powers** of the supervisors might be unintendedly constrained by any remaining discrepancies or loopholes in the regulatory provisions or in their interaction with the applicable accounting framework.

(59) *Markets in crypto-assets have grown rapidly in recent years. To address potential risks for institutions caused by their crypto-asset exposures that are not sufficiently covered by the existing prudential framework, the BCBS published in December 2022 a comprehensive standard for the prudential treatment of crypto-asset exposures. The recommended date of application of that standard is 1 January 2025, but some technical elements of the standard were being further developed at BCBS level during 2023 and 2024. In light of ongoing developments in markets in crypto-assets and acknowledging the importance of fully implementing the Basel standard on institutions' crypto-asset exposures in Union law, the Commission should submit a legislative proposal by 30 June 2025 to implement that standard, and should specify the prudential treatment applicable to those exposures during the transitional period until the implementation of that standard. The transitional prudential treatment should take into account the legal framework introduced by Regulation (EU) 2023/1114 of the European Parliament and of the Council¹ for issuers of crypto-assets and specify a prudential treatment of those crypto-assets. Therefore, during the transitional period, tokenised traditional assets, including e-money tokens, should be recognised as entailing similar risks to traditional assets and crypto-assets compliant with that Regulation and referencing traditional assets other than a single fiat currency should benefit from a prudential treatment consistent with the requirements of that Regulation. Exposures to other crypto-assets, including tokenised derivatives on crypto-assets different from the ones that qualify for the more favourable capital treatment, should be assigned a 1 250 % risk weight.*

¹ *Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets, and amending Regulations (EU) No 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937 (OJ L 150, 9.6.2023, p. 40).*

- (60) The lack of clarity of certain aspects of the minimum haircut floor framework for securities financing transactions **■** , developed by the BCBS as part of the finalised Basel III framework, as well as reservations about the economic justification of applying it to certain types of *securities financing transactions*, have raised the question of whether the prudential objectives of that framework can be attained without creating undesirable consequences. The Commission should therefore reassess the implementation of the minimum haircut floor framework for *securities financing transactions* in Union law **■** . In order to provide the Commission with sufficient evidence, EBA, in close cooperation with ESMA, should report to the Commission on the impact of that framework, and on the most appropriate approach for its implementation in Union law.
- (61) *Under the finalised Basel III framework, the very short-term nature of securities financing transactions might not be well reflected in the SA-CR, leading to own funds requirements calculated under that approach that could be excessively higher than own funds requirements calculated under the IRB Approach. As a result, and given as well the introduction of the output floor, the own funds requirements calculated for those exposures could significantly increase, affecting the liquidity of debt and securities markets, including the sovereign debt markets. EBA should therefore report on the appropriateness and the impact of the credit risk standards for securities financing transactions, and specifically whether an adjustment of the SA-CR for those exposures would be warranted to reflect their short-term nature.*

- (62) The Commission should **implement** in Union law the revised **Basel III** standards on the own funds requirements for credit valuation adjustment (CVA) risk, published by the BCBS in July 2020, as those standards overall improve the calculation of the own funds requirements for CVA risk by addressing several previously observed issues, in particular that the existing CVA own funds requirements framework fails to appropriately capture CVA risk.
- (63) When implementing the initial Basel III standards on the treatment of CVA risk in Union law **■**, certain transactions were exempted from the calculation of the own funds requirements for CVA risk. Those exemptions were agreed in order to prevent a **potentially** excessive increase in the cost of some derivative transactions triggered by the introduction of the own funds requirements for CVA risk, particularly when **institutions** could not mitigate the CVA risk of certain clients that were unable to exchange collateral. According to the estimated impact calculated by EBA, the own funds requirements for CVA risk under the revised Basel **III** standards would remain unduly high for exempted transactions with those clients. To ensure that **those** clients continue hedging their financial risks via derivative transactions, the exemptions should be maintained when implementing the revised Basel **III** standards.

- (64) However, the actual CVA risk of the exempted transactions could be a source of significant risk for *institutions* applying those exemptions. If those risks materialise, the *institutions* concerned could suffer significant losses. As EBA highlighted in its report on CVA of 25 February 2015, the CVA risk of the exempted transactions raises prudential concerns that are not addressed in Regulation (EU) No 575/2013. To help supervisors monitor the CVA risk arising from the exempted transactions, institutions should report the calculation of own funds requirements for CVA risk of the exempted transactions that would be required if those transactions were not exempted. In addition, EBA should develop guidelines to help supervisors identify excessive CVA risk and to improve the harmonisation of supervisory actions in that area across the *Union*.

- (65) The Commission should be empowered to adopt the regulatory technical standards developed by EBA with regard to the indicators for determining extraordinary circumstances for additional value adjustments; the method for specifying the main risk driver for a position and whether it is a long or short position; the process for calculating and monitoring net short credit or net short equity positions in the non-trading book; the treatment of foreign exchange risk hedges of capital ratios; the criteria to be used by institutions to assign off-balance-sheet items; the criteria for high quality project finance and object finance exposures in the context of specialised lending for which a directly applicable credit assessment is not available; the types of factors to be considered for the assessment of the appropriateness of the risk weights; the term ‘equivalent legal mechanism in place to ensure that the property under construction will be finished within a reasonable time frame’; the conditions for assessing the materiality of the use of an existing rating system; the assessment methodology for compliance with the requirements to use the IRB Approach; the categorisation of project finance, object finance and commodity finance; further specifying the exposure classes under the IRB Approach; the factors for specialised lending; the calculation of risk-weighted exposure amount for dilution risk of purchased receivables; the assessment of the integrity of the assignment process; the methodology of an institution for estimating probability of default; the comparable property; the supervisory delta of call and put options; the components of the business indicator; the adjustment of the business indicator; the definition of unduly burdensome in the context of calculating the annual operational risk loss;

the risk taxonomy of operational risk; the competent authorities' assessment of the computation of annual operational risk loss; the adjustments to loss data; the operational risk management; the calculation of the own funds requirements for market risk for non-trading book positions that are subject to foreign exchange risk or commodity risk; the assessment methodology for competent authorities for the alternative standardised approach; the collective investment undertaking trading books; the criteria for the residual risk add-on derogation; the conditions and indicators used to determine whether extraordinary circumstances have occurred; the criteria for the use of data inputs in the risk-measurement model; the criteria to assess the modellability of risk factors; the conditions and the criteria according to which an institution may be permitted not to count an overshooting; the criteria specifying whether the theoretical changes in the value of a trading desk's portfolio are either close or sufficiently close to the hypothetical changes; the conditions and criteria for assessing the CVA risk arising from fair-valued securities financing transactions; the proxy spreads; the assessment of the extensions and changes to the standardised approach for CVA risk; and the technical elements necessary for institutions to calculate their own funds requirements in relation to certain crypto-assets. The Commission should adopt those regulatory technical standards by means of delegated acts pursuant to Article 290 TFEU and in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.

- (66) The Commission should be empowered to adopt the implementing technical standards developed by EBA with regard to the joint decision process for the IRB Approach submitted by EU parent institutions, EU parent financial holding companies and EU parent mixed financial holding companies; the items of the business indicator by mapping those items with the reporting cells concerned; uniform disclosure formats, the associated instructions, information on the resubmission policy and IT solutions for disclosures; and ESG disclosures. The Commission should adopt those implementing technical standards by means of implementing acts pursuant to Article 291 TFEU and in accordance with Article 15 of Regulation (EU) No 1093/2010.
- (67) Since the objective of this Regulation, namely to ensure uniform prudential requirements that apply to institutions throughout the Union, cannot be sufficiently achieved by the Member States but can rather, by reason of its scale and effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.
- (68) Regulation (EU) No 575/2013 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Amendments to Regulation (EU) No 575/2013

Regulation (EU) No 575/2013 is amended as follows:

(1) Article 4 is amended as follows:

(a) paragraph 1 is amended as follows:

(i) *in point (1), point (b) is replaced by the following:*

‘(b) to carry out any of the activities referred to in Annex I, Section A, points (3) and (6), to Directive 2014/65/EU of the European Parliament and of the Council, where one of the following applies, but the undertaking is not a commodity and emission allowance dealer, a collective investment undertaking, an insurance undertaking, or an investment firm for which the authorisation as a credit institution is waived in accordance with Article 8a of Directive 2013/36/EU:*

(i) the total value of the consolidated assets of the undertaking established in the Union, including any of its branches and subsidiaries established in a third country, is equal to or exceeds EUR 30 billion;

- (ii) *the total value of the assets of the undertaking established in the Union, including any of its branches and subsidiaries established in a third country, is less than EUR 30 billion, and the undertaking is part of a group in which the total value of the consolidated assets of all undertakings in that group that are established in the Union, including any of their branches and subsidiaries established in a third country, that individually have total assets of less than EUR 30 billion and that carry out any of the activities referred to in Annex I, Section A, points (3) and (6), to Directive 2014/65/EU is equal to or exceeds EUR 30 billion;*
- (iii) *the total value of the assets of the undertaking established in the Union, including any of its branches and subsidiaries established in a third country, is less than EUR 30 billion, and the undertaking is part of a group in which the total value of the consolidated assets of all undertakings in the group that carry out any of the activities referred to in Annex I, Section A, points (3) and (6), to Directive 2014/65/EU, is equal to or exceeds EUR 30 billion, where the consolidating supervisor, in consultation with the supervisory college, so decides in order to address potential risks of circumvention or potential risks for financial stability of the Union;*

* Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (OJ L 173, 12.6.2014, p. 349).’;

(ii) *point (12) is deleted;*

(iii) points (15) and (16) are replaced by the following:

‘(15) “parent undertaking” means an undertaking that controls, within the meaning of point (37), one or more undertakings;

(16) “subsidiary” means an undertaking that is controlled, within the meaning of point (37), by another undertaking; *subsidiaries of subsidiaries shall also be considered to be subsidiaries of the undertaking that is their original parent undertaking;*’;

(iv) point (18) is replaced by the following:

‘(18) “ancillary services undertaking” means an undertaking the principal activity of which, whether provided to undertakings inside the group or to clients outside the group, *consists of* any of the following:

- (a) a direct extension of banking;
- (b) operational leasing, **■** the ownership or management of property, the provision of data processing services or any other activity *insofar as those activities are* ancillary to banking;
- (c) any other activity considered similar by EBA to those referred to in points (a) and (b);’;

(v) point (20) is replaced by the following:

‘(20) “financial holding company” means an undertaking that meets all of the following conditions:

- (a) it is a financial institution;

- (b) it is not a mixed financial holding company;
- (c) it has at least one subsidiary that is an institution;
- (d) more than 50 % of any of the following indicators are associated, on a steady basis, with subsidiaries that are institutions or financial institutions, and with activities carried out by the undertaking itself that are not related to the acquisition or owning of holdings in subsidiaries when those activities are of the same nature as the ones carried out by institutions or financial institutions:
 - (i) the undertaking's equity based on its consolidated situation;
 - (ii) the undertaking's assets based on its consolidated situation;
 - (iii) the undertaking's revenues based on its consolidated situation;
 - (iv) the undertaking's personnel based on its consolidated situation;
 - (v) other *indicators* considered relevant by the competent authority.

The competent authority may decide that an entity does not qualify as a financial holding company even if one of the indicators referred to in the first paragraph, points (i) to (iv), is met, where the competent authority considers that the relevant indicator does not convey a fair and true view of the main activities and risks of the group. Before making such decision, the competent authority shall consult EBA and provide a substantiated and detailed qualitative and quantitative justification. The competent authority shall have due regard to EBA's opinion and, where it decides to deviate from it, shall within three months of the date of receipt of EBA's opinion, provide to EBA the rationale for deviating from the relevant opinion;';

(vi) the following point is inserted:

‘(20a) “investment holding company” means an investment holding company as defined in Article 4(1), point (23), of Regulation (EU) 2019/2033 ■ ;

(vii) point (26) is replaced by the following:

‘(26) “financial institution” means an undertaking that meets both of the following conditions:

(a) it is not an institution, a pure industrial holding company, a ***securitisation special purpose entity***, an insurance holding company as defined in Article 212(1), point (f), of Directive 2009/138/EC or a mixed- activity insurance holding company as defined in Article 212(1), ***point*** (g), of that Directive, ***except where a mixed- activity insurance holding company has a subsidiary institution***;

- (b) it meets one or more of the following conditions:
- (i) the principal activity of the undertaking is to acquire or own holdings or to pursue one or more of the activities listed *in* Annex I, points 2 to 12 and *points 15, 16 and 17*, to Directive 2013/36/EU, or to pursue one or more of the services or activities listed in Annex I, Section A or B, to Directive 2014/65/EU in relation to financial instruments listed in Annex I, Section C, to Directive 2014/65/EU;

- (ii) the undertaking is an investment firm, a mixed financial holding company, an investment holding company, a payment services provider *as categorised under Article 1(1), points (a) to (d), of Directive (EU) 2015/2366 of the European Parliament and of the Council**, an asset management company or an ancillary services undertaking;

* *Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC (OJ L 337, 23.12.2015, p. 35).’;*

(viii) the following point is inserted:

‘(26a) “pure industrial holding company” means an undertaking that meets all of the following conditions:

- (a) its principal activity is to acquire or own holdings;

- (b) **■** it *is not* referred to in point (27)(a), *or point (27)(d) to (l), of this paragraph and is not an investment firm or an asset management company, or a payment service provider as categorised under Article 1(1), points (a) to (d), of Directive (EU) 2015/2366;*

■

- (c) *it does not hold any participations in a financial sector entity;*’;

- (ix) in point (27), point (c) is deleted;

- (x) point (28) is replaced by the following:

‘(28) “parent institution in a Member State” means an institution in a Member State which has an institution or a financial institution as a subsidiary, or which holds a participation in an institution *or* financial institution **■**, and which is not itself a subsidiary of another institution authorised in the same Member State, or of a financial holding company or mixed financial holding company set up in the same Member State;’;

(xi) *point (35) is replaced by the following* ■ :

■

‘(35) “participation” means a participating interest as defined in Article 2, point (2), of Directive 2013/34/EU of the European Parliament and the Council, or the ownership, direct or indirect, of 20 % or more of the voting rights or capital of an undertaking;*

* Directive 2013/34/EU of the European Parliament and the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ L 182, 29.6.2013, p. 19).’;

(xii) ■ point (37) ■ is replaced by *the following*:

‘(37) “control” means the relationship between a parent undertaking and a subsidiary, as described in Article 22 of Directive 2013/34/EU, or in the accounting standards to which an institution is subject under Regulation (EC) No 1606/2002 of the European Parliament and of the Council, or a similar relationship between any natural or legal person and an undertaking;*

* Regulation (EC) No 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards (OJ L 243, 11.9.2002, p. 1).’;

(xiii) point (52) is replaced by the following:

*‘(52) “operational risk” means the risk of loss resulting from inadequate or failed internal processes, people and systems or from external events, including, **but not limited to**, legal risk, model risk or information and communication technology (ICT) risk, but **excluding** strategic and reputational risk;’;*

(xiv) the following points are inserted:

‘(52a) “legal risk” means *the risk of* loss, including, expenses, fines, penalties or punitive damages, *which an institution might incur as a consequence of* events that result in legal proceedings, including the following:

- (a) supervisory actions and private settlements;
- (b) failure to act where action is necessary to comply with a legal obligation;
- (c) action taken to avoid compliance with a legal obligation;
- (d) misconduct events, which are events that arise from wilful or negligent misconduct, including inappropriate supply of financial services *or the provision of inadequate or misleading information on the financial risk of products sold by the institution*;
- (e) non-compliance with any requirement derived from national or international statutory or legislative provisions;
- (f) non-compliance with any requirement derived from contractual arrangements, or with internal rules and codes of conduct established in accordance with national or international rules and practices;
- (g) non-compliance with rules on ethics;

(52b) “model risk” means the *risk of* loss *resulting from* decisions that *are* principally based on the output of internal models, due to errors in the *design*, development, *parameter estimation*, implementation, *use* or *monitoring* of such models, including the following:

- (a) the improper design of a selected internal model and its characteristics;
- (b) the inadequate verification of a selected internal model’s suitability for the financial instrument to be evaluated or for the product to be priced, or of the selected internal model’s suitability for the applicable market conditions;
- (c) errors in the implementation of a selected internal model;
- (d) incorrect mark-to-market valuations and risk measurement as a result of an error when booking a trade into the trading system;

- (e) the use of a selected internal model or of its outputs for a purpose for which that model was not intended or designed, including manipulation of the modelling parameters;
 - (f) the untimely *or* ineffective monitoring *or validation* of model performance *or of the predictive ability* to assess whether the selected internal model remains fit for purpose;
- (52c) “ICT risk” means the risk of loss ■ related to *any reasonably identifiable circumstances related to* the use of network *and* information systems *which, if materialised, might compromise the security of the network and information systems, of any technology-dependent tool or process, ■ of operations and processes, or ■ of the provision of services, by producing adverse effects in the digital or physical environment;*
- (52d) “environmental, social *and* governance *risk*” *or* “ESG ■ risk” means the risk of ■ any negative financial impact on an institution stemming from the current or prospective impact of environmental, social or governance (ESG) factors on that institution’s counterparties or invested assets; *ESG risks materialise through the traditional categories of financial risks;*

(52e) “environmental risk” means the risk of ■ any negative financial impact on an institution stemming from the current or prospective impact of environmental factors on that institution’s counterparties or invested assets, including factors related to the transition towards the ■ objectives *set out in Article 9 of Regulation (EU) 2020/852 of the European Parliament and of the Council**;

■

environmental risk includes both physical risk and transition risk;

(52f) “physical risk”, as part of the ■ environmental risk, means the risk of ■ any negative financial impact on an institution stemming from the current or prospective impact of the physical effects of environmental factors on that institution’s counterparties or invested assets;

(52g) “transition risk”, as part of the environmental risk, means the risk of any negative financial impact on an institution stemming from the current or prospective impact of the transition to an environmentally sustainable economy on that institution’s counterparties or invested assets;

(52h) “social risk” means the risk of any negative financial impact on an institution stemming from the current or prospective impact of social factors on its counterparties or invested assets;

(52i) “governance risk” means the risk of any negative financial impact on an institution stemming from the current or prospective impact of governance factors on that institution’s counterparties or invested assets;

* Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088 (OJ L 198, 22.6.2020, p. 13).’;

(xv) points (54), (55) and (56) are replaced by the following:

- ‘(54) “probability of default” or “PD” means the probability of default of an obligor *or, where applicable, of a credit facility* over a one-year period, and, in the context of dilution risk, the probability of dilution over *a* one-year period;
- (55) “loss given default” or “LGD” means the $\frac{\text{loss}}{\text{amount outstanding}}$ ratio of the loss on an exposure related to a single facility due to the default of an obligor or, *where applicable, of a credit facility* to the amount outstanding at *default or at a given reference date after the date of* default, and, in the context of dilution risk, the loss given dilution meaning the $\frac{\text{loss}}{\text{amount outstanding}}$ ratio of the loss on an exposure *related to a purchased receivable* due to dilution, to the amount outstanding *of* the $\frac{\text{loss}}{\text{amount outstanding}}$ purchased receivable;
- (56) “conversion factor” or “credit conversion factor” or “CCF” means the $\frac{\text{undrawn amount}}{\text{amount outstanding at default}}$ ratio of the $\frac{\text{undrawn amount}}{\text{amount outstanding at default}}$ undrawn amount of a commitment from a single facility that could be drawn from *that* single facility *from a certain point in time* before default and $\frac{\text{undrawn amount}}{\text{amount outstanding at default}}$ therefore $\frac{\text{undrawn amount}}{\text{amount outstanding at default}}$ outstanding at default to the $\frac{\text{undrawn amount}}{\text{amount outstanding at default}}$ undrawn amount of the commitment from that facility, the extent of the commitment being determined by the advised limit, unless the unadvised limit is higher;’;

■

(xvi) points (58), (59) and 60 are replaced by the following:

- ‘(58) “funded credit protection” or “FCP” means a technique of credit risk mitigation where the reduction of the credit risk on the exposure of an institution is derived from the right of that institution, in the event of the default of the obligor *or the credit facility*, or on the occurrence of other specified credit events relating to the obligor, to liquidate, or to obtain transfer or appropriation of, or to retain certain assets or amounts, or to reduce the amount of the exposure to, or to replace it with, the amount of the difference between the amount of the exposure and the amount of a claim on the institution;
- (59) “unfunded credit protection” or “UFCP” means a technique of credit risk mitigation where the reduction of the credit risk on the exposure of an institution is derived from the obligation of a third party to pay an amount in the event of the default of the obligor or the *credit facility, or the* occurrence of other specified credit events;
- (60) “cash assimilated instrument” means a certificate of deposit, a bond, including a covered bond, or any other non-subordinated instrument, which has been issued by a lending institution, for which that lending institution has already received full payment and which shall be unconditionally reimbursed by the institution at its nominal value;’;

(xvii) the following point is inserted:

‘(60a) “gold bullion” means gold in the form of a commodity, including gold bars, ingots and coins, commonly accepted by the bullion market, where liquid markets for bullion exist, and the value of which is determined by the value of the gold content, defined by purity and mass, rather than by its interest to numismatists;’;

(xviii) the following point is inserted:

‘(74a) “property value” means the value of *a residential property or commercial* immovable property determined in accordance with Article 229(1);’;

(xix) point (75) is replaced by the following:

‘(75) “residential property” means any of the following:

- (a) an immovable property which has the nature of a dwelling and satisfies all applicable laws and regulations enabling the property to be occupied for housing purposes;

- (b) an immovable property which has the nature of a dwelling and is still under construction, provided that there is the expectation that the property will satisfy all applicable laws and regulations enabling the property to be occupied for housing purposes;
- (c) the right to inhabit an apartment in housing cooperatives located in Sweden;
- (d) land accessory to a property referred to in point (a), (b) or (c);’;

(xx) the following points are inserted:

‘(75a) “commercial immovable property” means any immovable property that is not residential property ■ ;

(75b) “income producing real estate exposure” *or* “IPRE exposure” ■ means an exposure secured by one or more residential properties or commercial immovable properties where the fulfilment of the credit obligations related to the exposure materially depends on the cash flows generated by those immovable properties securing that exposure, rather than on the capacity of the obligor to fulfil the credit obligations from other sources; *the primary source of such cash flows being lease or rental payments, or proceeds from the sale of the residential property or commercial immovable property;*

- (75c) “non-income-producing real estate exposure” *or* “non-**IPRE** exposure” means any exposure secured by one or more residential properties or commercial immovable properties that is not an **IPRE** exposure;
- (75d) “exposure secured by residential property” or “exposure secured by a mortgage on residential property” means an exposure secured by ■ residential property or *an exposure regarded as such in accordance with Article 108(4)*;
- (75e) “exposure secured by commercial immovable property” or “exposure secured by a mortgage on commercial immovable property” means an exposure secured by a ■ commercial immovable property ■ ;
- (75f) “exposure secured by immovable property” or “exposure secured by a mortgage on immovable property”, or “exposure secured by immovable property collateral” means an exposure secured by a ■ residential property or commercial immovable property or *an exposure regarded as such in accordance with Article 108(4)*;’;

(xxi) point (78) is replaced by the following:

‘(78) “one-year default rate” means the ratio between the number of *obligors or, where the definition of default is applied at credit facility level pursuant to Article 178(1), second subparagraph, credit facilities in respect of which a default is considered to have* occurred during a period that starts from one year prior to a date of observation T, and the number of obligors, or ■ where the *definition of default* is applied at *credit* facility level pursuant to Article 178(1), second subparagraph, credit facilities assigned to this grade or pool one year prior to that date of observation T;’;

(xxii) the following points are inserted:

‘(78a) “land acquisition, development and construction exposures”, or “ADC exposures”, means exposures to corporates or special purpose entities financing any land acquisition for development and construction purposes, or financing the development and construction of any residential property or commercial immovable property;

(78b) “non-ADC exposure” means any exposure secured by one or more residential properties or commercial immovable properties that is not an ADC exposure;’;

(xxiii) point (79) is deleted;

(xxiv) point (114) is replaced by the following:

‘(114) “indirect holding” means any exposure to an intermediate entity that has an exposure to capital instruments issued by a financial sector entity or to liabilities issued by an institution where, in the event the capital instruments issued by the financial sector entity or the liabilities issued by the institution were permanently written off, the loss that the institution would incur as a result would not be materially different from the loss the institution would incur from a direct holding of those capital instruments issued by the financial sector entity or of those liabilities issued by the institution;’;

(xxv) point (126) is replaced by the following:

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

(xxvi) *in point (127), point (b) is replaced by the following:*

‘(b) the institutions are fully consolidated in accordance with Article 22 of Directive 2013/34/EU and are included in the supervision on a consolidated basis of an institution which is a parent institution in a Member State in accordance with Part One, Title II, Chapter 2, of this Regulation and subject to own funds requirements;’;

(xxvii) point (144) is replaced by the following:

‘(144) “trading desk” means a well-identified group of dealers established by the institution in accordance with Article 104b(1) to jointly manage a portfolio of trading book positions, or the non-trading book positions referred to in paragraphs (5) and (6) of that Article, in accordance with a well-defined and consistent business strategy and operating under the same risk management structure;’;

(xxviii) ■ in point (145), *point (f) is replaced by the following:*

‘(f) the institution’s consolidated assets or liabilities relating to activities with counterparties located in the European Economic Area, excluding intragroup exposures in the European Economic Area, exceed 75 % of both the institution’s consolidated total assets and liabilities, excluding in both cases the intragroup exposures;’;

(xxix) the following points ■ are added:

‘(151) “revolving exposure” means any exposure whereby the borrower’s outstanding balance is permitted to fluctuate based on its decisions to borrow and repay, up to an agreed limit;

(152) “transactor exposure” means any revolving exposure that has at least 12 months of repayment history and that is one of the following:

- (a) an exposure for which, on a regular basis of at least every 12 months, the balance to be repaid at the next scheduled repayment date is determined as the drawn amount at a predefined reference date, with a scheduled repayment date not later than after 12 months, provided that the balance has been repaid in full at each scheduled repayment date for the previous 12 months;
- (b) an overdraft facility where there have been no drawdowns over the previous 12 months;

- (153) *“fossil fuel sector entity” means a company, enterprise or undertaking statistically classified as having its principal economic activity in the coal, oil or gas sector of economic activities, as set out in Annex XXXIX, Template 3, to Commission Implementing Regulation (EU) 2021/637* and as identified by reference to the statistical classification of economic activities (NACE Revision 2) codes listed in Annex I, Sections B, C, D and G, to Regulation (EC) No 1893/2006 of the European Parliament and of the Council**; where the principal economic activity of a company, enterprise or undertaking is not classified using the NACE Revision 2 codes set out in Regulation (EC) No 1893/2006, or a national classification derived therefrom, institutions shall conservatively determine whether such company, enterprise or undertaking has its principal activity in one of those sectors;*
- (154) *“exposures subject to the impact of environmental or social factors” means exposures hindering the ambition of the Union to achieve its regulatory objectives relating to ESG factors, in a way that could have a negative financial impact on institutions in the Union;*

(155) “shadow banking entity” means an entity that carries out banking activities outside the regulated framework;

** Commission Implementing Regulation (EU) 2021/637 of 15 March 2021 laying down implementing technical standards with regard to public disclosures by institutions of the information referred to in Titles II and III of Part Eight of Regulation (EU) No 575/2013 of the European Parliament and of the Council and repealing Commission Implementing Regulation (EU) No 1423/2013, Commission Delegated Regulation (EU) 2015/1555, Commission Implementing Regulation (EU) 2016/200 and Commission Delegated Regulation (EU) 2017/2295 (OJ L 136, 21.4.2021, p. 1).*

*** Regulation (EC) No 1893/2006 of the European Parliament and of the Council of 20 December 2006 establishing the statistical classification of economic activities NACE Revision 2 and amending Council Regulation (EEC) No 3037/90 as well as certain EC Regulations on specific statistical domains (OJ L 393, 30.12.2006, p. 1).’;*

(xxx) *the following subparagraphs are added:*

‘For the purposes of the first subparagraph, points (1)(b)(ii) and (iii), where the undertaking is part of a third-country group, the total assets of each branch of the third-country group authorised in the Union shall be included in the combined total value of the assets of all undertakings in the group.

For the purposes of the first subparagraph, point (1)(b)(iii), the consolidating supervisor may request all relevant information from the undertaking in order to take its decision.

For the purposes of the first subparagraph, point (52a), legal risk shall not comprise refunds to third parties or employees and goodwill payments due to business opportunities, where no breach of any rules or ethical conduct has occurred and where the institution has fulfilled its obligations on a timely basis. Nor shall legal risk comprise external legal costs where the event giving rise to those external costs is not an operational risk event.

For the purposes of the first subparagraph, point (145)(e), of this paragraph, an institution may exclude derivative positions it entered with its non-financial clients and the derivative positions it uses to hedge those positions, provided that the combined value of the excluded positions calculated in accordance with Article 273a(3) does not exceed 10 % of the institution's total on- and off-balance-sheet assets.';

(b) the following paragraph is added:

'5. By ... [18 months from the date of entry into force of this amending Regulation], EBA shall issue guidelines, in accordance with Article 16 of Regulation (EU) No 1093/2010, specifying the criteria for the identification of activities referred to in paragraph 1, first subparagraph, point (18) of this Article .';

(2) Article 5 is amended as follows:

(a) point (3) is replaced by the following:

‘(3) “expected loss” or “EL” means the ratio, related to a single facility, of the amount expected to be lost on an exposure from any of the following:

(a) a potential default of an obligor over a one-year period to the amount outstanding at default;

(b) a potential dilution event over a one-year period to the amount outstanding at the date of occurrence of the dilution event;’;

(b) the following points are added:

- ‘(4) “credit obligation” means any obligation arising from a credit contract, including principal, accrued interest and fees, owed by an obligor ■ ;
- (5) “credit exposure” means any on- *or* off ■ -balance-sheet item, that results, or may result, in a credit obligation;
- (6) “facility” *or* “**credit facility**” means a credit exposure arising from *a* contract or a set of contracts between an obligor and an institution;
- (7) “margin of conservatism” means an ■ add-on incorporated in risk *parameter* estimates ■ to account for the expected range of estimation errors stemming from identified deficiencies in data, methods, models, and changes to underwriting standards, risk appetite, collection and recovery policies and any other source of additional uncertainty, as well as from general estimation error;
- (8) “*appropriate adjustment*” means *the impact on risk parameter estimates resulting from the application of methodologies within the estimation of risk parameters to correct the identified deficiencies in data and in estimation methods, and to account for changes to underwriting standards, risk appetite, collection and recovery policies and any other source of additional uncertainty, to the extent possible in order to avoid biases in risk parameter estimates;*

- (9) “small and medium-sized enterprise” or “SME” means a company, enterprise or undertaking which, according to its most recent consolidated accounts, has an annual turnover not exceeding EUR 50 000 000;
- (10) “commitment” means any contractual arrangement that an institution offers to a client, and is accepted by that client, to extend credit, purchase assets or issue credit substitutes; and any *such* arrangement that can be unconditionally cancelled by an institution at any time without prior notice to an obligor or any arrangement that can be cancelled by an institution where an obligor fails to meet the conditions set out in the facility documentation, including conditions that are required to be met by the obligor prior to any initial or subsequent drawdown under the arrangement, unless contractual arrangements meet all of the following conditions:
- (a) contractual arrangements where the institution receives no fees or commissions to establish or maintain those contractual arrangements;
 - (b) contractual arrangements where the client is required to apply to the institution for the initial and each subsequent drawdown under those contractual arrangements;

- (c) contractual arrangements where the institution has full authority, regardless of the fulfilment by the client of the conditions set out in the contractual arrangement documentation, over the execution of each drawdown;
 - (d) *the* contractual arrangements *allow* the institution ■ to assess the creditworthiness of the client immediately prior to deciding on the execution of each drawdown *and the institution has implemented and applies internal procedures that ensure that such an assessment is being made before the execution of each drawdown;*
 - (e) contractual arrangements that are offered to a corporate entity, including an SME, that is closely monitored on an ongoing basis;
- (11) “unconditionally cancellable commitment” means any commitment the terms of which permit the institution to cancel that commitment to the full extent allowable under consumer protection and related legal acts, *where applicable*, at any time without prior notice to the obligor or that effectively provide for automatic cancellation due to a deterioration in a borrower’s creditworthiness.’;

(3) *the following article is inserted:*

‘Article 5a

Definitions specific to crypto-assets

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

- (1) *“crypto-asset” means a crypto-asset as defined in Article 3(1), point (5), of Regulation (EU) 2023/1114 of the European Parliament and of the Council* that is not a central bank digital currency;*
- (2) *“electronic money token” or “e-money token” means an electronic money token or e-money token as defined in Article 3(1), point (7), of Regulation (EU) 2023/1114;*
- (3) *“crypto-asset exposure” means an asset or an off-balance-sheet item related to a crypto-asset that gives rise to credit risk, counterparty credit risk, market risk, operational risk or liquidity risk;*

- (4) *“traditional asset” means any asset other than a crypto-asset, including:*
- (a) *financial instruments as defined in Article 4(1), point (50), of this Regulation;*
 - (b) *funds as defined in Article 4, point (25), of Directive (EU) 2015/2366;*
 - (c) *deposits as defined in Article 2(1), point (3), of Directive 2014/49/EU of the European Parliament and of the Council^{**}, including structured deposits;*
 - (d) *securitisation positions in the context of a securitisation as defined in Article 2, point (1), of Regulation (EU) 2017/2402;*
 - (e) *non-life or life insurance products falling within the classes of insurance listed in Annexes I and II to Directive 2009/138/EC or reinsurance and retrocession contracts referred to in that Directive;*
 - (f) *pension products that, under national law, are recognised as having the primary purpose of providing the investor with an income in retirement and that entitle the investor to certain benefits;*

- (g) *officially recognised occupational pension schemes within the scope of Directive (EU) 2016/2341 of the European Parliament and of the Council*** or Directive 2009/138/EC;*
 - (h) *individual pension products for which a financial contribution from the employer is required by national law and where the employer or the employee has no choice as to the pension product or provider;*
 - (i) *a pan-European Personal Pension Product as defined in Article 2, point (2), of Regulation (EU) 2019/1238 of the European Parliament and of the Council****;*
 - (j) *social security schemes covered by Regulation (EC) No 883/2004 of the European Parliament and of the Council***** and Regulation (EC) No 987/2009 of the European Parliament and of the Council*****;*
- (5) *“tokenised traditional asset” means a type of crypto-asset that represents a traditional asset, including an e-money token;*
 - (6) *“asset-referenced token” means an asset-referenced token as defined in Article 3(1), point (6), of Regulation (EU) 2023/1114;*
 - (7) *“crypto-asset service” means a crypto-asset service as defined in Article 3(1), point (16), of Regulation (EU) 2023/1114.*

* *Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets, and amending Regulations (EU) No 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937 (OJ L 150, 9.6.2023, p. 40).*

** *Directive 2014/49/EU of the European Parliament and of the Council of 16 April 2014 on deposit guarantee schemes (OJ L 173, 12.6.2014, p. 149).*

*** *Directive (EU) 2016/2341 of the European Parliament and of the Council of 14 December 2016 on the activities and supervision of institutions for occupational retirement provision (IORPs) (OJ L 354, 23.12.2016, p. 37).*

**** *Regulation (EU) 2019/1238 of the European Parliament and of the Council of 20 June 2019 on a pan-European Personal Pension Product (PEPP) (OJ L 198, 25.7.2019, p. 1).*

***** *Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems (OJ L 166, 30.4.2004, p. 1).*

***** *Regulation (EC) No 987/2009 of the European Parliament and of the Council of 16 September 2009 laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems (OJ L 284, 30.10.2009, p. 1).’;*

- (4) Article 10a is replaced by the following:

‘Article 10a

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

For the purposes of this Chapter, investment firms and investment holding companies shall be considered to be parent financial holding companies in a Member State or **EU** parent financial holding companies where such investment firms or investment holding companies are parent undertakings of an institution or of an investment firm subject to this Regulation that is referred to in Article 1(2) or (5) of Regulation (EU) 2019/2033.’;

- (5) in Article 13(1), the *second subparagraph* is replaced by the following:

■

‘Large subsidiaries of EU parent institutions shall disclose the information specified in Articles 437, 438, 440, 442, 449a, 449b, 450, 451, 451a and 453 on an individual basis or, where applicable in accordance with this Regulation and Directive 2013/36/EU, on a sub-consolidated basis.’;

(6) Article 18 is amended as follows:

- (a) paragraph 2 is deleted;
- (b) paragraph 4 is replaced by the following:

‘4. Participations in institutions and financial institutions managed by an undertaking included in the consolidation together with one or more undertakings not included in the consolidation shall be consolidated proportionally according to the share of capital held, where the liability of those undertakings is limited to the share of the capital they hold.’;

- (c) in paragraph 6, the second subparagraph is replaced by the following:

‘In particular, competent authorities may permit or require the use of the method provided for in Article 22(7), (8) and (9) of Directive 2013/34/EU.’;

- (d) in paragraph 7, **the** first subparagraph ■ is replaced by the following:

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

(e) *in paragraph 8, the introductory wording is replaced by the following:*

‘Competent authorities may require full or proportional consolidation of a subsidiary or an undertaking in which an institution holds a participation where that subsidiary or undertaking is not an institution or a financial institution and where all of the following conditions are met:’;

(f) the following paragraph is inserted:

‘10. EBA shall submit a report to the Commission by ... [12 months from the date of entry into force of this **amending** Regulation] on the completeness and appropriateness of the [definitions and provisions of this Regulation concerning the supervision of all types of risks to which institutions are exposed at a consolidated level. EBA shall assess in particular any possible remaining discrepancies in those definitions and provisions alongside their interaction with the applicable accounting framework, and any remaining aspect that might pose unintended constraints to a consolidated supervision that is comprehensive and adaptable to new sources or types of risks or structures that might lead to regulatory arbitrage. EBA shall [update its report **at least once every two years**.

In light of EBA’s findings, the Commission **shall, where appropriate, submit to the European Parliament and to the Council a legislative proposal to make adjustments to** the relevant definitions or the scope of prudential consolidation.’;

(7) *Article 19 is amended as follows:*

(a) *in paragraph 1, the introductory wording is replaced by the following:*

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

(b) *in paragraph 2, the introductory wording is replaced by the following:*

‘The competent authorities responsible for exercising supervision on a consolidated basis pursuant to Article 111 of Directive 2013/36/EU may on a case-by-case basis decide in the following cases that an institution, or a financial institution which is a subsidiary or in which a participation is held need not be included in the consolidation:’;

(8) Article 20 is amended as follows:

(a) paragraph 1 is amended as follows:

(i) in the first subparagraph, point (a) is replaced by the following:

‘(a) in the case of applications for the permissions referred to in Article 143(1), Article 151(9), Article 283 and Article **325az** submitted by an EU parent institution and its subsidiaries, or jointly by the subsidiaries of an EU parent financial holding company or EU parent mixed financial holding company, to decide whether or not to grant the permission sought and to determine the terms and conditions, if any, to which such permission should be subject;’;

(ii) the third subparagraph is deleted;

(b) paragraph 6 is replaced by the following:

‘6. Where an EU parent institution and its subsidiaries, the subsidiaries of an EU parent financial holding company or an EU parent mixed financial holding company use the IRB Approach referred to in Article 143 on a unified basis, the competent authorities shall allow the parent and its subsidiaries, considered together, to meet the qualifying criteria set out in Part Three, Title II, Chapter 3, Section 6 in a way that is consistent with the structure of the group and its risk management systems, processes and methodologies.’;

(c) *paragraph 8 is replaced by the following:*

‘8. EBA shall develop draft implementing technical standards to specify the joint decision process referred to in paragraph 1, point (a), of this Article with regard to the applications for permissions referred to in Article 143(1), Article 151(9) and Articles 283 and 325az with a view to facilitating joint decisions.

EBA shall submit those draft implementing technical standards to the Commission by ... [12 months from the date of entry into force of this amending Regulation].

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

(9) *Article 22 is replaced by the following:*

‘Article 22

Sub-consolidation in the case of entities in third countries

- 1. Subsidiary institutions or subsidiary intermediate financial holding companies or subsidiary intermediate mixed financial holding companies shall apply the requirements laid down in Articles 89, 90 and 91 and Parts Three, Four and Seven and the associated reporting requirements laid down in Part Seven A on the basis of their sub-consolidated situation if they have an institution or a financial institution as a subsidiary in a third country, or hold a participation in such an undertaking.*
- 2. By way of derogation from paragraph 1 of this Article, subsidiary institutions or subsidiary intermediate financial holding companies or subsidiary intermediate mixed financial holding companies may choose not to apply the requirements laid down in Articles 89, 90 and 91 and Parts Three, Four and Seven and the associated reporting requirements laid down in Part Seven A on the basis of their sub-consolidated situation where the total assets and off-balance-sheet items of the subsidiaries and participations in third countries are less than 10 % of the total amount of the assets and off-balance-sheet items of the subsidiary institution or subsidiary intermediate financial holding company or subsidiary intermediate mixed financial holding company.’;*

(10) in Article 27(1), point (a), point (v) is deleted;

(11) Article 34 is replaced by the following:

‘Article 34

Additional value adjustments

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

2. By way of derogation from paragraph 1, in extraordinary circumstances, the existence of which shall be determined by an opinion provided by EBA in accordance with paragraph 3, institutions may reduce the total additional value adjustments in the calculation of the total amount to be deducted from Common Equity Tier 1 capital.

3. For the purpose of providing the opinion referred to in paragraph 2, EBA shall monitor the market conditions to assess whether extraordinary circumstances have occurred and, if so, shall notify the Commission thereof immediately.

4. EBA, *in consultation with ESMA*, shall develop draft regulatory technical standards to specify the indicators and conditions that EBA will use to determine the extraordinary circumstances referred to in paragraph 2 and to specify the reduction of the total aggregated additional value adjustments referred to in that paragraph.

EBA shall submit those draft regulatory technical standards to the Commission by ... [] 24 months from the date of entry into force of this *amending Regulation*].

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.’;

(12) Article 36 is amended as follows:

(a) paragraph 1 is amended as follows:

(i) point (d) is replaced by the following:

‘(d) for institutions calculating risk-weighted exposure amounts using the Internal Ratings Based Approach (the IRB Approach), the IRB shortfall, where applicable, calculated in accordance with Article 159;’;

(ii) point (k) is amended as follows:

(1) point (v) is deleted;

(2) *the following point is added:*

‘(vi) exposures in the form of units or shares in a CIU that are assigned a risk weight of 1 250 % in accordance with Article 132(2), second subparagraph.’;

(b) *the following paragraph is added:*

- ‘5. For the sole purpose of calculating the applicable amount of insufficient coverage for non-performing exposures in accordance with paragraph 1, point (m), of this Article, by way of derogation from Article 47c and after having notified the competent authority, the applicable amount of insufficient coverage for non-performing exposures purchased by a specialised debt restructuring shall be zero. The derogation set out in this subparagraph shall apply on an individual basis and, in the case of groups in which all institutions qualify as specialised debt restructuring, on a consolidated basis.*

For the purposes of this paragraph, “specialised debt restructuring” means an institution that, during the preceding financial year, complied with all of the following conditions on both an individual and on a consolidated basis:

- (a) the main activity of the institution is the purchase, management and restructuring of non-performing exposures in accordance with a clear and effective internal decision process implemented by its management body;*

- (b) *the accounting value measured without taking into account any credit risk adjustments of its own originated loans does not exceed 15 % of its total assets;*
- (c) *at least 5 % of the accounting value measured without taking into account any credit risk adjustments' of its own originated loans constitutes a total or partial refinancing, or the adjustment of relevant terms, of the purchased non-performing exposures that qualifies as a forbearance measure in accordance with Article 47b;*
- (d) *the total value of the assets of the institution does not exceed EUR 20 billion;*
- (e) *the institution maintains, on an ongoing basis, a net stable funding ratio of at least 130 %;*
- (f) *the sight deposits of the institution do not exceed 5 % of the total liabilities of the institution.*

The specialised debt restructuring shall notify the competent authority, without delay, if one or more of the conditions set out in the second subparagraph are no longer met. Competent authorities shall notify EBA at least on an annual basis of the application of this paragraph by institutions under their supervision.

EBA shall establish, maintain, and publish a list of specialised debt restructurers. EBA shall monitor the activity of specialised debt restructurers and shall report by 31 December 2028 to the Commission on the results of such monitoring and, where appropriate, shall advise the Commission as to whether the conditions to qualify as “specialised debt restructurer” are sufficiently risk-based and appropriate in view of favouring the secondary market for non-performing loans, and assess if additional conditions are necessary.’;

(13) in Article 46(1), point (a), point (ii) is replaced by the following:

‘(ii) the deductions referred to in Article 36(1), points (a) to (g), points (k)(ii) **to (vi)** and points (l), (m) and (n), excluding the amount to be deducted for deferred tax assets that rely on future profitability and arise from temporary differences;’;

(14) *Article 47c is amended as follows:*

(a) *paragraph 4 is amended as follows:*

(i) *the introductory wording is replaced by the following:*

‘By way of derogation from paragraph 3 of this Article, the following factors shall apply to the part of the non-performing exposure guaranteed or counter-guaranteed by an eligible protection provider referred to in Article 201(1), points (a) to (e), the unsecured exposures to which would be assigned a risk weight of 0 % under Part Three, Title II, Chapter 2:’;

(ii) *point (b) is replaced by the following:*

‘(b) 1 for the secured part of the non-performing exposure to be applied as of the first day of the eighth year following its classification as non-performing, unless the eligible protection provider agreed to fulfil all payment obligations of the obligor towards the institution in full and in accordance with the original contractual payment schedule, in which case a factor of 0 for the secured part of the non-performing exposure shall apply.’;

(b) *the following paragraph is inserted:*

‘4a. By way of derogation from paragraph 3, the part of the non-performing exposure guaranteed or insured by an official export credit agency shall not be subject to the requirements laid down in this Article.’;

(15) in Article 48, paragraph 1 is amended as follows:

(a) in point (a), point (ii) is replaced by the following:

‘(ii) Article 36(1), points (a) to (h), points (k)(ii) *to* (vi) and ■ points (l), (m) and (n), excluding deferred tax assets that rely on future profitability and arise from temporary differences;’;

(b) in point (b), point (ii) is replaced by the following:

‘(ii) Article 36(1), points (a) to (h), points (k)(ii) *to* (vi) and points (l), (m) and (n), excluding deferred tax assets that rely on future profitability and arise from temporary differences.’;

(16) in Article 49, paragraph 4 is replaced by the following:

‘4. The holdings in respect of which deduction is not made in accordance with paragraph 1 shall qualify as exposures and shall be risk weighted in accordance with Part Three, Title II, Chapter 2.

The holdings in respect of which deduction is not made in accordance with paragraph 2 or 3 shall qualify as exposures and shall be risk weighted at 100 %.’;

(17) in Article 60(1), in point (a), point (ii) is replaced by the following:

‘(ii) Article 36(1), points (a) to (g), points (k)(ii) *to (vi)* and points (l), (m) and (n), excluding deferred tax assets that rely on future profitability and arise from temporary differences;’;

(18) in Article 62, first paragraph, point (d) is replaced by the following:

‘(d) for institutions calculating risk-weighted exposure amounts in accordance with Part Three, Title II, Chapter 3, the IRB excess, where applicable, gross of tax effects, calculated in accordance with Article 159, of up to 0,6 % of risk-weighted exposure amounts calculated in accordance with Part Three, Title II, Chapter 3.’;

(19) in Article 70(1), in point (a), point (ii) is replaced by the following:

‘(ii) Article 36(1), points (a) to (g), points (k)(ii) *to (vi)* and points (l), (m) and (n), excluding the amount to be deducted for deferred tax assets that rely on future profitability and arise from temporary differences;’;

- (20) in Article 72b(3), first subparagraph, the introductory wording is replaced by the following:

‘In addition to the liabilities referred to in paragraph 2 of this Article, the resolution authority may permit liabilities to qualify as eligible liabilities instruments up to an aggregate amount that does not exceed 3,5 % of the total risk exposure amount calculated in accordance with Article 92(3), provided that:’;

- (21) in Article 72i(1), in point (a), point (ii) is replaced by the following:

‘(ii) Article 36(1), points (a) to (g), points (k)(ii) *to* (vi) and points (l), (m) and (n), excluding the amount to be deducted for deferred tax assets that rely on future profitability and arise from temporary differences;’;

- (22) *Article 74 is replaced by the following:*

‘Article 74

Holdings of capital instruments issued by regulated financial sector entities that do not qualify as regulatory capital

Institutions shall not deduct from any element of own funds direct, indirect or synthetic holdings of capital instruments issued by a regulated financial sector entity that do not qualify as regulatory capital of that entity. Institutions shall apply risk weights to such holdings in accordance with Part Three, Title II, Chapter 2.’;

(23) Article 84 is amended as follows :

(a) paragraph 1 is amended as follows;

(i) in the first subparagraph, point (a) is replaced by the following:

‘(a) the Common Equity Tier 1 capital of the subsidiary minus the lower of the following:

(i) the amount of Common Equity Tier 1 capital of that subsidiary required to meet the following:

(1) where the subsidiary is *one of those listed in Article 81(1), point (a), of this Regulation but not an investment firm or an intermediate investment holding company*, the sum of the requirement laid down in Article 92(1), point (a), of this Regulation, the requirements referred to in Articles 458 and 459 of this Regulation, the specific own funds requirements referred to in Article 104 of Directive 2013/36/EU and the combined buffer requirement defined in Article 128, point (6), of that Directive, or any local supervisory regulations in third countries insofar as those requirements are to be met by Common Equity Tier 1 capital;

(2) *where the subsidiary is an investment firm or an intermediate investment holding company, the sum of the requirement laid down in Article 11 of Regulation (EU) 2019/2033, the specific own funds requirements referred to in Article 39(2), point (a), of Directive (EU) 2019/2034, or any local supervisory regulations in third countries, insofar as those requirements are to be met by Common Equity Tier 1 capital;*

(ii) *the amount of consolidated Common Equity Tier 1 capital that relates to that subsidiary that is required on a consolidated basis to meet the sum of the requirement laid down in Article 92(1), point (a), of this Regulation, the requirements referred to in Articles 458 and 459 of this Regulation, the specific own funds requirements referred to in Article 104 of Directive 2013/36/EU and the combined buffer requirement defined in Article 128, point (6), of that Directive, or any local supervisory regulations in third countries, insofar as those requirements are to be met by Common Equity Tier 1 capital;’;*

(ii) the following subparagraph is added:

‘By way of derogation from the first subparagraph, point (a), the competent authority may allow an institution to subtract either of the amounts referred to in point (a)(i) or (ii), once that institution has demonstrated to the satisfaction of the competent authority that the additional amount of minority interest is available to absorb losses at consolidated level.’;

(b) *in paragraph 5, point (c) is replaced by the following:*

‘(c) it consolidates a subsidiary institution in which it has only a minority holding by virtue of the control relationship within the meaning of Article 4(1), point (37);’;

(24) *in Article 85 paragraph 1 is amended as follows:*

(a) point (a) is replaced by the following:

‘(a) the Tier 1 capital of the subsidiary minus the lower of the following:

(i) the amount of Tier 1 capital of the subsidiary required to meet the following:

(1) where the subsidiary is one of those listed in Article 81(1), point (a), of this Regulation but not an investment firm or an intermediate investment holding company, the sum of the requirement laid down in Article 92(1), point (b), of this Regulation, the requirements referred to in Articles 458 and 459 of this Regulation, the specific own funds requirements referred to in Article 104 of Directive 2013/36/EU and the combined buffer requirement defined in Article 128, point (6), of that Directive, or any local supervisory regulations in third countries insofar as those requirements are to be met by Tier 1 capital;

(2) *where the subsidiary is an investment firm or an intermediate investment holding company, the sum of the requirement laid down in Article 11 of Regulation (EU) 2019/2033, the specific own funds requirements referred to in Article 39(2), point (a), of Directive (EU) 2019/2034, or any local supervisory regulations in third countries insofar as those requirements are to be met by Tier 1 capital;*

(ii) *the amount of consolidated Tier 1 capital that relates to that subsidiary that is required on a consolidated basis to meet the sum of the requirement laid down in Article 92(1), point (b), of this Regulation, the requirements referred to in Articles 458 and 459 of this Regulation, the specific own funds requirements referred to in Article 104 of Directive 2013/36/EU and the combined buffer requirement defined in Article 128, point (6), of that Directive, or any local supervisory regulations in third countries, insofar as those requirements are to be met by Tier 1 capital;’;*

(b) *the following subparagraph is added:*

‘By way of derogation from the first subparagraph, point (a), the competent authority may allow an institution to subtract either of the amounts referred to in point (a)(i) or (ii), once that institution has demonstrated to the satisfaction of the competent authority that the additional amount of Tier 1 capital is available to absorb losses at consolidated level.’;

(25) *in Article 87, paragraph 1 is amended as follows:*

(a) point (a) is replaced by the following:

‘(a) the own funds of the subsidiary minus the lower of the following:

(i) the amount of own funds of the subsidiary required to meet the following:

- (1) where the subsidiary is one of those listed in Article 81(1), point (a), of this Regulation but not an investment firm or an intermediate investment holding company, the sum of the requirement laid down in Article 92(1), point (c), of this Regulation, the requirements referred to in Articles 458 and 459 of this Regulation, the specific own funds requirements referred to in Article 104 of Directive 2013/36/EU and the combined buffer requirement defined in Article 128, point (6), of that Directive, or any local supervisory regulations in third countries insofar as those requirements are to be met by own funds;*
- (2) where the subsidiary is an investment firm or an intermediate investment holding company, the sum of the requirement laid down in Article 11 of Regulation (EU) 2019/2033, the specific own funds requirements referred to in Article 39(2), point (a), of Directive (EU) 2019/2034, or any local supervisory regulations in third countries insofar as those requirements are to be met by own funds;*

- (ii) *the amount of own funds that relates to that subsidiary that is required on a consolidated basis to meet the sum of the requirement laid down in Article 92(1), point (c), of this Regulation, the requirements referred to in Articles 458 and 459 of this Regulation, the specific own funds requirements referred to in Article 104 of Directive 2013/36/EU and the combined buffer requirement defined in Article 128, point (6), of that Directive, or any local supervisory regulations in third countries, insofar as those requirements are to be met by own funds;*

■

- (b) *the following subparagraph is added:*

'By way of derogation from the first subparagraph, point (a), the competent authority may allow an institution to subtract either of the amounts referred to in point (a)(i) or (ii), once that institution has demonstrated to the satisfaction of the competent authority that the additional amount of own funds is available to absorb losses at consolidated level.'

(26) the following article is inserted:

‘Article 88b

Undertakings in third countries

For the purposes of this Title, the terms “investment firm” and “institution” shall be understood to include undertakings established in third countries, which would, if established in the Union, fall under the definitions of those terms in this Regulation.’;

(27) ■ Article 89 ■ is *amended as follows*:

(a) *paragraphs 1 and 2 are* replaced by the following:

- ‘1. A qualifying holding, the amount of which exceeds 15 % of the eligible capital of the institution, in an undertaking which is not a financial sector entity, shall be subject to the provisions laid down in paragraph 3.
2. *The total amount of the qualifying holdings of an institution in undertakings other than those referred to in paragraph 1 that exceeds 60 % of its eligible capital shall be subject to paragraph 3.*’;

(b) *paragraph 4 is deleted*;

(28) Article 92 is amended as follows:

(a) *paragraphs* 3 and 4 are replaced by the following:

‘3. *Institutions* shall calculate the total risk exposure amount as follows:

$$\text{TREA} = \max \{ \text{U-TREA}; x \cdot \text{S-TREA} \}$$

where:

TREA = the total risk exposure amount of the entity;

U-TREA = the un-floored total risk exposure amount of the entity
calculated in accordance with paragraph 4;

S-TREA = the standardised total risk exposure amount of the entity
calculated in accordance with paragraph 5;

$x = 72,5 \%$.

*By way of derogation from the first subparagraph of this paragraph, a Member State may decide that the total risk exposure amount shall be **the un-floored total risk exposure amount**, calculated in accordance with paragraph 4, for institutions which are part of a group with a parent institution in the same Member State, provided that that parent institution or, in the case of groups composed of a central body and permanently affiliated institutions, the whole as constituted by the central body together with its affiliated institutions, calculates its total risk exposure amount in accordance with the first subparagraph of this paragraph on a consolidated basis.*

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4. The un-floored total risk exposure amount shall be calculated as the sum of points (a) to (g) of this paragraph after having taken into account paragraph **6 of this Article**:

- (a) the risk-weighted exposure amounts for credit risk, including counterparty credit risk, and dilution risk, calculated in accordance with Title II of this Part and Article 379, in respect of all business activities of an institution, excluding risk-weighted exposure amounts from the trading-book business of the institution ;
- (b) the own funds requirements for the trading-book business of an institution for the following:
 - (i) market risk, calculated in accordance with Title IV of this Part;

- (ii) large exposures exceeding the limits specified in Articles 395 to 401, to the extent that an institution is permitted to exceed those limits, as determined in accordance with Part Four;
- (c) the own funds requirements for market risk, calculated in accordance with Title IV of this Part for all non-trading book business activities that are subject to foreign exchange risk or commodity risk;
- (d) the own funds requirements for settlement risk, calculated in accordance with Articles 378 and 380;
- (e) the own funds requirements for credit valuation adjustment risk, calculated in accordance with Title VI of this Part;
- (f) the own funds requirements for operational risk, calculated in accordance with Title III of this Part;
- (g) the risk-weighted exposure amounts for counterparty *credit* risk arising from the trading book business of the institution for the following types of transactions and agreements, calculated in accordance with Title II of this Part:
 - (i) contracts listed in Annex II and credit derivatives;

- (ii) repurchase transactions, securities or commodities lending or borrowing transactions based on securities or commodities;
- (iii) margin lending transactions based on securities or commodities;
- (iv) long settlement transactions.’;

(b) the following paragraphs ■ are added:

‘5. The standardised total risk exposure amount shall be calculated as the sum of paragraph 4, points (a) to (g), after having taken into account paragraph 6 and the following requirements:

- (a) the risk-weighted exposure amounts for credit risk, including counterparty credit risk, and dilution risk, referred to in paragraph 4, point (a), and for counterparty *credit* risk arising from the trading book business of the institution ■ as referred to in point (g) of that paragraph shall be calculated without using any of the following approaches:
 - (i) the internal model approach for master netting agreements set out in Article 221;
 - (ii) the Internal Ratings Based Approach set out in Title II, Chapter 3;

- (iii) the Securitisation Internal Ratings Based Approach set out in Articles 258, 259 and 260 and the Internal Assessment Approach set out in Article 265;
 - (iv) the Internal Model Method set out in Title II, Chapter 6, Section 6;
- (b) the own funds requirements for market risk for the trading book business referred to in paragraph 4, point (b)(i), *shall be calculated without using:*
- (i) *the alternative internal model approach set out in Title IV, Chapter 1b; or*
 - (ii) *any approach listed under point (a) of this paragraph, where applicable;*
- (c) *the own funds requirements* for all non-trading book business activities of an institution that are subject to foreign exchange risk or commodity risk referred to in **■** paragraph 4, *point (c), of this Article* shall be calculated without using the alternative internal model approach set out in Title IV, Chapter 1b.

■

6. The following provisions shall apply to the calculations of the **■** un-floored *total* risk exposure amount referred to in paragraph 4 and of the standardised *total* risk exposure amount referred to in paragraph 5:

- (a) the own funds requirements referred to in paragraph 4, points (d), (e) and (f), shall include those arising from all business activities of an institution;
- (b) institutions shall multiply the own funds requirements set out in paragraph 4, points (b) to (f), by 12,5.’;

(29) in Article 92a(1), point (a) is replaced by the following:

- ‘(a) a risk-based ratio of 18 %, representing the own funds and eligible liabilities of the institution expressed as a percentage of the total risk exposure amount calculated in accordance with Article 92(3);’;

(30) *Article 94 is amended as follows:*

(a) *in paragraph 1, the introductory wording is replaced by the following:*

‘By way of derogation from Article 92(4), point (b), and Article 92(5), point (b), institutions may calculate the own funds requirement for their trading-book business in accordance with paragraph 2 of this Article, provided that the size of the institutions’ on- and off-balance-sheet trading-book business is equal to or less than both of the following thresholds on the basis of an assessment carried out on a monthly basis using the data as of the last day of the month:’;

(b) *in paragraph 2, points (a) and (b) are replaced by the following:*

‘(a) for the contracts listed in Annex II, point 1, contracts relating to equities which are referred to in point 3 of that Annex and credit derivatives, institutions may exempt those positions from the own funds requirement referred to in Article 92(4), point (b), and Article 92(5), point (b);

(b) for trading book positions other than those referred to in point (a) of this paragraph, institutions may replace the own funds requirement referred to in Article 92(4), point (b), and Article 92(5), point (b), with the requirement calculated in accordance with Article 92(4), point (a), and Article 92(5), point (a).’;

(c) *paragraph 3 is amended as follows:*

(i) *in the first subparagraph, point (c) is replaced by the following:*

‘(c) the absolute value of the aggregated long position shall be summed with the absolute value of the aggregated short position.’;

(ii) *the following subparagraphs are added:*

‘For the purposes of the first subparagraph, a long position is one where the market value of the position increases when the value of its main risk driver increases, and a short position is one where the market value of the position decreases when the value of its main risk driver increases.

For the purposes of the first subparagraph, the value of the aggregated long (short) position shall be equal to the sum of the values of the individual long (short) positions included in the calculation in accordance with point (a).’;

(d) *the following paragraph is added:*

‘10. EBA shall develop draft regulatory technical standards to specify the method for identifying the main risk driver of a position and for determining whether a transaction represents a long or a short position as referred to in paragraph 3 of this Article, and Articles 273a(3) and 325a(2).

In developing those draft regulatory technical standards, EBA shall take into consideration the method developed for the regulatory technical standards mandated in accordance with Article 279a(3), point (b).

EBA shall submit those draft regulatory technical standards to the Commission by ... [12 months from the date of entry into force of this amending Regulation].

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.’;

(31) *in Article 95(2), point (a) is replaced by the following:*

‘(a) the sum of the items referred to in Article 92(4), points (a) to (e) and point (g), after applying Article 92(6);’;

(32) *in Article 96(2), point (a) is replaced by the following:*

‘(a) Article 92(4), points (a) to (e) and point (g), after applying Article 92(6);’;

(33) in Article 102, paragraph 4 is replaced by the following:

‘4. For the purpose of calculating the own funds requirements for market risk in accordance with the approach referred to in Article 325(1), point (b), trading book positions shall be assigned to trading desks.’;

(34) Article 104 is replaced by the following:

‘Article 104

Inclusion in the trading book

1. An institution shall have in place clearly defined policies and procedures for determining which positions to include in the trading book to calculate its own funds requirements, in accordance with Article 102 and this Article, taking into account its risk management capabilities and practices. An institution shall fully document its compliance with those policies and procedures, shall subject them to an internal audit on at least a yearly basis and shall make the results of that audit available to the competent authorities.

An institution shall have in place an independent risk control function which shall evaluate, on an ongoing basis, whether its instruments are being properly assigned to the trading book or the non-trading book.

2. Institutions shall assign positions in the following instruments to the trading book:
 - (a) instruments that meet the criteria set out in Article 325(6), (7) and (8), for the inclusion in the alternative correlation trading portfolio (ACTP);

- (b) instruments that would give rise to a net short credit or net short equity position in the non-trading book, with the exception of the own liabilities of the institution, unless such positions meet the criteria referred to in point (e);
- (c) instruments resulting from securities underwriting commitments, where those underwriting commitments relate only to securities that are expected to be purchased by the institution on the settlement date;
- (d) *instruments* classified unambiguously as having a trading purpose under the accounting framework applicable to the institution;
- (e) instruments resulting from market-making activities;
- (f) positions held with trading intent in CIUs, provided that those CIUs meet at least one of the conditions set out in paragraph 8;
- (g) listed equities;
- (h) trading-related securities financing transactions;
- (i) options, or other derivatives, embedded in the own liabilities of the institution
■ in the non-trading book that relate to credit risk or equity risk.

For the purposes of the first subparagraph, point (b), an institution shall have a net short equity position where a decrease in the equity's price results in a profit for the institution. An institution shall have a net short credit position where the credit spread increase, or the deterioration in the creditworthiness of the issuer or group of issuers, results in a profit for the institution. Institutions shall continuously monitor whether instruments give rise to a net short credit or net short equity position in the non-trading book.

For the purposes of the first subparagraph, point (i), an institution shall split the embedded option, *or other derivative*, from its own liability ■ in the non-trading book that *relates* to credit risk or equity risk. *It shall assign the embedded option, or other derivative, to the trading book and shall leave the own liability in the non-trading book. Where, due to its nature, it is not possible to split the instrument, an institution shall assign the whole instrument to the trading book. In such a case, it shall duly document the reason for applying that treatment.*

3. Institutions shall not assign positions in the following instruments to the trading book:
- (a) instruments designated for securitisation warehousing;
 - (b) real estate holdings-related instruments;
 - (c) unlisted equities;
 - (d) instruments related to retail and SME credit;
 - (e) positions in other CIUs than those referred to in paragraph 2, point (f);
 - (f) derivative contracts and CIUs with one or more of the underlying instruments referred to in points (a) to (d) of this paragraph;
 - (g) instruments held for hedging a particular risk of one or more positions in an instrument referred to in points (a) to (f), ***(h) and (i) of this paragraph;***
 - (h) own liabilities of the institution, unless such instruments meet the criteria referred to in paragraph 2, point (e), ***or the criteria referred to in paragraph 2, third subparagraph;***
 - (i) ***instruments in hedge funds.***

4. By way of derogation from paragraph 2, an institution may assign to the non-trading book a position in an instrument referred to in points (d) to (i) of that paragraph, subject to the approval of its competent authority. The competent authority shall give its approval where the institution has demonstrated to the satisfaction of its competent authority that the position is not held with trading intent or does not hedge positions held with trading intent.
5. *By way of derogation from paragraph 3, an institution may assign to the trading book a position in an instrument referred to in point (i) of that paragraph, subject to the approval of its competent authority. The competent authority shall give its approval where the institution has demonstrated to the satisfaction of its competent authority that the position is held with trading intent, or hedges positions held with trading intent, and that the institution meets at least one of the conditions set out in paragraph 8 for that position.*

6. **Where** an institution has assigned to the trading book a position in an instrument other than the instruments referred to in paragraph 2, point (a), (b) or (c), the institution's competent authority may ask the institution to provide evidence to justify such assignment. Where the institution fails to provide suitable evidence, its competent authority may require the institution to reassign that position to the non-trading book.
7. Where an institution has assigned to the non-trading book a position in an instrument other than the instruments referred to in paragraph 3, the institution's competent authority may ask the institution to provide evidence to justify such assignment. Where the institution fails to provide suitable evidence, its competent authority may require the institution to reassign that position to the trading book.

8. An institution shall assign to the trading book a position in a CIU, *other than the positions referred to in paragraph 3, point (f)*, that is held with trading intent **■**, where the institution meets any of the following conditions:
- (a) the institution is able to obtain sufficient information about the individual underlying exposures of the CIU;
 - (b) the institution is not able to obtain sufficient information about the individual underlying exposures of the CIU, but the institution has knowledge of the content of the mandate of the CIU and is able to obtain daily price quotes for the CIU.
9. EBA shall develop draft regulatory technical standards to further specify the process that institutions are to use to calculate and monitor net short credit or net short equity positions in the non-trading book referred to in the paragraph 2, point (b).

EBA shall submit those draft regulatory technical standards to the Commission by ... [36 months from the date of entry into force of this *amending* Regulation].

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.’;

(35) Article 104a is amended as follows:

(a) in paragraph 1, the second subparagraph is replaced by the following:

‘EBA shall monitor the range of supervisory practices and shall issue by ... *[36 months from the date of entry into force of this amending Regulation]* guidelines, in accordance with Article 16 of Regulation (EU) No 1093/2010, on what exceptional circumstances entail for the purposes of the first subparagraph of this paragraph and of paragraph 5 of this Article. Until EBA issues those guidelines, competent authorities shall notify EBA of, and shall provide a rationale for, their decisions on whether or not to permit an institution to reclassify a position as referred to in paragraph 2 of this Article.’;

(b) paragraph 5 is replaced by the following:

‘5. The reclassification of a position in accordance with this Article shall be irrevocable, except in the exceptional circumstances referred to in paragraph 1.’;

(c) the following paragraph is added:

‘6. By way of derogation from paragraph 1 of this Article, an institution may reclassify a non-trading book position as a trading book position pursuant to Article 104(2), point (d), without seeking permission from its competent authority. In such a case, the requirements laid down in paragraphs 3 and 4 of this Article shall continue to apply to the institution. The institution shall immediately notify its competent authority where such a reclassification has occurred.’;

(36) Article 104b is amended as follows:

(a) paragraph 1 is replaced by the following:

‘1. For the purpose of calculating the own funds requirements for market risk in accordance with the approach referred to in Article 325(1), point (b), institutions shall establish trading desks and shall assign each of their trading book positions and their non-trading book positions referred to in paragraphs 5 and 6 of this Article to one of those trading desks. Trading book positions shall be attributed to the same trading desk only where those positions are in compliance with the agreed business strategy for that trading desk and are consistently managed and monitored in accordance with paragraph 2 of this Article.’;

(b) the following paragraphs are added:

- ‘5. To calculate their own funds requirements for market risk, institutions shall assign each of their non-trading book positions that are subject to foreign exchange risk or commodity risk to trading desks established in accordance with paragraph 1 that manage risks that are similar to the risks of those positions.
6. By way of derogation from paragraph 5, institutions may, when calculating their own funds requirements for market risk, establish one or more trading desks to which they assign exclusively non-trading book positions that are subject to foreign exchange risk or commodity risk. Those trading desks shall not be subject to the requirements set out in paragraphs 1, 2 and 3.’;

(37) the following article is inserted:

‘Article 104c

Treatment of foreign exchange risk hedges of capital ratios

1. An institution which has deliberately taken a risk position in order to hedge, at least partially, against adverse movements in foreign exchange rates on any of its capital ratios as referred to in Article 92(1), points (a), (b) and (c), may, subject to the permission of its competent authority, exclude that risk position from the own funds requirements for foreign exchange risk referred to in Article 325(1), provided that all of the following conditions are met:
 - (a) the maximum amount of the risk position that is excluded from the own funds requirements for market risk is limited to the amount of the risk position that neutralises the sensitivity of any of the capital ratios to the adverse movements in foreign exchange rates;
 - (b) the risk position is excluded from the own funds requirements for market risk for at least six months;
 - (c) the institution has established an appropriate risk management framework for hedging the adverse movements in foreign exchange rates on any of its capital ratios, including a clear hedging strategy and governance structure;

- (d) the institution has provided to the competent authority a justification for excluding a risk position from the own funds requirements for market risk, the details of that risk position and the amount to be excluded.
- 2. Any exclusion of risk positions from the own funds requirements for market risk in accordance with paragraph 1 shall be applied consistently.
- 3. The competent authority shall approve any changes by the institution to the risk management framework referred to in paragraph 1, point (c), and to the details of the risk positions referred to in paragraph 1, point (d).
- 4. EBA shall develop draft regulatory technical standards to specify:
 - (a) the risk positions that an institution can deliberately take in order to hedge, at least partially, against the adverse movements of foreign exchange rates on any of its capital ratios referred to in paragraph 1;
 - (b) how to determine the maximum amount referred to in paragraph 1, point (a), of this Article and the manner in which an institution is to exclude that amount for each of the approaches referred to in Article 325(1);

- (c) the criteria to be met by an institution's risk management framework referred to in paragraph 1, point (c), in order to be considered appropriate for the purposes of this Article.

EBA shall submit those draft regulatory technical standards to the Commission by ... [■ 24 months from the date of entry into force of this *amending* Regulation].

Power is delegated to the Commission to *supplement this Regulation by adopting* regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.';

(38) Article 106 is amended as follows:

(a) ■ paragraphs 3 and 4 ■ are replaced by the following:

‘3. Where an institution hedges a non-trading book credit risk exposure or counterparty risk exposure using a credit derivative booked in its trading book, that credit derivative position shall be recognised as an internal hedge of the non-trading book credit risk exposure or counterparty risk exposure for the purpose of calculating the risk-weighted exposure amounts referred to in Article 92(4), point (a), where the institution enters into another credit derivative transaction with an eligible third party protection provider that meets the requirements for unfunded credit protection in the non-trading book and perfectly offsets the market risk of the internal hedge.

Both an internal hedge recognised in accordance with the first subparagraph and the credit derivative entered into with the eligible third party protection provider shall be included in the trading book for calculating the own funds requirements for market risk. For calculating the own funds requirements for market risk using the approach referred to in Article 325(1), point (b), both positions shall be assigned to the same trading desk that manages similar risks.

- 4. *Where an institution hedges a non-trading book equity risk exposure using an equity derivative booked in its trading book, that equity derivative position shall be recognised as an internal hedge of the non-trading book equity risk exposure for the purpose of calculating the risk-weighted exposure amounts referred to in Article 92(4), point (a), where the institution enters into another equity derivative transaction with an eligible third party protection provider that meets the requirements for unfunded credit protection in the non-trading book and perfectly offsets the market risk of the internal hedge.***

Both an internal hedge recognised in accordance with the first subparagraph of this paragraph and the equity derivative entered into with the eligible third party protection provider shall be included in the trading book for calculating the own funds requirements for market risk. For calculating the own funds requirements for market risk using the approach referred to in Article 325(1), point (b), both positions shall be assigned to the same trading desk that manages similar risks.’;

(b) *the following paragraph is inserted:*

‘4a. For the purposes of paragraphs 3 and 4, the credit or equity derivative transaction entered into by an institution may be composed of multiple transactions with multiple eligible third party protection providers, provided that the resulting aggregated transaction meets the conditions set out in those paragraphs.’;

(c) paragraph 5 is replaced by the following:

‘5. Where an institution hedges non-trading book interest rate risk exposures using an interest rate risk position booked in its trading book, that interest rate risk position shall be considered to be an internal hedge to assess the interest rate risk arising from non-trading book positions in accordance with Articles 84 and 98 of Directive 2013/36/EU where the following conditions are met:

- (a) *for calculating* the own funds requirements for market risk using the approaches referred to in Article 325(1), points (a), (b) and (c), the position has been assigned to a separate portfolio from the other trading book positions, the business strategy of which is solely dedicated to managing and mitigating the market risk of internal hedges of interest rate risk exposure; ■

- (b) for calculating the own funds requirements for market risk using the approach referred to in Article 325(1), point (b), the position has been assigned to a trading desk the business strategy of which is solely dedicated to managing and mitigating the market risk of internal hedges of interest rate risk exposure;
- (c) the institution has fully documented how the position mitigates the interest rate risk arising from non-trading book positions for the purposes of the requirements laid down in Articles 84 and 98 of Directive 2013/36/EU.’;
- (d) the following paragraphs are inserted:
 - ‘5a. For the purposes of paragraph 5, point (a), the institution may assign to that portfolio other interest rate risk positions entered into with third parties, or with its own trading book, as long as the institution perfectly offsets the market risk of those interest rate risk positions entered into with its own trading book by entering into opposite interest rate risk positions with third parties.

5b. The following requirements shall apply to the trading desk referred to in paragraph 5, point (b), of this Article:

- (a) that trading desk may enter into other interest rate risk positions with third parties or with other trading desks of the institution, as long as those positions meet the requirements for inclusion in the trading book referred to in Article 104 and those other trading desks perfectly offset the market risk of those other interest rate risk positions by entering into opposite interest rate risk positions with third parties;
- (b) no trading book positions other than those referred to in point (a) of this paragraph are assigned to that trading desk;
- (c) by way of derogation from Article 104b, that trading desk shall not be subject to the requirements set out in paragraphs 1, 2 and 3 of that Article.’;

(e) paragraphs 6 and 7 are replaced by the following:

- ‘6. The own funds requirements for the market risk of all positions assigned to the separate portfolio referred to in paragraph 5, point (a), or to the trading desk referred to in point (b) of that paragraph, shall be calculated on a stand-alone basis, in addition to the own funds requirements for the other trading book positions.
7. Where an institution hedges a credit valuation adjustment (CVA) risk exposure using a derivative instrument entered into with its trading book, the position in that derivative instrument shall be recognised as an internal hedge for the CVA risk exposure for the purpose of calculating the own funds requirements for CVA risk in accordance with the approaches set out in Article 383 or 384, where the following conditions are met:
 - (a) the derivative position is recognised as an eligible hedge in accordance with Article 386;
 - (b) where the derivative position is subject to any of the requirements set out in Article 325c(2), point (b) or (c), or in Article 325e(1), point (c), the institution perfectly offsets the market risk of that derivative position by entering into opposite positions with third parties.

The opposite trading book position of the internal hedge recognised in accordance with the first subparagraph shall be included in the institution's trading book to calculate the own funds requirements for market risk.';

(39) ■ in Article 107, paragraphs 1, 2 and 3 are replaced by the following:

- '1. Institutions shall apply either the Standardised Approach provided for in Chapter 2 or, where permitted by the competent authorities in accordance with Article 143, the Internal Ratings Based Approach provided for in Chapter 3 to calculate their risk-weighted exposure amounts for the purposes of Article 92(4), points (a) and (g).
2. For trade exposures and for default fund contributions to a central counterparty, institutions shall apply the treatment set out in Chapter 6, Section 9, to calculate their risk-weighted exposure amounts for the purposes of Article 92(4), points (a) and (g). For all other types of exposures to a central counterparty, institutions shall treat those exposures as follows:
 - (a) as exposures to an institution for other types of exposures to a qualifying CCP;
 - (b) as exposures to a corporate for other types of exposures to a non-qualifying CCP.

3. For the purposes of this Regulation, exposures to third-country investment firms ■, third-country credit institutions and ■ third-country ■ exchanges, as well as exposures to third-country financial institutions authorised and supervised by third-country authorities and subject to prudential requirements comparable to those applied to institutions in terms of robustness, shall be treated as exposures to an institution only if the third country applies prudential and supervisory requirements to that entity that are at least equivalent to those applied in the Union.’;

(40) Article 108 is replaced by the following:

‘Article 108

Use of credit risk mitigation techniques under the Standardised Approach and the IRB Approach for credit risk and dilution risk

1. For an exposure to which an institution applies the Standardised Approach under Chapter 2 or applies the IRB Approach under Chapter 3 but without using its own estimates of LGD under Article 143, the institution may take into account the effect of funded credit protection in accordance with Chapter 4 in the calculation of risk-weighted exposure amounts for the purposes of Article 92(4), points (a) and (g) *and*, where relevant, expected loss amounts for the purposes of the calculation referred to in Article 36(1), point (d), and Article 62, point (*d*).

2. For an exposure to which an institution applies the IRB Approach by using its own estimates of LGD under Article 143, the institution may take into account the effect of funded credit protection in *accordance with Chapter 3 in the calculation of risk-weighted exposure amounts for the purposes of Article 92(4), points (a) and (g), and, where relevant, expected loss amounts for the purposes of the calculation referred to in Article 36(1), point (d), and Article 62, point (d).*
3. Where an institution applies the IRB Approach by using its own estimates of LGD under Article 143 for both the original exposure and for comparable direct exposures to the protection provider, the institution may take into account the effect of unfunded credit protection in *accordance with Chapter 3 in the calculation of risk-weighted exposure amounts for the purposes of Article 92(4), points (a) and (g), and, where relevant, expected loss amounts for the purposes of the calculation referred to in Article 36(1), point (d), and Article 62, point (d).* In all other cases, *for those purposes*, the institution may take into account the effect of unfunded credit protection in the calculation of risk-weighted exposure amounts and expected loss amounts in accordance with Chapter 4.

4. Subject to the conditions set out in paragraph 5, *institutions may regard* loans *to natural persons* as exposures secured by a mortgage on residential property, instead of being treated as guaranteed exposures, for the purposes of Title II, Chapters 2, 3 and 4, as applicable, where in a Member State the following conditions for those loans have been fulfilled:
- (a) the majority of loans to natural persons for the purchase of residential properties in that Member State are not provided as mortgages in legal form;
 - (b) the majority of loans to *natural persons* for the purchase of residential properties in that Member State are guaranteed by a *protection provider* with a credit assessment by a nominated ECAI corresponding to credit quality step 1 or 2, that is required to repay the institution in full where the original borrower defaults;
 - (c) the institution has the legal right to take a mortgage on the residential property in the event that the *protection provider* referred to in point (b) *does not meet or becomes unable to meet its obligations under the guarantee provided*.

Competent authorities shall inform EBA where the conditions set out in the first subparagraph, points (a), (b) and (c), of this paragraph are met in the national territories of their jurisdictions, and shall provide the names of *protection providers* eligible for that treatment that fulfil the conditions of this paragraph and paragraph 5.

EBA shall publish the list of all such eligible *protection providers* on its website and update that list yearly.

5. For the purposes of paragraph 4, loans referred to in that paragraph may be treated as exposures secured by a mortgage on residential property, instead of being treated as guaranteed exposures, where all of the following conditions are met:
 - (a) for an exposure that is treated under the Standardised Approach, the exposure meets all of the requirements to be assigned to the Standardised Approach “exposures secured by mortgages on immovable property” exposure class pursuant to Articles 124 and 125 with the exception that the institution granting the loan does not hold a mortgage over the residential property;
 - (b) for an exposure that is treated under the IRB Approach, the exposure meets all of the requirements to be assigned to the IRB exposure class “retail exposures secured by residential property” referred to in Article 147(2), point (d)(ii), with the exception that the institution granting the loan does not hold a mortgage over the residential property;
 - (c) there is no mortgage lien on the residential property when the loan is granted and *for the loans granted from 1 January 2014* the borrower is contractually committed not to grant any mortgage lien without the consent of the institution that originally granted the loan;

- (d) the ***protection provider*** is an eligible protection provider as referred to in Article 201, and ■ has a credit assessment by a nominated ECAI corresponding to credit quality step 1 or 2;
 - (e) the ***protection provider*** is an institution or a financial sector entity subject to own funds requirements ***comparable*** to those applicable to institutions or insurance undertakings;
 - (f) the ***protection provider*** has established a fully-funded mutual guarantee fund or equivalent protection for insurance undertakings to absorb credit risk losses, the calibration of which is periodically reviewed by its competent authority and is subject to ***periodic*** stress testing, ***at least every two years***;
 - (g) the institution is contractually and legally empowered to take a mortgage on the residential property in the event that the ***protection provider does not meet or becomes unable to meet its obligations under the guarantee provided.***
6. ***Institutions*** that ■ use the option provided for in paragraph 4 for a given eligible ***protection provider*** under the mechanism referred to in ***that*** paragraph ■ shall do so for all its ■ exposures ***to natural persons*** guaranteed by that ***protection provider*** under that mechanism.’;

(41) the following article is inserted:

‘Article 110a

Monitoring of contractual arrangements that are not commitments

Institutions shall monitor contractual arrangements that meet all of the conditions set out in Article 5, points (10)(a) to (e), and shall document to the satisfaction of their competent authorities their compliance with all those conditions.’;

(42) Article 111 is replaced by the following:

‘Article 111

Exposure value

1. The exposure value of an asset item shall be its accounting value remaining after specific credit risk adjustments in accordance with Article 110, additional value adjustments in accordance with Article 34 related to the non-trading book business of the institution, amounts deducted in accordance with Article 36(1), point (m), and other own funds reductions related to the asset item have been applied.

2. The exposure value of an off-balance-sheet item listed in Annex I shall be the following percentage of the item's nominal value after the deduction of specific credit risk adjustments in accordance with Article 110 and amounts deducted in accordance with Article 36(1), point (m):
 - (a) 100 % for items in bucket 1;
 - (b) 50 % for items in bucket 2;
 - (c) 40 % for items in bucket 3;
 - (d) 20 % for items in bucket 4;
 - (e) 10 % for items in bucket 5.
3. The exposure value of a commitment on an off-balance-sheet item as referred to in paragraph 2 of this Article shall be the lower of the following percentages of the commitment's nominal value after the deduction of specific credit risk adjustments and amounts deducted in accordance with Article 36(1), point (m):
 - (a) the percentage referred to in paragraph 2 of this Article that is applicable to the item on which the commitment is made;
 - (b) the percentage referred to in paragraph 2 of this Article that is applicable to the type of commitment.

4. ***Contractual*** arrangements offered by an institution, but not yet accepted by the client, that would become commitments if accepted by the client, ***shall be*** treated as commitments ***and*** the percentage applicable ■ shall be ***the one*** provided for in accordance with paragraph 2.

For contractual arrangements that meet the conditions set out in Article 5, points (10)(a) to (e), the applicable percentage shall be 0 %.

5. Where an institution is using the Financial Collateral Comprehensive Method referred to in Article 223, the exposure value of securities or commodities sold, posted or lent under a securities financing transaction shall be increased by the volatility adjustment appropriate to such securities or commodities in accordance with Articles 223 and 224.
6. The exposure value of a derivative instrument listed in Annex II shall be determined in accordance with Chapter 6, taking into account the effects of contracts of novation and other netting agreements as specified in that Chapter. The exposure value of securities financing transactions and long settlement transactions may be determined in accordance with Chapter 4 or 6.

7. Where the exposure is covered by a funded credit protection, the exposure value may be amended in accordance with Chapter 4.
8. EBA shall develop draft regulatory technical standards to specify:
 - (a) the criteria that institutions are to use to assign off-balance-sheet items, with the exception of items already included in Annex I, to the buckets 1 to 5 referred to in Annex I;
 - (b) the factors that might constrain institutions' ability to cancel the unconditionally cancellable commitments referred to in Annex I;
 - (c) the process for notifying EBA about institutions' classification of other off-balance-sheet items carrying similar risks as those referred to in Annex I.

EBA shall submit those draft regulatory technical standards to the Commission by ... [12 months from the date of entry into force of this amending Regulation].

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.';

(43) Article 112 is amended as follows

(a) *point (i) is* replaced by the following:

‘(i) exposures secured by mortgages on immovable property and ADC exposures;’;

(b) point (k) is replaced by the following:

‘(k) subordinated debt exposures;’;

(44) Article 113 is amended as follows:

(a) paragraph 1 is replaced by the following:

‘1. To calculate risk-weighted exposure amounts, risk weights shall be applied to all exposures, unless those exposures **are** deducted from own funds **or are subject to the treatment set out in Article 72e(5), first subparagraph**, in accordance with **the provisions of** Section 2 of this Regulation. **The application of risk weights shall be** based on the exposure class to which **the exposure is** assigned and, to the extent specified in Section 2, **its** credit quality **■**. Credit quality may be determined by reference to the credit assessments of ECAIs or the credit assessments of export credit agencies in accordance with Section 3. With the exception of exposures assigned to the exposure classes set out in Article 112, **points** (a), (b), (c) and (e), **■** of this Regulation where the assessment in accordance with Article 79, point (b), of Directive 2013/36/EU reflects higher risk characteristics than those implied by the credit **quality step to which the exposure would be assigned based on the applicable credit** assessment of the nominated ECAI or export credit agency, the institution shall assign a risk weight at least one credit quality step higher than the risk weight implied by the credit assessment of the nominated ECAI or export credit agency.’;

(b) paragraph 3 is replaced by the following:

‘3. Where an exposure is subject to credit protection, the exposure value or the risk weight applicable to that exposure, as appropriate, may be amended in accordance with this Chapter and Chapter 4.’;

(c) *paragraph 5 is replaced by the following:*

‘5. The exposure value of any item for which no risk weight is provided for under this Chapter shall be assigned a risk weight of 100 %.’;

(d) *in paragraph 6, the first subparagraph is amended as follows:*

(i) the introductory wording is replaced by the following:

‘With the exception of exposures giving rise to Common Equity Tier 1, Additional Tier 1 or Tier 2 items, an institution may, subject to the prior approval of the competent authorities, decide not to apply the requirements of paragraph 1 of this Article to the exposures of that institution to a counterparty which is its parent undertaking, its subsidiary, a subsidiary of its parent undertaking, or an undertaking linked to the institution by a relationship within the meaning of Article 22(7) of Directive 2013/34/EU. Competent authorities are empowered to grant approval if the following conditions are fulfilled:’;

(ii) *point (a) is replaced by the following:*

‘(a) the counterparty is an institution or a financial institution subject to appropriate prudential requirements;’;

(45) *Article 115 is amended as follows:*

(a) the following paragraph is inserted:

‘-1. Exposures to regional governments or local authorities for which a credit assessment by a nominated ECAI is available shall be assigned a risk weight in accordance with Table 1 which corresponds to the credit assessment of the ECAI in accordance with Article 136.

Table 1

<i>Credit quality step</i>	<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>	<i>6</i>
<i>Risk weight</i>	<i>20 %</i>	<i>50 %</i>	<i>50 %</i>	<i>100 %</i>	<i>100 %</i>	<i>150 %</i>

’;

(b) paragraph 1 is replaced by the following:

- ‘1. Exposures to regional governments or local authorities for which a credit assessment by a nominated ECAI is not available shall be assigned a risk weight in accordance with the credit quality step to which exposures to the central government of the jurisdiction in which regional governments or local authorities are incorporated are assigned in accordance with Table 2.*

Table 2

<i>Credit quality step</i>	<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>	<i>6</i>
<i>Risk weight</i>	<i>20 %</i>	<i>50 %</i>	<i>100 %</i>	<i>100 %</i>	<i>100 %</i>	<i>150 %</i>

For exposures referred to in the first subparagraph, a risk weight of 100 % shall be assigned where the central government of the jurisdiction in which regional governments or local authorities are incorporated is unrated .’;

(c) in paragraph 2, the first subparagraph is replaced by the following:

‘By way of derogation from paragraphs -1 and 1, exposures to regional governments or local authorities shall be treated as exposures to the central government in whose jurisdiction they are established where there is no difference in risk between such exposures because of the specific revenue-raising powers of the former, and the existence of specific institutional arrangements the effect of which is to reduce their risk of default.’;

(d) *paragraph 3 is replaced by the following:*

‘3. Exposures to churches or religious communities constituted in the form of a legal person under public law shall, in so far as they raise taxes in accordance with legal acts conferring on them the right to do so, be treated as exposures to regional governments and local authorities. In that case, paragraph 2 shall not apply.’;

(e) *in paragraph 4, the first subparagraph is replaced by the following:*

‘By way of derogation from paragraphs -1 and 1, where competent authorities of a third-country which applies supervisory and regulatory arrangements at least equivalent to those applied in the Union treat exposures to regional governments or local authorities as exposures to their central government and there is no difference in risk between such exposures because of the specific revenue-raising powers of regional government or local authorities and to specific institutional arrangements to reduce the risk of default, institutions may risk weight exposures to such regional governments and local authorities in the same manner.’

(f) *paragraph 5 is replaced by the following:*

‘5. By way of derogation from paragraphs -1 and 1, exposures to regional governments or local authorities of the Member States that are not referred to in paragraphs 2, 3 and 4 and are denominated and funded in the domestic currency of that regional government or local authority shall be assigned a risk weight of 20 %.’;

(46) *Article 116 is amended as follows:*

(a) *paragraph 2 is replaced by the following:*

‘2. Exposures to public sector entities for which a credit assessment by a nominated ECAI is available shall be treated in accordance with Article 115(-1).’;

(b) *in paragraph 4, the following subparagraph is added:*

‘EBA shall maintain a publicly available database of all public sector entities within the Union referred to in the first subparagraph.’;

(47) in Article 117(1), the first subparagraph is replaced by the following:

‘Exposures to multilateral development banks that are not referred to in paragraph 2 and for which a credit assessment by a nominated ECAI is available shall be assigned a risk weight in accordance with Table 1. Exposures to multilateral development banks that are not referred to in paragraph 2 for which a credit assessment by a nominated ECAI is not available shall be assigned a risk weight of 50 %.

Table 1

<i>Credit quality step</i>	<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>	<i>6</i>
<i>Risk weight</i>	<i>20 %</i>	<i>30 %</i>	<i>50 %</i>	<i>100 %</i>	<i>100 %</i>	<i>150 %</i>

’;

(48) in Article 119, paragraphs 2 and 3 are deleted;

(49) in Article 120, paragraphs 1 and 2 are replaced by the following:

- ‘1. Exposures to institutions for which a credit assessment by a nominated ECAI is available shall be assigned a risk weight in accordance with Table 1 which corresponds to the credit assessment of the ECAI in accordance with Article 136.

Table 1

Credit quality step	1	2	3	4	5	6
Risk weight	20 %	30 %	50 %	100 %	100 %	150 %

2. Exposures to institutions with an original maturity of three months or less for which a credit assessment by a nominated ECAI is available and exposures which arise from the movement of goods across national borders with an original maturity of six months or less and for which a credit assessment by a nominated ECAI is available, shall be assigned a risk weight in accordance with Table 2 which corresponds to the credit assessment of the ECAI in accordance with Article 136.

Table 2

Credit quality step	1	2	3	4	5	6
Risk weight	20 %	20 %	20 %	50 %	50 %	150 %

’;
;

(50) Article 121 is replaced by the following:

‘Article 121

Exposures to unrated institutions

1. Exposures to institutions for which a credit assessment by a nominated ECAI is not available shall be assigned to one of the following grades:
 - (a) where all of the following conditions are met, exposures to institutions shall be assigned to Grade A:
 - (i) the institution has adequate capacity to meet its financial commitments, including repayments of principal and interest, in a timely manner, for the projected life of the assets or exposures and irrespective of economic cycles and business conditions;
 - (ii) the institution meets or exceeds the requirement laid down in Article 92(1) *of this Regulation, taking into account Article 458(2), points (d)(i) and (vi), and Article 459, point (a), of this Regulation where applicable*, the specific own funds requirements referred to in Article 104 of Directive 2013/36/EU, the combined buffer requirement defined in Article 128, point (6), of Directive 2013/36/EU, *or* any equivalent *and* additional local supervisory or regulatory requirements in third countries insofar as those requirements are published and are to be met by Common Equity Tier 1 capital, Tier 1 capital or own funds, *as applicable*;

- (iii) information about *whether* the requirements referred to in point (ii) of this point *are met or exceeded by the institution* is publicly disclosed or otherwise made available *to the lending institution*;
 - (iv) the assessment *performed by the lending institution* in accordance with Article 79 of Directive 2013/36/EU has not revealed that the institution does not meet the conditions set out in points (i) and (ii) of this point;
- (b) where all of the following conditions are met and at least one of the conditions in point (a) of this paragraph is not met, exposures to institutions shall be assigned to Grade B:
- (i) the institution is subject to substantial credit risk, including repayment capacities that are dependent on stable or favourable economic or business conditions;
 - (ii) the institution meets or exceeds the requirement laid down in Article 92(1) of this Regulation, *taking into account* Article 458(2), *point (d)(i)*, and Article 459, point (a), *of this Regulation, where applicable*, the specific own funds requirements referred to in Article 104 of Directive 2013/36/EU, *or* any equivalent *and* additional local supervisory or regulatory requirements *in third countries* insofar as those requirements are published and are to be met by Common Equity Tier 1 capital, Tier 1 capital *or* own funds, *as applicable*;

- (iii) information about *whether* the requirements referred to in point (ii) of this point *are met or exceeded by the institution* is publicly disclosed or otherwise made available *to the lending institution*;
 - (iv) the assessment performed *by the lending institution* in accordance with Article 79 of Directive 2013/36/EU has not revealed that the institution does not meet the conditions set out in points (i) and (ii) of this point.
- (c) where *exposures to institutions are not assigned* to Grade A or **B**, or where any of the following conditions is met, exposures to institutions shall be assigned to Grade C:
- (i) the institution has material default risks and limited margins of safety;
 - (ii) adverse business, financial or economic conditions are very likely to lead, or have led, to the institution's inability to meet its financial commitments;

- (iii) where audited financial statements are required by law for the institution, the external auditor has issued an adverse audit opinion or has expressed substantial doubt about the institution's ability to continue as a going concern in its audited financial statements or audited reports within the previous 12 months.

For the purposes of the first subparagraph, point (b)(ii), of this paragraph, equivalent *and* additional local supervisory or regulatory requirements shall not include capital buffers equivalent to those defined in Article 128 of Directive 2013/36/EU.

- 2. *For exposures to financial institutions that are treated as exposures to institutions in accordance with Article 119(5), for the purpose of assessing whether the conditions set out in paragraph 1, points (a)(ii) and (b)(ii), of this Article are met by those financial institutions, institutions shall assess whether those financial institutions meet or exceed any comparable prudential requirements.*
- 3. Exposures assigned to Grade A, B or C in accordance with paragraph 1 shall be assigned a risk weight as follows:
 - (a) exposures assigned to Grade A, B or C which meet any of the following conditions shall be assigned a risk weight for short-term exposures in accordance with Table 1:
 - (i) the exposure has an original maturity of three months or less;
 - (ii) the exposure has an original maturity of six months or less and arises from the movement of goods across national borders;

- (b) exposures assigned to Grade A which are not short term shall be assigned a risk weight of 30 % where all of the following conditions are met:
- (i) the exposure does not meet any of the conditions set out in point (a);
 - (ii) the institution's Common Equity Tier 1 capital ratio is equal to or higher than 14 %;
 - (iii) the institution's leverage ratio is *equal to or* higher than 5 %;
- (c) exposures assigned to Grade A, B or C that do not meet the conditions set out in point (a) or (b) shall be assigned a risk weight in accordance with Table 1.

Where an exposure to an institution is not denominated in the domestic currency of the jurisdiction of incorporation of that institution, or where that institution has booked the credit obligation in a branch in a different jurisdiction and the exposure is not in the domestic currency of the jurisdiction in which the branch operates, the risk weight assigned in accordance with point (a), (b) or (c), to exposures other than those with a maturity of one year or less stemming from self-liquidating, trade-related contingent items that arise from the movement of goods across national borders shall not be lower than the risk weight of an exposure to the central government of the country where the institution is incorporated.

Table 1

Credit risk assessment	Grade A	Grade B	Grade C
Risk weight for short-term exposures	20 %	50 %	150 %
Risk weight	40 %	75 %	150 %

’;
;

(51) Article 122 is amended as follows:

(a) in paragraph 1, Table 6 is replaced by the following:

‘Table 1

Credit quality step	1	2	3	4	5	6
Risk weight	20 %	50 %	75 %	100 %	150 %	150 %

’;

(b) paragraph 2 is replaced by the following:

‘2. Exposures for which such a credit assessment is not available shall be assigned a risk weight of 100 %.’;

(52) the following article is inserted:

‘Article 122a

Specialised lending exposures

1. Within the corporate exposure class referred to in Article 112, point (g), institutions shall separately identify as specialised lending exposures, exposures with all of the following characteristics:

(a) the exposure is to an entity which was created specifically to finance or operate physical assets or is an exposure that is economically comparable to such an exposure;

- (b) the exposure is not ■ related to the financing of residential property or commercial immovable property *and is within the definitions of object finance, project finance or commodity finance exposures laid down in paragraph 3*;
 - (c) the contractual arrangements governing the obligation related to the exposure give the institution a substantial degree of control over the assets and the income that they generate;
 - (d) the primary source of repayment of the obligation related to the exposure is the income generated by the assets being financed, rather than the independent capacity of a broader commercial enterprise.
2. Specialised lending exposures for which a directly applicable credit assessment by a nominated ECAI is available shall be assigned a risk weight in accordance with Table 1.

Table 1

Credit quality step	1	2	3	4	5	6
Risk weight	20 %	50 %	75 %	100 %	150 %	150 %

3. Specialised lending exposures for which a directly applicable credit assessment by a nominated ECAI is not available shall be assigned a risk weight as follows:
- (a) where the purpose of a specialised lending exposure is to finance the acquisition of physical assets, including ships, aircraft, satellites, railcars, and fleets, and the income to be generated by those assets comes in the form of cash flows generated by the specific physical assets that have been financed and pledged or assigned to the lender ■ (“object finance exposures”), institutions shall apply *a risk weight of* 100 %;
 -
 - (b) where the purpose of a specialised lending exposure is to provide for short-term financing of reserves, inventories or receivables of exchange-traded commodities, including crude oil, metals or crops, and the income to be generated by those reserves, inventories or receivables is to be the proceeds from the sale of the commodity (“commodity finance exposures”), institutions shall apply a risk weight of 100 %;

- (c) where the purpose of a specialised lending exposure is to finance an *individual* project, *either in the form of construction of a new capital installation or refinancing of an existing installation, with or without improvements*, for the development or acquisition of large, complex and expensive installations, including power plants, chemical processing plants, mines, transportation infrastructure, environment, and telecommunications infrastructure, *in which the lending institution looks primarily to the revenues* generated by the *financed* project, *both as the source of repayment and as security for the loan* (“project finance exposures”), institutions shall apply the following risk weights:
- (i) 130 % where the project to which the exposure is related is in the pre-operational phase;
 - (ii) provided that the adjustment to own funds requirements for credit risk referred to in Article 501a is not applied, 80 % where the project to which the exposure is related is in the operational phase and the exposure meets all of the following criteria:
 - (1) there are contractual restrictions on the ability of the obligor to perform activities that might be detrimental to lenders, including the restriction that new debt cannot be issued without the consent of existing debt providers;

- (2) the obligor has sufficient reserve funds fully funded in cash, or other financial arrangements ■ with *an entity*, to cover the contingency funding and working capital needs over the lifetime of the project being financed, *provided that the entity is assigned an ECAI rating by a recognised ECAI with a credit quality step of at least 3 or, in the case of institutions calculating risk-weighted exposure amounts and expected loss amounts in accordance with Chapter 3, where the entity does not have a credit assessment by a recognised ECAI, that entity is assigned with an internal credit rating equivalent to a credit quality step of at least 3 by the institution, provided that that entity is internally rated by the institution in accordance with the provisions of Chapter 3, Section 6;*
- (3) the *project to which the exposure is related* generates cash flows that are predictable and cover all future loan repayments;

(4) *where the revenues of the obligor are not funded by payments from a large number of users*, the source of repayment of the obligation depends on one main counterparty and that main counterparty is one of the following:

- a central bank, a central government, a regional government or a local authority, provided that they are assigned a risk weight of 0 % in accordance with Articles 114 and 115, or are assigned an ECAI rating with a credit quality step of at least 3 *by a recognised ECAI; or, in the case of institutions calculating risk-weighted exposure amounts and expected loss amounts in accordance with Chapter 3, where the central bank, central government, regional government or local authority do not have a credit assessment by a recognised ECAI, they are assigned with an internal credit rating equivalent to a credit quality step of at least 3 by the institution, provided that they are internally rated by the institution in accordance with the provisions of Chapter 3, Section 6;*

- a public sector entity, provided that that entity is assigned a risk weight of 20 % or below in accordance with Article 116, or is assigned an ECAI rating with a credit quality step of at least 3 *by a recognised ECAI or, in the case of institutions calculating risk-weighted exposure amounts and expected loss amounts in accordance with Chapter 3, where the public sector entity does not have a credit assessment by a recognised ECAI, that public sector entity is assigned with an internal credit rating equivalent to a credit quality step of at least 3 by the institution, provided that that public sector entity is internally rated by the institution in accordance with Chapter 3, Section 6;*

- a corporate entity which has been assigned an ECAI rating with a credit quality step of at least 3 *by a recognised ECAI, or, in the case of institutions calculating risk-weighted exposure amounts and expected loss amounts in accordance with Chapter 3, where the corporate entity does not have a credit assessment by a recognised ECAI, that corporate entity is assigned an internal credit rating equivalent to a credit quality step of at least 3 by the institution, provided that that corporate entity is internally rated by the institution in accordance with the provisions of Chapter 3, Section 6;*
- (5) the contractual provisions governing the exposure to the obligor provide for a high degree of protection for the lending institution in the case of a default of the obligor;
- (6) the *main counterparty, or other counterparties which similarly comply with the eligibility criteria for the main counterparty,* effectively protect the lending institution against losses resulting from the termination of the project;

- (7) all assets and contracts necessary to operate the project have been pledged to the lending institution to the extent permitted by applicable law;
 - (8) the lending institution *is* able to take control of the obligor entity *in the case of a default event*;
- (iii) 100 % where the project to which the exposure is related is in the operational phase and the exposure does not meet the conditions set out in point (ii);
- (d) for the purposes of point (c)(ii)(3), the cash flows generated shall not be considered predictable unless a substantial part of the revenues satisfies one or more of the following conditions:
- (i) the revenues are availability-based, *meaning that, once construction is completed, the obligor is entitled, as long as the contractual conditions are fulfilled, to payments from its contractual counterparties which cover operating and maintenance costs, debt service costs and equity returns as the obligor operates the project, and those payments are not subject to swings in demand, such as traffic levels, and are adjusted typically only for lack of performance or lack of availability of the asset to the public*;

- (ii) the revenues are subject to a rate-of-return regulation;
 - (iii) the revenues are subject to a take-or-pay contract;
- (e) for the purposes of point (c), the operational phase shall mean the phase in which the entity that was specifically created to finance the project, *or that is economically comparable*, meets both of the following conditions:
- (i) the entity has a positive net cash flow that is sufficient to cover any remaining contractual obligation;
 - (ii) the entity has a declining long term debt.
4. EBA shall develop draft regulatory technical standards to further specify the conditions under which the criteria set out in paragraph 3, ■ point (c)(ii), are met.

EBA shall submit those draft regulatory technical standards to the Commission by ... [24 months from ■ the date of entry into force of this *amending* Regulation].

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.’;

(53) Article 123 is replaced by the following:

‘Article 123

Retail exposures

1. Exposures that comply with all of the following criteria shall be considered retail exposures:
 - (a) the exposure is ■ to one or more natural persons *or* to an SME ■ ;
 - (b) the total amount owed to the institution, its parent undertakings and its subsidiaries, by the obligor or group of connected clients, including any exposure in default but excluding exposures secured by residential property, up to the property value shall not, to the knowledge of the institution, which shall take reasonable steps to confirm the situation, exceed EUR 1 million;
 - (c) the exposure represents one of a significant number of exposures with similar characteristics, such that the risks associated with such exposure are substantially reduced;
 - (d) the institution concerned treats the exposure in its risk management framework and manages the exposure internally as a retail exposure consistently over time and in a manner that is similar to the treatment by the institution of other retail exposures.

The present value of retail minimum lease payments shall be eligible for the retail exposure class.

By ... [12 months from the date of entry into force of this amending Regulation],
EBA shall issue guidelines, in accordance with Article 16 of Regulation (EU) No 1093/2010, to specify proportionate diversification methods under which an exposure is to be considered as one of a significant number of similar exposures as specified in the first subparagraph, point (c), of this paragraph ■ .

2. The following exposures shall not be considered to be retail exposures:
 - (a) non-debt exposures conveying a subordinated, residual claim on the assets or income of the issuer;
 - (b) debt exposures and other securities, partnerships, derivatives, or other vehicles, the economic substance of which is similar to the exposures specified in point (a);
 - (c) all other exposures in the form of securities.
3. Retail exposures as referred to in paragraph 1 shall be assigned a risk weight of 75 %, with the exception of transactor exposures, which shall be assigned a risk weight of 45 %.

4. *Where any of the criteria referred to in paragraph 1 are not met for an exposure to one or more natural persons, the exposure shall be considered a retail exposure and shall be assigned a risk weight of 100 %.*
5. By way of derogation from paragraph 3, exposures due to loans granted by an institution to pensioners or employees with a permanent contract against the unconditional transfer of part of the borrower's pension or salary to that institution shall be assigned a risk weight of 35 %, provided that all of the following conditions are met:
- (a) to repay the loan, the borrower unconditionally authorises the pension fund or employer to make direct payments to the institution by deducting the monthly payments on the loan from the borrower's monthly pension or salary;
 - (b) the risks of death, inability to work, unemployment or reduction of the net monthly pension or salary of the borrower are properly covered through an insurance policy to the benefit of the institution;
 - (c) the monthly payments to be made by the borrower on all loans that meet the conditions set out in points (a) and (b) do not in aggregate exceed 20 % of the borrower's net monthly pension or salary;
 - (d) the maximum original maturity of the loan is equal to or less than 10 years.';

(54) the following article is inserted:

‘Article 123a

Exposures with a currency mismatch

1. *For exposures to natural persons that are assigned to ■ the exposure class referred to in Article 112, point (h), or for exposures to natural persons that qualify as exposures secured by mortgages on residential property that are assigned to the exposure class referred to in Article 112, point (i), the risk weight assigned in accordance with this Chapter shall be multiplied by a factor of 1,5, whereby the resulting risk weight shall not be higher than 150 %, where the following conditions are met:*

- (a) the exposure is ■ denominated in a currency which is different from the currency of the obligor's source of income;
- (b) the obligor does not have a hedge for its payment risk due to the currency mismatch, either by a financial instrument or foreign currency income that matches the currency of the exposure, or the total of such hedges available to the borrower covers less than 90 % of *each* instalment for this exposure.

Where an institution is unable to single out those exposures with a currency mismatch, the risk weight multiplier of 1,5 shall apply to all unhedged exposures where the currency of the exposures is different from the domestic currency of the country of residence of the obligor.

2. For the purposes of this Article, source of income refers to any source that generates cash flows to the obligor, including from remittances, rental incomes or salaries, whilst excluding proceeds from selling assets or similar recourse actions by the institution.
3. ***By way of derogation from paragraph 1, where the pair of currencies referred to in paragraph 1, point (a), is composed of the euro and the currency of a Member State participating in the second stage of economic and monetary union (ERM II), the risk weight multiplier of 1,5 shall not apply.'***

(55) Articles 124, 125 and 126 are replaced by the following:

‘Article 124

Exposures secured by mortgages on immovable property

1. A non-ADC exposure that does not meet all of the conditions set out in paragraph 3, ***or any part of a non-ADC exposure that exceeds the nominal amount of the lien on the property***, shall be treated as follows:
 - (a) a non-IPRE exposure shall be ***risk weighted*** as an exposure ***to the counterparty that is*** not secured by the immovable property concerned;
 - (b) an IPRE exposure shall be assigned a risk weight of 150 %.

2. A non-ADC exposure, *up to the nominal amount of the lien on the* property, where all *of* the conditions set out in paragraph 3 of this Article are met ■ , shall be treated as follows:

(a) where the exposure is secured by a residential property, ■

(i) *a non-IPRE* exposure shall *be treated in accordance with Article 125(1):*

(ii) an IPRE exposure ■ shall be treated in accordance with Article 125(1) where it meets any of the following conditions:

- (1) the immovable property securing the exposure is the obligor's primary residence, either where the immovable property as a whole constitutes a single housing unit or where the immovable property securing the exposure is a housing unit that is a separated part within the immovable property;
- (2) the exposure is to *a natural person* and is secured by an income-producing residential housing unit, either where the immovable property as a whole constitutes a single housing unit or where the housing unit is a separated part within the immovable property, and total exposures of the institution to that *natural person* are not secured by more than four immovable properties, including those which are not residential properties or which do not meet any of the criteria set out in this point, or separate housing units within immovable properties;

- (3) the exposure ■ is to associations or cooperatives of *natural persons* that are regulated by national law and exist with the sole purpose of granting their members the use of a primary residence in the property securing the loan;
- (4) the exposure is ■ to public housing companies or not-for-profit associations that are regulated by law and exist to serve social purposes and to offer tenants long-term housing;
- (iii) *an IPRE exposure which* does not meet any of the conditions set out in point (ii) of this point, shall be treated in accordance with Article 125(2);
- (b) where the exposure is secured by commercial immovable property, it shall be treated as follows:
 - (i) a non-IPRE exposure shall be treated in accordance with Article 126(1);
 - (ii) an IPRE exposure shall be treated in accordance with Article 126(2).
- 3. In order to be eligible for the treatment *referred to in paragraph 2*, ■ an exposure secured by an immovable property shall fulfil all of the following conditions:
 - (a) the immovable property securing the exposure meets any of the following conditions:
 - (i) the immovable property has been fully completed;

- (ii) the immovable property is forest or agricultural land;
- (iii) ***the lending is to a natural person and*** the immovable property is ***either*** a residential property under construction or it is land upon which a residential property is planned to be constructed where that plan has been ***legally*** approved by all ***relevant*** authorities, ***as applicable***, and where any of the following conditions is met:
 - (1) the ***immovable*** property does not have more than four residential housing units and will be the primary residence of the obligor and the lending to the ***natural person*** is not indirectly financing ADC exposures;
 - (2) a central government, regional government or local authority or a public sector entity ***is involved***, exposures to which are treated in accordance with Article 115(2) or Article 116(4), respectively, and has the legal powers and ability to ensure that the property under construction will be finished within a reasonable time frame and is required, or has committed in a legally binding manner, to ensure completion where the construction would otherwise not be finished within such reasonable time frame; ***alternatively, there is an equivalent legal mechanism in place to ensure that the property under construction is completed within a reasonable timeframe;***

- (b) the exposure is secured by a first lien held by the institution on the immovable property, or the institution holds the first lien and any sequentially lower ranking lien on that property;
- (c) the property value is not materially dependent upon the credit quality of the obligor;
- (d) all information required at origination of the exposure and for monitoring purposes is properly documented, including information on the ability of the obligor to repay and on the valuation of the property;
- (e) the requirements set out in Article 208 are met and the valuation rules set out in Article 229(1) are complied with.

For the purposes of the first subparagraph, point (c), institutions may exclude situations where purely macro-economic factors affect both the property value and the performance of the obligor.

For the purposes of the first subparagraph, point (d), ***institutions shall put in place underwriting policies with respect to the origination of exposures secured by immovable property that include the assessment of the ability of the borrower to repay. The underwriting policies shall include the relevant metrics for that assessment and their respective maximum levels.***

4. By way of derogation from paragraph 3, point (b), in jurisdictions where junior liens provide the holder with a claim on collateral that is legally enforceable and constitutes an effective credit risk mitigant, junior liens held by an institution other than the one holding the senior lien may also be recognised, including where the institution does not hold the senior lien or does not hold a lien ranking between a more senior lien and a more junior lien both held by the institution.

For the purposes of the first subparagraph, the rules governing the liens shall ensure all of the following:

- (a) each institution holding a lien on a property can initiate the sale of the property independently from other entities holding a lien on the property;
 - (b) where the sale of the property is not carried out by means of a public auction, entities holding a senior lien take reasonable steps to obtain a fair market value or the best price that may be obtained in the circumstances when exercising any power of sale on their own.
5. *For the purpose of calculating risk-weighted exposure amounts for undrawn facilities, liens that satisfy all eligibility requirements set out in paragraph 3 and, where applicable, paragraph 4, may be recognised where drawing under the facility is conditional on the prior or simultaneous filing of a lien to the extent of the institution's interest in the lien once the facility is drawn, such that the institution does not have any interest in the lien to the extent that the facility is not drawn.*

6. For the purposes of Article 125(2) and Article 126(2), the exposure-to-value (“ETV”) ratio shall be calculated by dividing the gross exposure amount by the property value subject to the following conditions:
- (a) the gross exposure amount shall be calculated as the *accounting value of the asset item* related to the exposure secured by immovable property and any undrawn but committed amount that, once drawn, would increase the exposure value of the exposure which is secured by immovable property; *that* gross exposure amount shall be calculated without taking into account:
 - (i) *specific* credit risk adjustments *in accordance with Article 110*;
 - (ii) *additional value adjustments in accordance with Article 34 related to the non-trading book business of the institution*;
 - (iii) *amounts deducted in accordance with Article 36(1), point (m)*; and
 - (iv) other own funds reductions related to the *asset item*;
 - (b) *the gross exposure amount shall be calculated without taking into account* any type of funded or unfunded credit protection, except for pledged deposits accounts with the lending institution that meet all requirements for on-balance-sheet netting, either under master netting agreements in accordance with Articles 196 and 206 or under other on-balance-sheet netting agreements in accordance with Articles 195 and 205 and have been unconditionally and irrevocably pledged for the sole purpose of fulfilling the credit obligation related to the exposure secured by immovable property;

- (c) for exposures that are required to be treated in accordance with Article 125(2) or Article 126(2) where a party other than the institution holds a senior lien and a junior lien held by the institution is recognised under paragraph 4 of this Article, the gross exposure amount shall be calculated as the sum of the gross exposure amount of the lien held by the institution and of the gross exposure amounts for all other liens of equal or higher ranking seniority than the lien held by the institution.

For the purposes of the first subparagraph, point (a), where an institution has more than one exposure secured by the same immovable property and those exposures are secured by liens on that immovable property that are sequential in ranking order without any lien held by a third party ranking in-between, the exposures shall be treated as a single combined exposure and the gross exposure amounts for the individual exposures shall be summed up to calculate the gross exposure amount for the single combined exposure.

For the purposes of the first subparagraph, point (c), where there is insufficient information to be able to ascertain the ranking of the other liens, the institution shall treat those liens as ranking *pari passu* with the junior lien held by the institution. The institution shall first determine the risk weight in accordance with Article 125(2) or Article 126(2) (the “base risk weight”), as applicable. It shall then adjust this risk weight by a multiplier of 1,25, for the purposes of calculating the risk-weighted amounts of junior liens. Where the base risk weight corresponds to the lowest exposure-to-value bucket, the multiplier shall not be applied. The risk weight resulting from multiplying the base risk weight by 1,25 shall be capped at the risk weight that would be applied to the exposure if the requirements in paragraph 3 were not met.

7. *Exposures to a tenant under an immovable property leasing transaction under which the institution is the lessor and the tenant has an option to purchase shall qualify as exposures secured by immovable property and shall be treated in accordance with the treatment set out in Article 125 or 126 if the applicable conditions set out in this Article are met, provided that the exposure of the institution is secured by its ownership of the property.*

8. Member States shall designate an authority to be responsible for the application of paragraph 9. That authority shall be the competent authority or the designated authority.

Where the authority designated by the Member State for the application of this Article is the competent authority, it shall ensure that the relevant national bodies and authorities which have a macroprudential mandate are duly informed of the competent authority's intention to make use of this Article, and are appropriately involved in the assessment of financial stability concerns in its Member State in accordance with paragraph 9.

Where the authority designated by the Member State for the application of this Article is different from the competent authority, the Member State shall adopt the necessary provisions to ensure proper coordination and exchange of information between the competent authority and the designated authority for the proper application of this Article. In particular, authorities shall be required to cooperate closely and to share all information that might be necessary for the adequate performance of the duties imposed upon the designated authority pursuant to this Article. That cooperation shall aim to avoid any form of duplicative or inconsistent action between the competent authority and the designated authority, as well as to ensure that the interaction with other measures, in particular measures taken under Article 458 of this Regulation and Article 133 of Directive 2013/36/EU, is duly taken into account.

9. Based on the data collected under Article 430a *and* on any other relevant indicators, the authority designated in accordance with paragraph 8 of this Article shall periodically, and at least annually, assess whether the *risk* weights laid down in Articles 125 and 126 for exposures secured by immovable property located in the territory of the Member State of that authority are appropriately based on:
 - (a) the loss experience of exposures secured by immovable property;
 - (b) forward-looking immovable property market developments.

Where, on the basis of the assessment referred to in the first subparagraph, the authority designated in accordance with paragraph 8 of this Article concludes that the risk weights set out in Article 125 or 126 do not adequately reflect the actual risks related to exposures to one or more property segments secured by mortgages on residential property or on commercial immovable property located in one or more parts of the territory of the Member State of that authority, and if it considers that the inadequacy of the risk weights could adversely affect current or future financial stability in its Member State, it may increase the risk weights applicable to those exposures within the ranges determined in the fourth subparagraph of this paragraph or impose stricter criteria than those set out in paragraph 3 of this Article.

The authority designated in accordance with paragraph 8 of this Article shall notify EBA and the ESRB of any adjustments to risk weights and criteria applied pursuant to this paragraph. Within one month of receipt of that notification, EBA and the ESRB shall provide their opinion to the Member State concerned *and may indicate in that opinion, where necessary, whether they consider that the adjustments to risk weights and criteria are also recommended for other Member States*. EBA and the ESRB shall publish the risk weights and criteria for exposures referred to in Articles 125 and 126 and Article 199(1), point (a), as implemented by the relevant authority.

For the purposes of the second subparagraph of this paragraph, the authority designated in accordance with paragraph 8 of this Article may increase the risk weights laid down in Article 125(1), first subparagraph, **Article 125(2)**, first subparagraph, Article 126(1), first subparagraph, **or Article 126(2), first subparagraph, or impose stricter criteria than those set out in paragraph 3 of this Article for exposures to one or more property segments secured by mortgages on immovable property located in one or more parts of the territory of the Member State of that authority.** That authority shall not increase those *risk weights* to more than 150 %.

For the purposes of the second subparagraph of this paragraph, the authority designated in accordance with paragraph 8 of this Article ***may also reduce the percentages of the property value referred to in Article 125(1) or Article 126(1) or the exposure-to-value percentages that define the exposure-to-value risk weight bucket set out in in Article 125(2), Table 1, or in Article 126(2), Table 1.*** The relevant authority shall ensure consistency across all exposure-to-value risk weight buckets, such that the risk weight of a lower exposure-to-value risk weight bucket is always lower or equal to the risk weight of an upper exposure-to-value risk weight bucket.

10. ***Where the authority designated in accordance with paragraph 8*** sets higher risk weights or stricter criteria pursuant to **■** paragraph 9, **■** institutions shall have a six-month transitional period to apply them.

11. EBA, in close cooperation with the ESRB, shall develop draft regulatory technical standards to specify the types of factors to be considered for the assessment of the appropriateness of the risk weights referred to in **■** paragraph 9.

EBA shall submit those draft regulatory technical standards to the Commission by ... *[18 months from the date of entry into force of this amending Regulation]*.

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.

12. The ESRB may, by means of recommendations, in accordance with Article 16 of Regulation (EU) No 1092/2010, and in close cooperation with EBA, give guidance to authorities designated in accordance with paragraph 8 of this Article on both of the following:

- (a) factors which could “adversely affect current or future financial stability” referred to in paragraph 9, second subparagraph;
- (b) indicative benchmarks that the authority designated in accordance with paragraph 8 is to take into account when determining higher risk weights.

13. Institutions established in a Member State shall apply the risk weights and criteria that have been determined by the authorities of another Member State in accordance with paragraph 9 to their corresponding exposures secured by mortgages on residential property or commercial immovable property located in one or more parts of that other Member State.
14. *EBA shall develop draft regulatory technical standards to specify what constitutes an “equivalent legal mechanism in place to ensure that the property under construction is completed within a reasonable timeframe”, in accordance with paragraph 3, point (a)(iii)(2).*

EBA shall submit those draft regulatory technical standards to the Commission by ... [12 months from the date of entry into force of this amending Regulation].

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.

Article 125

Exposures secured by mortgages on residential ■ property

1. For an exposure secured by residential property *as referred to* in Article 124(2), ■ point (a)(i) *or* (ii), the part of the exposure up to 55 % of the property value ■ shall be assigned a risk weight of 20 %.

Where an institution holds a junior lien and there are more senior liens not held by that institution, to determine the part of the institution's exposure that is eligible for the 20 % risk weight, the amount of 55 % of the property value shall be reduced by the amount of the more senior liens not held by the institution.

Where liens not held by the institution rank pari passu with the lien held by the institution, to determine the part of the institution's exposure that is eligible for the 20 % risk weight, the amount of 55 % of the property value, reduced by the amount of any more senior liens not held by the institution, shall be reduced by the product of:

- (a) *55 % of the property value, reduced by the amount of more senior liens, if any, both held by the institution and held by other institutions; and*

- (b) *the amount of liens not held by the institution that rank pari passu with the lien held by the institution divided by the sum of all pari passu liens.*

Where, in accordance with Article 124(9), the competent authority or designated authority has set a higher risk weight or a lower percentage of the property value than those referred to in this paragraph, institutions shall use the risk weight or percentage set in accordance with Article 124(9).

The remaining part of the exposure referred to in the first subparagraph, if any, shall be *risk weighted* as an exposure *to the counterparty* that is not secured by residential property.

2. An exposure *as referred to in Article 124(2)*, point (a)(iii), shall be assigned **■** the risk weight set in accordance with the *respective* exposure-to-value *risk weight bucket in Table 1 ■*.

For the purposes of this paragraph, where, in accordance with Article 124(9), the competent authority or designated authority, has set a higher risk weight or a lower exposure-to-value percentage than those referred to in this paragraph, institutions shall use the risk weight or percentage set in accordance with Article 124(9).

Table 1

ETV	$ETV \leq 50 \%$	$50 \% < ETV \leq 60 \%$	$60 \% < ETV \leq 80 \%$	$80 \% < ETV \leq 90 \%$	$90 \% < ETV \leq 100 \%$	$ETV > 100 \%$
Risk weight	30 %	35 %	45 %	60 %	75 %	105 %

By way of derogation from the first subparagraph of this paragraph, institutions may apply the treatment referred to in paragraph 1 of this Article to exposures secured by residential property which is situated within the territory of a Member State, where the *competent authority of that Member State has published in accordance with Article 430a(3) loss rates for such exposures which, based on the aggregate data reported by institutions in that Member State for that national immovable property market*, do not exceed any of the following limits for losses aggregated across ■ such exposures existing in the previous year:

- (a) *the aggregated amount reported by institutions under Article 430a(1), point (a), divided by the aggregated amount reported by institutions under Article 430a(1), point (c), does not exceed 0,3 %;*
- (b) *the aggregated amount reported by institutions under Article 430a(1), point (b), divided by the aggregated amount reported by institutions under Article 430a(1), point (c), does not exceed 0,5 %.*

3. *Institutions may also apply the derogation referred to in paragraph 2, third subparagraph, of this Article in cases where the competent authority of a third country which applies supervisory and regulatory arrangements at least equivalent to those applied in the Union as determined in a decision of the Commission adopted in accordance with Article 107(4), publishes corresponding loss rates for exposures secured by residential property situated within the territory of that third country.*

Where a competent authority of a third country does not publish corresponding loss rates for exposures secured by residential property situated within the territory of that third country, EBA may publish such information for that third country, provided that valid statistical data, that are statistically representative of the corresponding residential property market, are available.

Article 126

Exposures secured by mortgages on commercial immovable property

- 1. For an exposure secured by commercial immovable property as referred to in Article 124(2), point (b)(i), the part of the *exposure* up to 55 % of the property value shall be assigned a risk weight of 60 %.**

Where an institution holds a junior lien and there are more senior liens not held by that institution, to determine the part of the institution's exposure that is eligible for the 60 % risk weight, the amount of 55 % of the property value shall be reduced by the amount of the more senior liens not held by the institution.

Where liens not held by the institution rank pari passu with the lien held by the institution, to determine the part of the institution's exposure that is eligible for the 60 % risk weight, the amount of 55 % of the property value, reduced by the amount of any more senior liens not held by the institution, shall be reduced by the product of:

- (a) 55 % of the property value, reduced by the amount of more senior liens, if any, both held by the institution and held by other institutions; and***

- (b) *the amount of liens not held by the institution that rank pari passu with the lien held by the institution divided by the sum of all pari passu liens.*

Where, in accordance with Article 124(9), the competent authority or designated authority, has set a **higher risk weight or** a lower percentage of the property value than **those** referred to in this paragraph, institutions shall use the **risk weight** or percentage set in accordance with Article 124(9).

The remaining part of the exposure referred to in the first subparagraph, if any, shall be **risk weighted** as an exposure **to the counterparty** that is not secured by **commercial** immovable property.

2. An exposure as referred to in Article 124(2), point (b)(ii), shall be assigned the **■** risk weight set in accordance with **the respective** exposure-to-value **risk weight bucket in** Table 1 **■**.

For the purposes of this paragraph, where, in accordance with Article 124(9), the competent authority or designated authority, has set a higher risk weight or a lower exposure-to-value percentage than those referred to in this paragraph, institutions shall use the risk weight or percentage set in accordance with Article 124(9).

Table 1

	ETV ≤ 60 %	60 % < ETV ≤ 80 %	ETV > 80 %
Risk weight	70 %	90 %	110 %

By way of derogation from the first subparagraph of this paragraph, institutions may apply the treatment referred to in paragraph 1 of this Article to *exposures* secured by ■ commercial *immovable* property which is situated within the territory of a Member State, where the *competent authority of that Member State has published in accordance with Article 430a(3)*, loss rates for such exposures *which, based on the aggregate data reported by institutions in that Member State for that national immovable property market*, do not exceed any of the following limits for losses aggregated across ■ such exposures existing in the previous year:

- (a) *the aggregated amount reported by institutions under Article 430a(1), point (d), divided by the aggregated amount reported by institutions under Article 430a(1), point (f), does not exceed 0,3 %;*
- (b) *the aggregated amount reported by institutions under Article 430a(1), point (e), divided by the aggregated amount reported by institutions under Article 430a(1), point (f), does not exceed 0,5 %.*

- 3. *Institutions may apply the derogation referred to in paragraph 2, third subparagraph, of this Article also in cases where the competent authority of a third country which applies supervisory and regulatory arrangements at least equivalent to those applied in the Union as determined in a decision of the Commission adopted in accordance with Article 107(4), publishes corresponding loss rates for exposures secured by commercial immovable property situated within the territory of that third country.*

Where a competent authority of a third country does not publish corresponding loss rates for exposures secured by commercial immovable property situated within the territory of that third country, EBA may publish such information for a third country, provided that valid statistical data, that are statistically representative of the corresponding commercial immovable property market, are available.

4. *EBA shall assess the appropriateness of adjusting the treatment of exposures secured by mortgages on commercial immovable property, including IPRE and non-IPRE exposures, taking into account the appropriateness of risk weights and the relative differences in risk of exposures secured by residential property, the differences in risk sensitivity of IPRE exposures secured by residential property referred to in Article 125(2), Table 1, and IPRE exposures secured by commercial immovable property referred to in Table 1 in this Article and the recommendations of the ESRB on the vulnerabilities in the commercial immovable property sector in the Union. EBA shall submit a report on its findings to the Commission by 31 December 2027.*

On the basis of the report referred to in the first subparagraph and taking due account of the related internationally agreed standards developed by the BCBS, the Commission shall, where appropriate, submit to the European Parliament and to the Council a legislative proposal by 31 December 2028.’;

(56) the following article is inserted:

‘Article 126a

Land acquisition, development and construction exposures

1. An ADC exposure shall be assigned a risk weight of 150 %.

2. ADC exposures to residential property may be assigned a risk weight of 100 %, provided that ■ the institution applies sound origination and monitoring standards which meet the requirements laid down in Articles 74 and 79 of Directive 2013/36/EU and where at least one of the following conditions is met:
- (a) legally binding pre-*sale or* pre-lease contracts for which the purchaser or tenant has made a substantial cash deposit which is subject to forfeiture if the contract is terminated *or where the financing is ensured in an equivalent manner, or legally binding sale or lease contracts, including where the payment is made by instalments as the construction works progress*, amount to a significant portion of total contracts;

(b) the obligor has substantial equity at risk, which is represented as an appropriate amount of obligor-contributed equity to the residential property value upon completion.

3. By ... 12 months from the date of entry into force of this amending Regulation] EBA shall issue guidelines, in accordance with Article 16 of Regulation (EU) No 1093/2010, specifying the terms “substantial cash deposits”, ***“financing ensured in an equivalent manner”***, “significant portion of total contracts” and “appropriate amount of obligor-contributed equity”, ***taking into account the specificities of institutions’ lending to public housing or not-for-profit entities across the Union that are regulated by law and that exist to serve social purposes and to offer tenants long-term housing.***’;

(57) Article 127 is amended as follows:

- (a) in paragraph 1, the following subparagraph is added:

‘For the purpose of calculating the specific credit risk adjustments referred to in the first subparagraph ***for an exposure that is purchased when already in default***, institutions shall include in the calculation any positive difference between the amount owed by the obligor on ***that*** exposure and the sum of the additional own funds reduction if ***that*** exposure ***were*** fully written off and any already existing own funds reductions related to that exposure.’;

(b) paragraphs 2 and 3 are replaced by the following:

- ‘2. For the purpose of determining the secured part of a defaulted exposure, collateral and guarantees shall be eligible for credit risk mitigation purposes in accordance with Chapter 4.
3. The exposure value remaining after specific credit risk adjustments of non-IPRE exposures secured by residential property or commercial immovable property in accordance with Articles 125 and 126, respectively, shall be assigned a risk weight of 100 % if a default has occurred in accordance with Article 178.’;

(c) paragraph 4 is deleted;

(58) Article 128 is replaced by the following:

‘Article 128

Subordinated debt exposures

1. The following exposures shall be treated as subordinated debt exposures:
 - (a) debt exposures which are subordinated to claims of *ordinary unsecured creditors*;
 - (b) own funds instruments to the extent that those instruments are not considered to be equity exposures in accordance with Article 133(1); and

(c) *exposures arising from the institution's holding of eligible* liabilities instruments that meet the conditions set out in Article 72b.

2. Subordinated debt exposures shall be assigned a risk weight of 150 %, unless those subordinated debt exposures are ■ deducted *from own funds or subject to the treatment set out in Article 72e(5), first subparagraph.*';

(59) *Article 129 is amended as follows:*

(a) *in paragraph 1, the following subparagraph is added:*

'Without prejudice to the first subparagraph, point (c), of this paragraph, until 1 July 2027, indirect exposures to credit institutions without an external rating that guarantee mortgage loans until their registration shall be treated for the purposes of that point as exposures to credit institutions that qualify for credit quality step 1, provided that they are short-term exposures assigned to grade A under Article 121 and that the guaranteed mortgage loans will, once registered, be eligible for the preferential treatment pursuant to the first subparagraph, points (d), (e) and (f), of this paragraph.'

(b) in paragraph 3, the following subparagraph is added:

‘For the purpose of valuing immovable property, the competent authorities designated pursuant to Article 18(2) of Directive (EU) 2019/2162 may allow that property to be valued at or at less than the market value, or in those Member States that have laid down rigorous criteria for the assessment of the mortgage lending value in statutory or regulatory provisions, at the mortgage lending value of that property, without applying the limits set out in Article 229(1), point (e), *of this Regulation;*’;

(c) *paragraphs 4 and 5 are replaced by the following:*

‘4. Covered bonds for which a directly applicable credit assessment by a nominated ECAI is available shall be assigned a risk weight in accordance with Table 1 which corresponds to the credit assessment of the ECAI in accordance with Article 136.

Table 1

Credit quality	1	2	3	4	5	6
Risk weight	10 %	20 %	20 %	50 %	50 %	100 %

5. Covered bonds for which a directly applicable credit assessment by a nominated ECAI is not available shall be assigned a risk weight on the basis of the risk weight assigned to senior unsecured exposures to the institution which issues them. The following correspondence between risk weights shall apply:

- (a) if the exposures to the institution are assigned a risk weight of 20 %, the covered bond shall be assigned a risk weight of 10 %;*
- (aa) if the exposures to the institution are assigned a risk weight of 30 %, the covered bond shall be assigned a risk weight of 15 %;*
- (ab) if the exposures to the institution are assigned a risk weight of 40 %, the covered bond shall be assigned a risk weight of 20 %;*

- (b) *if the exposures to the institution are assigned a risk weight of 50 %, the covered bond shall be assigned a risk weight of 25 %;*
- (ba) *if the exposures to the institution are assigned a risk weight of 75 %, the covered bond shall be assigned a risk weight of 35 %;*
- (c) *if the exposures to the institution are assigned a risk weight of 100 %, the covered bond shall be assigned a risk weight of 50 %;*
- (d) *if the exposures to the institution are assigned a risk weight of 150 %, the covered bond shall be assigned a risk weight of 100 %.’;*

(60) *in Article 132a(3), the first subparagraph is replaced by the following:*

‘By way of derogation from Article 92(4), point (e), institutions that calculate the risk-weighted exposure amount of a CIU’s exposures in accordance with paragraph 1 or 2 of this Article may calculate the own funds requirement for the credit valuation adjustment risk of derivative exposures of that CIU as an amount equal to 50 % of the own funds requirement for those derivative exposures calculated in accordance with Chapter 6, Section 3, 4 or 5, of this Title, as applicable.’;

(61) *in Article 132b, paragraph 2 is replaced by the following:*

‘2. Institutions may exclude from the calculations referred to in Article 132 equity exposures underlying exposures in the form of units or shares in CIUs to entities whose credit obligations are assigned a 0 % risk weight under this Chapter, including those publicly sponsored entities where a 0 % risk weight can be applied, and equity exposures referred to in Article 133(5), and instead apply the treatment set out in Article 133 to those equity exposures.’;

(62) *in Article 132c(2), the first subparagraph is replaced by the following:*

‘Institutions shall calculate the exposure value of a minimum value commitment that meets the conditions set out in paragraph 3 of this Article as the discounted present value of the guaranteed amount using a discount factor that is derived from a risk-free rate pursuant to Article 325l(2) or (3), as applicable. Institutions may reduce the exposure value of the minimum value commitment by any losses recognised with respect to the minimum value commitment under the applicable accounting standard.’;

(63) Article 133 is replaced by the following:

‘Article 133

Equity exposures

1. All of the following shall be classified as equity exposures:

(a) any exposure that meets all of the following conditions:

- (i) it is irredeemable in the sense that the return of invested funds can be achieved only by the sale of the investment or sale of the rights to the investment or by the liquidation of the issuer;
- (ii) it does not embody an obligation on the part of the issuer;
- (iii) it conveys a residual claim on the assets or income of the issuer;

- (b) instruments that would qualify as Tier 1 items if issued by an institution;
- (c) instruments that embody an obligation on the part of the issuer and meet any of the following conditions:
 - (i) the issuer is able to defer the settlement of the obligation indefinitely;
 - (ii) the obligation requires, or permits at the issuer's discretion, settlement by issuance of a fixed number of the issuer's equity shares;
 - (iii) the obligation requires, or permits at the issuer's discretion, settlement by issuance of a variable number of the issuer's equity shares and, *ceteris paribus*, any change in the value of the obligation is attributable to, comparable to, and in the same direction as, the change in the value of a fixed number of the issuer's equity shares;
 - (iv) the holder of the instrument has the option of requiring that the obligation be settled in equity shares, unless one of the following conditions is met:
 - (1) in the case of a traded instrument, the institution has demonstrated to the satisfaction of the competent authority that the instrument is traded on the market more like the debt of the issuer than like its equity;

- (2) in the case of non-traded instruments, the institution has demonstrated to the satisfaction of the competent authority that the instrument should be treated as a debt position;
- (d) debt obligations and other securities, partnerships, derivatives or other vehicles structured in such a way that the economic substance is similar to the exposures referred to in points (a), (b) and (c), including liabilities from which the return is linked to that of equities;
- (e) equity exposures that are recorded as a loan but arise from a debt-equity swap made as part of the orderly realisation or restructuring of the debt.

For the purposes of the first subparagraph, point (c)(iii), obligations include those that require or permit settlement by issuance of a variable number of the issuer's equity shares, for which the change in the monetary value of the obligation is equal to the change in the fair value of a fixed number of equity shares multiplied by a specified factor, where both the factor and the referenced number of shares are fixed.

For the purposes of the first subparagraph, point (c)(iv), where one of the conditions laid down in that point is met, the institution may decompose the risks for regulatory purposes, subject to the prior permission of the competent authority.

2. Equity investments shall not be treated as equity exposures in any of the following cases:
 - (a) the equity investments are structured in such a way that their economic substance is similar to the economic substance of debt holdings which do not meet the criteria set out in paragraph 1;
 - (b) the equity investments constitute securitisation exposures.
3. Equity exposures, other than those referred to in paragraphs 4 to 7, shall be assigned a risk weight of 250 %, unless those exposures are required to be deducted or risk weighted in accordance with Part Two.

4. The following equity exposures to unlisted companies shall be assigned a risk weight of 400 %, unless those exposures are required to be deducted or risk weighted in accordance with Part Two:
- (a) investments for short-term resale purposes;
 - (b) investments in venture capital firms or similar investments which are acquired in anticipation of significant short-term capital gains.

By way of derogation from the first subparagraph of this paragraph, long-term equity investments, including investments in equities of corporate clients with which the institution has or intends to establish a long-term business relationship ■ and debt-equity swaps for corporate restructuring purposes shall be assigned a risk weight in accordance with paragraph 3 or 5, as applicable. For the purposes of this Article, a long-term equity investment is an equity investment that is held for three years or longer or incurred with the intention to be held for three years or longer as approved by the institution's senior management.

5. Institutions that have received the prior permission of the competent authorities may assign a risk weight of 100 % to equity exposures incurred under legislative programmes to stimulate specified sectors of the economy, *up to the part of such equity exposures that in aggregate does not exceed 10 % of the institutions' own funds*, that comply with all of the following conditions:
 - (a) the legislative programmes provide significant subsidies *or guarantees*, including ■ by multilateral development banks, public development credit institutions as defined *in* Article 429a(2) or international organisations, for the investment to the institution;
 - (b) the legislative programmes involve some form of government oversight;

- (c) *the legislative programmes involve restrictions on the equity investment, such as limitations on the size and types of businesses in which the institution is investing, on allowable amounts of ownership interests, on the geographical location and on other relevant factors that limit the potential risk of the investment for the investing institution.*

6. Equity exposures to central banks shall be assigned a risk weight of **0** %.

7. *An equity holding that is recorded as a loan but **that has arisen** from a debt-equity swap made as part of the orderly realisation or restructuring of the debt shall not be assigned a risk weight lower than the risk weight that would apply **if** the equity holding were treated as a debt exposure.*’;

(64) in Article 134, paragraph 3 is replaced by the following:

- ‘3. Cash items in the process of collection shall be assigned a 20 % risk weight.
Cash owned and held by the institution, or in transit, and equivalent cash items shall be assigned a 0 % risk weight.’;

■

(65) in Article 135, the following paragraph ■ is added:

- ‘3. ■ By ... [■ 12 months from the date of entry into force *of this amending Regulation*] ESMA shall prepare a report on *whether ESG risks are appropriately reflected in ECAI credit risk rating methodologies and submit that report to the Commission.*

On the basis of that report, the Commission shall, where appropriate, submit a legislative proposal to the European Parliament and to the Council by ... [18 months from the date of entry into force of this amending Regulation].’;

(66) Article 138 is amended as follows:

- (a) the following point is added:

‘(g) *for exposures to institutions*, an institution shall not use an ECAI credit assessment that incorporates ■ assumptions of implicit government support, unless the respective ECAI credit assessment refers to an institution owned by or set up and sponsored by central governments, regional governments or local authorities.’;

(b) the following paragraphs are added:

‘For the purposes of the first paragraph, point (g), in the case of institutions, other than institutions owned by or set up and sponsored by central governments, regional governments or local authorities, for which only ECAI credit assessments exist which incorporate assumptions of implicit government support, exposures to such institutions shall be treated as exposures to unrated institutions in accordance with Article 121.

“Implicit government support” means that the central government, regional government or local authority **would** act to prevent creditors of the institution from incurring losses in the event of the institution’s default or distress.’;

(67) in Article 139(2), points (a) and (b) are replaced by the following:

- ‘(a) the credit assessment produces a higher risk weight than would be the case **if** the exposure **were** treated as unrated and the exposure concerned:
 - (i) is not a specialised lending exposure;
 - (ii) ranks *pari passu* or junior in all respects to the specific issuing programme or facility or to senior unsecured exposures of that issuer, as relevant;
- (b) the credit assessment produces a lower risk weight **than would be the case if the exposure were treated as unrated** and the exposure concerned:
 - (i) is not a specialised lending exposure;
 - (ii) ranks *pari passu* or senior in all respects to the specific issuing programme or facility or to senior unsecured exposures of that issuer, as relevant.’;

(68) Article 141 is replaced by the following:

‘Article 141

Domestic and foreign currency items

1. A credit assessment that refers to an item denominated in the obligor’s domestic currency shall not be used to derive a risk weight for an exposure on that same obligor that is denominated in a foreign currency.
2. By way of derogation from paragraph 1, where an exposure arises through an institution’s participation in a loan that has been extended by, or has been guaranteed against convertibility and transfer risk by, a multilateral development bank listed in Article 117(2) the preferred creditor status of which is recognised in the market, the credit assessment on the obligor’s domestic currency item may be used to derive a risk weight for an exposure on that same obligor that is denominated in a foreign currency.

For the purposes of the first subparagraph, where the exposure denominated in a foreign currency is guaranteed against convertibility and transfer risk, the credit assessment on the obligor’s domestic currency item may only be used for risk weighting purposes on the guaranteed part of that exposure. The part of that exposure that is not guaranteed shall be risk weighted based on a credit assessment on the obligor that refers to an item denominated in that foreign currency.’;

(69) in Article 142, paragraph 1 is amended as follows:

(a) the following points are inserted:

‘(1a) “exposure class” means any of the exposure classes referred to in Article 147(2), point (a), point (aa)(i) or (ii), point (b), point (c)(i), (ii) or (iii), point (d)(i), (ii), (iii) or (iv), point (e), (ea), (f) **or** (g);

■

(1b) “corporate exposure” means **an** exposure assigned to ■ any of the exposure classes referred to in Article 147(2), point (c)(i), (ii) **or** (iii) ■ ;

(1c) “retail exposure” means **an** exposure assigned to **any of** the exposure classes referred to in Article 147(2), point (d)(i), (ii), (iii) **or** (iv);

(1d) ***“regional governments, local authorities and public sector entities exposure” means an exposure assigned to any of the exposure classes referred to in Article 147(2), point (aa)(i) or (ii);’;***

(b) point (2) is replaced by the following:

‘(2) “type of exposures” means a group of homogeneously managed exposures ■ , which may be limited to a single entity or a single sub-set of entities within a group provided that the same type of exposures is managed differently in other entities of the group;’;

(c) points (4) and (5) are replaced by the following:

‘(4) “large regulated financial sector entity” means a financial sector entity which meets all of the following conditions:

- (a) the entity’s total assets, or the total assets of its parent company where the entity has a parent company, calculated on an individual or consolidated basis, are greater than or equal to EUR 70 billion, using the most recent audited financial statement or consolidated financial statement in order to determine asset size;
- (b) the entity is subject to prudential requirements, directly on an individual or consolidated basis, or indirectly from the prudential consolidation of its parent undertaking, in accordance with this Regulation, Regulation (EU) 2019/2033, Directive 2009/138/EC, or legal prudential requirements of a third country at least equivalent to those Union acts;

(5) “unregulated financial sector entity” means a financial sector entity that does not fulfil the condition set out in point (4)(b);’;

(d) the following point is inserted:

‘(5a) “large corporate” means any corporate undertaking having consolidated annual sales of more than EUR 500 million or belonging to a group where the total annual sales for the consolidated group is more than EUR 500 million;’;

(e) the following points are added:

‘(8a) “PD/LGD modelling adjustment approach” *means* an adjustment of the LGD or modelling an adjustment of both the PD and the LGD of the underlying exposure ■ ;

(9) “protection-provider-RW-floor” means the risk weight applicable to a comparable, direct exposure to the protection provider;

- (10) for an exposure to which an institution applies the IRB *Approach* by using its own estimates of LGD under Article 143, “recognised” unfunded credit protection means an unfunded credit protection whose effect on the calculation of risk-weighted exposure amounts or expected loss amounts of the underlying exposure is taken into account with one of the following methods, in accordance with Article 108(3):
- (a) PD/LGD modelling adjustment approach;
 - (b) substitution of risk parameters approach under A-IRB as defined in Article 192, point (5);
- (11) “SA-CCF” means the percentage applicable under Chapter 2 in accordance with Article 111(2);
- (12) “IRB-CCF” means own estimates of credit conversion factor.’;

(f) the following subparagraph is added:

‘For the purposes of the first subparagraph, point (5a), in making the assessment for the sales threshold, the amounts shall be reported, as they are, in the audited financial statements of the corporates or, for corporates that are part of consolidated groups, their consolidated groups according to the accounting standard applicable to the ultimate parent undertaking of the consolidated group. The figures shall be based on the average amounts calculated over the prior three years, or on the latest amounts updated every three years by the institution.’;

(70) Article 143 is amended as follows:

(a) paragraph 2 is replaced by the following:

‘2. Prior permission to use the IRB Approach, including own estimates of LGD and IRB-CCF, shall be required for each exposure class and for each rating system and for each approach to estimating LGDs and CCFs used.’;

(b) in paragraph 3, first subparagraph, points (a) and (b) are replaced by the following:

‘(a) material changes to the range of application of a rating system that the institution has received permission to use;

(b) material changes to a rating system that the institution has received permission to use.’;

(c) paragraphs 4 and 5 are replaced by the following:

‘4. Institutions shall notify the competent authorities of all changes to rating systems.

5. EBA shall develop draft regulatory technical standards to specify the conditions for assessing the materiality of the use of an existing rating system for other additional exposures not already covered by that rating system and changes to rating systems under the IRB Approach.

EBA shall submit those draft regulatory technical standards to the Commission by ... [18 months from the date of entry into force of this amending Regulation].

Power is delegated to the Commission to *supplement this Regulation by adopting* the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.’;

(71) Article 144 is amended as follows:

(a) paragraph 1 is amended as follows:

(i) point (f) is replaced by the following:

‘(f) the institution has validated each rating system during an appropriate period prior to the permission to use that rating system, has assessed during that period *whether each* rating system *is* suited to the range of application of *that* rating system, and has made the necessary changes to *each* rating *system* following from its assessment.’;

(ii) point (h) is replaced by the following:

‘(h) the institution has assigned and continues to assign each exposure in the range of application of a rating system to a rating grade or pool of that rating system.’;

(b) paragraph 2 is replaced by the following:

‘2. EBA shall develop draft regulatory technical standards to specify the assessment methodology competent authorities are to follow when assessing the compliance of an institution with the requirements to use the IRB Approach.

EBA shall submit those draft regulatory technical standards to the Commission by ... *[24 months from the date of entry into force of this amending Regulation]*.

Power is delegated to the Commission to *supplement this Regulation by adopting* the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.’;

(72) Article 147 is amended as follows:

(a) paragraph 2 is replaced by the following:

‘2. Each exposure shall be assigned to one of the following exposure classes:

(a) exposures to central governments and central banks;

(aa) exposures to regional ***governments***, local authorities and public sector entities, ***to*** be assigned to the following exposure classes:

(i) exposures to regional ***governments*** and local authorities;

- (ii) exposures to public sector entities;
- (b) exposures to institutions;
- (c) exposures to corporates, *to* be assigned to the following exposure classes:
 - (i) general corporates;
 - (ii) specialised lending exposures;
 - (iii) corporate purchased receivables;
- (d) retail exposures, *to* be assigned to the following exposure classes:
 - (i) qualifying revolving retail exposures (“QRREs”);
 - (ii) retail exposures secured by residential property;
 - (iii) retail purchased receivables;
 - (iv) other retail exposures;
- (e) equity exposures;
- (ea) exposures in the form of units or shares in a CIU;
- (f) items representing securitisation positions;
- (g) other non credit-obligation assets.’;

(b) in paragraph 3, point (a) is deleted;

(c) the following paragraph is inserted:

‘3a. *By way of derogation from paragraph 2 of this Article, exposures to regional governments, local authorities and public sector entities shall ■ be assigned to the exposure class referred to in paragraph 2, point (a), of this Article **where those exposures are treated as exposures to central governments in accordance with** Article 115 or 116.*’;

(d) in paragraph 4, points (a) and (b) are deleted;

(e) paragraph 5 is amended as follows:

(i) in point (a), point (ii) is replaced by the following:

‘(ii) exposures to an SME, provided that the total amount owed to the institution and parent undertakings and its subsidiaries, including any exposure in default, by the obligor client or group of connected clients, but excluding exposures secured by residential property, up to the property value does not, to the knowledge of the institution, ■ which shall take reasonable steps to verify the amount of that exposure, *exceed EUR 1 million*;

(iii) exposures secured by residential property, including first and subsequent liens, term loans, revolving home equity lines of credit, and exposures as referred to in Article 108(4) and (5), regardless of the exposure size, provided that the exposure is either of the following:

- (1) an exposure to a natural person;
- (2) an exposure to associations or cooperatives of individuals that are regulated under national law and exist with the sole purpose of granting their members the use of a primary residence in the property securing the loan;’;

(ii) *point (c) is replaced by the following:*

‘(c) they are not managed just as individually as exposures in the exposure classes referred to in paragraph 2, point (c)(i), (ii) or (iii);’;

(iii) the following subparagraphs are added:

‘Exposures fulfilling all of the conditions set out in the first subparagraph, point (a)(iii), points (b), (c) and (d), of this paragraph shall be assigned to the exposure class referred to in paragraph 2, point (d)(ii).

By way of derogation from the third subparagraph of this paragraph, competent authorities may exclude from the exposure class referred to in paragraph 2, point (d)(ii), loans to natural persons who have mortgaged more than four immovable properties or housing units, including the loans to natural persons referred to in Article 108(4), and assign those loans to ***one of the*** exposure ***classes referred to in paragraph 2, point (c)(i), (ii) or (iii).***’;

(f) the following paragraph is inserted:

‘5a. Retail exposures belonging to a type of exposures meeting all of the following conditions ***shall*** be assigned to the exposure class referred to in paragraph 2, point (d)(i):

- (a) the exposures of that type of exposures are to ***one or more natural persons***;
- (b) the exposures of that type of exposures are revolving, unsecured, and, to the extent they are not drawn immediately and unconditionally, cancellable by the institution;
- (c) the maximum exposure ***in*** that type of exposure to a single ***natural person*** is EUR 100 000 or less;
- (d) that type of exposures has exhibited low volatility of loss rates, relative to its average level of loss rates, especially within the low PD bands;

- (e) the treatment *of exposures assigned to that type of exposures* as a qualifying revolving retail exposure is consistent with the underlying risk characteristics of *that* type of exposures ■ .

By way of derogation from the first subparagraph, point (b), the requirement to be unsecured shall not apply in respect of collateralised credit facilities linked to a wage account. In that case, amounts recovered from the collateral shall not be taken into account in the LGD estimates.

Institutions shall identify within the exposure class referred to in paragraph 2, point (d)(i) transactor exposures (“QRRE transactors”) and exposures that are not transactor exposures (“QRRE revolvers”). In particular, QRREs with less than 12 months of repayment history shall be identified as QRRE revolvers.’;

- (g) paragraphs 6 and 7 are replaced by the following:

- ‘6. Unless they are assigned to the exposure class referred to in paragraph 2, point (ea), of this Article the exposures referred to in Article 133(1) shall be assigned to the exposure class referred to in paragraph 2, point (e), of this Article.
7. Any credit obligation not assigned to the exposure classes referred to in paragraph 2, point (a), point (aa)(i) or (ii), point (b), point (d)(i), (ii), (iii) or (iv), point (e), (*ea*) or (f), shall be assigned to one of the exposure classes referred to in point (c)(*i*), (*ii*) *or* (iii) of that paragraph.’;

- (h) in paragraph 8, the following subparagraph is added:

‘Those exposures shall be assigned to the exposure class referred to in paragraph 2, point (c)(ii), and shall be categorised as follows: “project finance” (PF), “object finance” (OF), “commodity finance” (CF) and “income-producing real estate” (IPRE).’;

- (i) the following paragraphs are added:

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

- (a) the categorisation to PF, OF and CF, consistently with the definitions of Chapter 2;
- (b) the determination of the IPRE category, in particular specifying which ADC exposures and exposures secured by immovable property ■ may or shall be categorised as IPRE ■ .

EBA shall submit those draft regulatory technical standards to the Commission by ... ***[24 months from the date of entry into force of this amending Regulation].*** ■

Power is delegated to the Commission to ***supplement this Regulation by adopting*** the regulatory technical standards referred to in the ***first*** subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.

12. EBA shall develop draft regulatory technical standards ***to further*** specify ■ the conditions and criteria for assigning exposures to ***the classes referred to in paragraph 2 and, where necessary, to further specify*** those exposure classes.

EBA shall submit those draft regulatory technical standards to the Commission by ... ***[36 months from the date of entry into force of this amending Regulation].***

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.’;

- (73) Article 148 is amended as follows:

- (a) paragraphs 1, 2 and 3 are replaced by the following:

- ‘1. An institution that is permitted to apply the IRB Approach in accordance with Article 107(1) shall, together with any parent undertaking and its subsidiaries,

implement the IRB Approach for at least one of the exposure classes referred to in Article 147(2), point (a), point (aa)(i) or (ii), point (b), point (c)(i), (ii) or (iii), point (d)(i), (ii), (iii) or (iv), **■** or point (g). Once an institution *has implemented* the IRB Approach for *a certain type* of *exposures within an* exposure *class*, it shall do so for all exposures within that exposure class, unless it has received the permission of the competent authority to use the Standardised Approach permanently in accordance with Article 150.

Subject to the prior permission of the competent authorities, implementation of the IRB Approach may be carried out sequentially across the different types of exposures within *a certain* exposure class ■ within the same business unit ■ and across different business units in the same group, ■ or for the use of own estimates of LGD or for *the use of* IRB-CCF.

2. Competent authorities shall determine the period over which an institution and any parent undertaking and its subsidiaries shall be required to implement the IRB Approach for all exposures within *a certain* exposure class across different *types of exposures within the same business unit and across different* business units in the same group ■, or for the use of own estimates of LGD or for *the use of* IRB-CCF. That period shall be one that competent authorities consider to be appropriate on the basis of the nature and scale of the activities of the institution concerned, or of any parent undertaking and its subsidiaries, and the number and nature of rating systems to be implemented.

3. *Institutions shall carry out implementation of the IRB Approach in accordance with conditions determined by the competent authorities. The competent authority shall design those conditions in a way that they ensure that the flexibility under paragraph 1 is not used selectively for the purpose of achieving reduced own funds requirements in respect of those types of exposures or business units that are yet to be included in the IRB Approach or in the use of own estimates of LGD or in the use of IRB-CCF.’;*

(b) paragraphs 4, 5 and 6 are deleted;

(74) *in Article 149(1), point (a) is replaced by the following:*

‘(a) the institution has demonstrated to the satisfaction of the competent authority that the use of the Standardised Approach is not made with a view to engaging in regulatory arbitrage, including by unduly reducing the own funds requirements of the institution, is necessary on the basis of the nature and complexity of the institution’s total exposures of that type and would not have a material adverse impact on the solvency of the institution or its ability to manage risk effectively;’;

(75) Article 150 is amended as follows:

(a) paragraph 1 is replaced by the following:

‘1. Institutions shall apply the Standardised Approach for all of the following exposures:

(a) exposures assigned to the exposure class referred to in Article 147(2), point (e);

(b) exposures assigned to exposure classes *or belonging to types of* exposures *within an exposure class*, for which institutions have not received the prior permission of the competent authorities to use the IRB Approach for the calculation of the risk-weighted exposure amounts and expected loss amounts.

An institution that is permitted to use the IRB Approach for the calculation of risk-weighted exposure amounts and expected loss amounts for a given exposure class *may, subject to the competent authority's prior permission, apply the Standardised Approach for some types of exposures within that exposure class, including exposures of foreign branches and different product groups, where those types of exposures are immaterial in terms of size and perceived risk profile.*';

(b) the following paragraph is inserted:

'1a. In addition to the exposures referred to in paragraph 1, second subparagraph, an institution may, subject to the competent authority's prior permission, apply the Standardised Approach for the following exposures where the IRB Approach is applied for other types of exposures within the same exposure class ■ :

(a) *exposures to central governments and central banks of the Member States and their regional governments, local authorities, and public sector entities, provided that:*

- (i) *there is no difference in risk between the exposures to that central government and central bank and those other exposures because of specific public arrangements; and*
- (ii) *exposures to central governments and central banks are assigned a 0 % risk weight under Article 114(2) or (4);*

- (b) *exposures of an institution to a counterparty which is its parent undertaking, its subsidiary or a subsidiary of its parent undertaking, provided that the counterparty is an institution or a financial holding company, mixed financial holding company, financial institution, asset management company or ancillary services undertaking subject to appropriate prudential requirements or an undertaking linked by a relationship within the meaning of Article 22(7) of Directive 2013/34/EU;*
- (c) *exposures between institutions which meet the requirements set out in Article 113(7).*

An institution that is permitted to use the IRB Approach for the calculation of risk-weighted exposure amounts for only some types of exposures within an exposure class shall apply the Standardised Approach for the remaining types of exposures within that exposure class.

In addition to the exposures referred to in paragraph 1, second subparagraph, of this Article and in this paragraph, an institution may apply the Standardised Approach for exposures to churches and religious communities which meet the requirements set out in Article 115(3).’;

(c) *paragraph 2 is deleted;*

(d) *the following paragraph is inserted:*

‘2a. By ... [48 months from the date of entry into force of this amending Regulation] EBA shall issue guidelines, in accordance with Article 16 of Regulation (EU) No 1093/2010, on what constitutes types of exposures that are immaterial in terms of size and perceived risk profile.’;

(e) *paragraphs 3 and 4 are deleted;*

(76) Article 151 is amended as follows:

(a) *paragraph 1 is replaced by the following:*

‘1. The risk-weighted exposure amounts for credit risk for exposures belonging to one of the exposure classes referred to in Article 147(2), point (a), point (aa)(i) or (ii), point (b), point (c)(i), (ii) or (iii), point (d)(i), (ii), (iii) or (iv) or point (g), shall, unless those exposures are deducted from own funds or are subject to the treatment set out in Article 72e(5), first subparagraph, be calculated in accordance with Sub-section 2.’;

(b) *paragraph 4 is deleted;*

(c) paragraphs 7, 8 and 9 are replaced by the following:

- ‘7. For retail exposures, institutions shall provide own estimates of LGD, and IRB-CCF where applicable pursuant to Article 166(8) and (8b), in accordance with Article 143 and Section 6. Institutions shall use SA-CCFs where Article 166(8) and (8b) do not allow for the use of IRB-CCF.
8. For the following exposures, institutions shall apply the LGD values set out in Article 161(1) and SA-CCFs in accordance with Article 166(8), (8a) and (8b):
 - (a) exposures assigned to the exposure class referred to in Article 147(2), point (b);
 - (b) exposures to financial sector entities *other than those referred to in point (a) of this subparagraph*;
 - (c) exposures to large corporates *not assigned to the exposure class referred to in Article 147(2), point (c)(ii)*.

For exposures belonging to the exposure classes referred to in Article 147(2), point (a), point (aa)(i) or (ii) or point (c)(i), (ii) or (iii), except for the exposures referred to in the first subparagraph of this paragraph, institutions shall apply the LGD values set out in Article 161(1) and the SA-CCFs in accordance with Article 166(8), (8a) and (8b), unless they have been permitted to use their own estimates of LGD and IRB-CCF for those exposures in accordance with paragraph 9 of this Article.

9. For the exposures referred to in paragraph 8, second subparagraph, of this Article, the competent authority shall permit institutions to use own estimates of LGD, and IRB-CCF where applicable pursuant to Article 166(8) and (8b), in accordance with Article 143 and Section 6.’;

(d) the following *paragraph is* added:

■

- ‘11. For exposures in the form of shares or units in a CIU belonging to the exposure class referred to in Article 147(2), point (ea), institutions shall apply the treatment set out in Article 152, *unless those exposures are deducted from own funds or are subject to the treatment set out in Article 72e(5), first subparagraph.*’;

■

(77) *Article 152 is amended as follows:*

(a) *in paragraph 3, the first subparagraph is replaced by the following:*

‘By way of derogation from Article 92(4), point (e), institutions that calculate the risk-weighted exposure amount of the CIU in accordance with paragraph 1 or 2 of this Article may calculate the own funds requirement for credit valuation adjustment risk of derivative exposures of that CIU as an amount equal to 50 % of the own funds requirement for those derivative exposures calculated in accordance with Chapter 6, Section 3, 4 or 5, of this Title, as applicable.’;

(b) **■** paragraph 4 is replaced by the following:

‘4. Institutions that apply the look-through approach in accordance with paragraphs 2 and 3 of this Article and that do not use the methods set out in this Chapter or in Chapter 5, as applicable, for all or parts of the underlying exposures of the CIU shall calculate risk-weighted exposure amounts and expected loss amounts *for all or those parts of the underlying exposures* in accordance with the following principles:

(a) for underlying exposures that would be assigned to the exposure class referred to in Article 147(2), point (e), institutions shall apply the Standardised Approach laid down in Chapter 2;

- (b) for exposures assigned to the items representing securitisation positions referred to in Article 147(2), point (f), institutions shall apply the treatment set out in Article 254 as if those exposures were directly held by those institutions;
- (c) for all other underlying exposures, institutions shall apply the Standardised Approach laid down in Chapter 2.’;

(78) Article 153 is amended as follows:

- (a) the title is replaced by the following:

‘Risk-weighted exposure amounts for exposures to central governments and central banks, exposures to regional governments, local authorities and public sector entities, exposures to institutions and exposures to corporates’;

- (b) paragraph 1 is amended as follows:

- (i) the introductory wording is replaced by the following:

‘Subject to the application of the specific treatments laid down in paragraphs 2 and 4, the risk-weighted exposure amounts for exposures to central governments and central banks, exposures to regional governments, local authorities and public sector entities, exposures to institutions and exposures to corporates shall be calculated according to the following formulae:’;

(ii) point (iii) is replaced by the following:

‘(iii) if $0 < PD < 1$, then:

$$RW = \left(LGD \cdot N \left(\frac{1}{\sqrt{1-R}} \cdot G(PD) + \sqrt{\frac{R}{1-R}} \cdot G(0,999) \right) - LGD \cdot PD \right) \cdot \frac{1+(M-2,5) \cdot b}{1-1,5 \cdot b} \cdot 12,5$$

where:

N = the cumulative distribution function for a standard normal random variable, i.e. N(x) equals the probability that a normal random variable with mean of 0 and variance of 1, is less than or equal to x;

G = the inverse cumulative distribution function for a standard normal random variable, i.e. if $x = G(z)$, x is the value such that $N(x) = z$;

R = the coefficient of correlation, which is defined as:

$$R = 0,12 \cdot \frac{1 - e^{-50 \cdot PD}}{1 - e^{-50}} + 0,24 \cdot \left(1 - \frac{1 - e^{-50 \cdot PD}}{1 - e^{-50}}\right)$$

b = the maturity adjustment factor, which is defined as:

$$b = [0,11852 - 0,05478 \cdot \ln(PD)]^2;$$

M = the maturity, expressed in years and determined in accordance with Article 162.’;

(c) paragraph 2 is replaced by the following:

‘2. For exposures to large regulated financial sector entities and to unregulated financial sector entities, the coefficient of correlation R referred to in paragraph 1, point (iii), or paragraph 4, as applicable, shall be multiplied by 1,25 when calculating the risk weights of those exposures.’;

(d) paragraph 3 is deleted;

(e) paragraph 9 is replaced by the following:

- ‘9. EBA shall develop draft regulatory technical standards to specify how institutions are to take into account the factors referred to in paragraph 5, second subparagraph, when assigning risk weights to specialised lending exposures.

EBA shall submit those draft regulatory technical standards to the Commission by ... [24 months from the date of entry into force of this amending Regulation].

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.’;

(79) Article 154 is amended as follows:

(a) in paragraph 1, point (ii) is replaced by the following:

‘(ii) if $PD < 1$, then:

$$RW = \left(LGD \cdot N \left(\frac{1}{\sqrt{1-R}} \cdot G(PD) + \sqrt{\frac{R}{1-R}} \cdot G(0,999) \right) - LGD \cdot PD \right) \cdot 12,5$$

where:

N = the cumulative distribution function for a standard normal random variable, i.e. $N(x)$ equals the probability that a normal random variable with mean of 0 and variance of 1, is less than or equal to x ;

G = the inverse cumulative distribution function for a standard normal random variable, i.e. if $x = G(z)$, x is the value such that $N(x) = z$;

R = the coefficient of correlation, which is defined as:

$$R = 0,03 \cdot \frac{1 - e^{-35 \cdot PD}}{1 - e^{-35}} + 0,16 \cdot \left(1 - \frac{1 - e^{-35 \cdot PD}}{1 - e^{-35}} \right)$$

’;

- (b) paragraph 2 is deleted;
- (c) paragraph 3 is replaced by the following:
 - ‘3. For retail exposures that are not in default and are secured or partially secured by residential property, a coefficient of correlation R of 0,15 shall replace the figure produced by the coefficient of correlation formula in paragraph 1.

The risk weight calculated for an exposure partially secured by residential property *pursuant to paragraph 1, point (ii)*, taking into account a coefficient of correlation R as set out in the first subparagraph of this paragraph, shall be applied both to the secured and the unsecured part of that exposure.’;

(d) paragraph 4 is replaced by the following:

‘4. For QRREs that are not in default, a coefficient of correlation R of 0,04 shall replace the figure produced by the coefficient of correlation formula in paragraph 1.

Competent authorities shall review the relative volatility of loss rates across QRREs belonging to the same type of exposures, as well as across the aggregate QRRE exposure class, and shall share information on the typical characteristics of qualifying revolving retail loss rates with Member States and with EBA.’;

(80) Article 155 is deleted;

(81) in Article 157, the following paragraph is added:

‘6. EBA shall develop draft regulatory technical standards to further specify:

(a) the methodology for the calculation of risk-weighted exposure amount for dilution risk of purchased receivables, including recognition of credit risk mitigation in accordance with Article 160(4), and the conditions for the use of own estimates and parameters of the fall-back approach;

- (b) the assessment of the immateriality criterion for the type of exposures referred to in paragraph 5.

EBA shall submit those draft regulatory technical standards to the Commission by ... [36 months from the date of entry into force of this amending Regulation].

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.‘;

(82) Article 158 is amended as follows:

- (a) paragraph 5 is replaced by the following:

‘5. The expected loss (EL) and expected loss amounts for exposures to corporates, institutions, central governments and central banks, regional governments, local authorities and public sector entities and retail exposures shall be calculated in accordance with the following formulae:

expected loss (EL) = PD * LGD

expected loss amount = EL [multiplied by] exposure value.

For defaulted exposures (PD = 100 %) where institutions use own estimates of LGD, EL shall be EL_{BE}, the institution’s best estimate of expected loss for the defaulted exposure in accordance with Article 181(1), point (h).‘;

- (b) paragraphs 7, 8 and 9 are deleted.‘;

(83) Article 159 is replaced by the following:

‘Article 159

Treatment of expected loss amounts, IRB shortfall and IRB excess

1. Institutions shall subtract the expected loss amounts of exposures referred to in Article 158(5), (6) and (10) from the sum of all of the following:

- (a) the general and specific credit risk adjustments related to those exposures, calculated in accordance with Article 110;
- (b) additional value adjustments due *to* counterparty default determined in accordance with Article 34 and related to ■ exposures for which the expected loss amounts are calculated in accordance with Article 158(5), (6) and (10);
- (c) other own funds reductions related to those exposures other than the deductions made in accordance with Article 36(1), point (m).

Where the calculation performed in accordance with the first subparagraph results in a positive amount, the amount obtained shall be called “IRB excess”. Where the calculation performed in accordance with the first subparagraph results in a negative amount, the amount obtained shall be called “IRB shortfall”.

2. For the purposes of the calculation referred to in the paragraph 1 of this Article, institutions shall treat discounts ■ determined in accordance with Article 166(1) on balance-sheet exposures purchased when in default in the same manner as specific credit risk adjustments. Discounts ■ on balance-sheet exposures purchased when not in default shall not be allowed to be included in the calculation of the IRB shortfall or IRB excess. Specific credit risk adjustments on exposures in default shall not be used to cover expected loss amounts on other exposures. Expected loss amounts for securitised exposures and general and specific credit risk adjustments related to those exposures shall not be included in the calculation of the IRB shortfall or IRB excess. ■ ’;

- (84) in Part Three, the following Sub-Section is inserted after Section 4 ‘PD, LGD and maturity’:

‘Sub-Section -1

Exposures covered by guarantees provided by Member States’ central governments and central banks or the ECB

Article 159a

Non-application of PD ■ , LGD and CCF input floors

For the purposes of Chapter 3, and in particular with regard to Articles 160(1), 161(4), 164(4) and 166(8c), where an exposure is covered by an eligible guarantee provided by a central government or central bank or by the ECB, the PD, LGD and CCF input floors shall not apply to the part of the exposure covered by that guarantee. However, the part of the exposure that is not covered by that guarantee shall be subject to the PD, LGD and CCF input floors concerned.’;

- (85) in Part Three, Title II, Chapter 3, Section 4, the title of Sub-Section 1 is replaced by the following:

‘Exposures to corporates, institutions, central governments and central banks, regional governments, local authorities and public sector entities’;

- (86) Article 160 is amended as follows:

- (a) paragraph 1 is replaced by the following:

‘1. For exposures assigned to the exposure classes referred to in Article 147(2), point (b), or point (c)(i), (ii) or (iii), for the sole purpose of calculating risk-weighted exposure amounts and the expected loss amounts of those exposures, in particular for the purposes of Articles 153 and 157, and Article 158(1), (5) and (10), the PD value that is used for each exposure as an input of the risk-weighted exposure amounts and expected loss formulae shall not be less than the following PD input floor value: 0,05 %.’;

(b) the following paragraph is inserted:

‘1a. For exposures assigned to the exposure classes referred to in Article 147(2), point (aa)(i) or (ii), for the sole purpose of calculating risk-weighted exposure amounts and the expected loss amounts of those exposures, the PD value that is used for each exposure as an input of the risk-weighted exposure amounts and expected loss formulae shall not be less than the following ■ PD input floor value: 0,03 %.’;

(c) paragraph 4 is replaced by the following:

‘4. For an exposure covered by an unfunded credit protection, an institution using own estimates of LGD under Article 143 for both the ■ exposure that is covered by the unfunded credit protection and for comparable direct exposures to the protection provider may recognise the unfunded credit protection in the PD in accordance with Article 183.’;

(d) paragraph 5 is deleted;

(e) paragraphs 6 and 7 are replaced by the following:

- ‘6. For dilution risk of purchased corporate receivables, PD shall be set equal to the EL estimates of the institution for dilution risk. An institution that has received permission from the competent authority pursuant to Article 143 to use own estimates of LGD for corporate exposures that can decompose its EL estimates for dilution risk of purchased corporate receivables into PDs and LGDs in a manner that the competent authority considers to be reliable, may use the PD estimates that result from that decomposition. Institutions may recognise unfunded credit protection in the PD in accordance with Chapter 4.
7. An institution that has received the permission of the competent authority pursuant to Article 143 to use own estimates of LGD for dilution risk of purchased corporate receivables may recognise unfunded credit protection by adjusting PDs subject to Article 161(3).’;

(87) Article 161 is amended as follows:

(a) paragraph 1 is amended as follows:

(i) point (a) is replaced by the following:

‘(a) senior exposures without eligible funded credit protection to central governments and central banks ■, to financial sector entities and to regional governments, local authorities and public sector entities: 45 %;’;

(ii) the following point is inserted:

‘(aa) senior exposures without eligible funded credit protection ■ to corporates which are not financial sector entities: 40 %;’;

(iii) point (c) is deleted;

(iv) point (e) is replaced by the following:

‘(e) for senior purchased corporate receivables exposures where an institution is not able to estimate PDs or where the institution’s PD estimates do not meet the requirements set out in Section 6: 40 %;’;

(v) point (g) is replaced by the following

‘(g) for dilution risk of purchased corporate receivables: 100 %.’;

(b) paragraphs 3 and 4 are replaced by the following:

- ‘3. For an exposure covered by an unfunded credit protection, an institution using own estimates of LGD pursuant to Article 143 for both the ■ exposure that is covered by an unfunded credit protection and for comparable direct exposures to the protection provider may recognise the unfunded credit protection in the LGD in accordance with Article 183.
4. For exposures assigned to the exposure classes ■ ■ referred to in Article 147(2), point (c)(i), (ii) or (iii), for the sole purpose of calculating risk-weighted exposure amounts and the expected loss amounts of those exposures, and in particular for the purposes of Article 153(1), point (iii), Article 157, and Article 158(1), (5) and (10), where own estimates of LGD are used, the LGD values for each exposure used as an input of the risk-weighted exposure amounts and expected loss formulae shall not be less than the following LGD input floor values, calculated in accordance with paragraph 6 of this Article.

Table 1

<i>LGD input floors (LGD_{floor}) for exposures belonging to the exposure classes referred to in Article 147(2), point (c)(i), (ii) or (iii)</i>		
<i>Exposure without eligible FCP (LGD_{U-floor})</i>	<i>Exposure fully secured by eligible FCP (LGD_{S-floor})</i>	
25 %	<i>financial collateral</i>	0 %
	<i>receivables</i>	10 %
	<i>residential property or commercial immovable property</i>	10 %
	<i>other physical collateral</i>	15 %

’;
;

(c) the following paragraphs are added:

- ‘5. For exposures assigned to the exposure classes referred to in Article 147(2), point (aa)(i) or (ii), for the sole purpose of calculating risk-weighted exposure amounts and the expected loss amounts of those exposures, and in particular for the purposes of Article 153(1), point (iii), Article 157, and Article 158(1), (5) and (10), where own estimates of LGD are used, the LGD value used as an input of the risk-weighted exposure amounts and expected loss formulae for exposures without eligible FCP shall not be less than the following LGD input floor value: 5 %.

6. For the purposes of paragraph 4 of this Article, the LGD input floors in Table 1 in that paragraph for exposures fully secured by eligible funded credit protection shall apply when the value of the funded credit protection, after the application of the volatility adjustments H_c and H_{fx} concerned in accordance with Article 230, is equal to or exceeds the value of the underlying exposure.

For the purposes of paragraph 4 of this Article and for the purposes of the application of the relevant related adjustments, H_c and H_{fx} , in accordance with Article 230, funded credit protection shall be eligible pursuant to this Chapter. *In that case, the type of funded credit protection “other physical collateral” in Article 230, Table 1, shall be understood as “other physical and other eligible collateral”.*

The applicable LGD input floor (LGD_{floor}) for an exposure partially secured by FCP is calculated as the weighted average of $LGD_{U-floor}$ for the part of the exposure without FCP and $LGD_{S-floor}$ for the fully secured part, as follows:

$$LGD_{floor} = LGD_{U-floor} \cdot \frac{E_U}{E \cdot (1 + H_E)} + LGD_{S-floor} \cdot \frac{E_S}{E \cdot (1 + H_E)}$$

where:

$LGD_{U-floor}$ and $LGD_{S-floor}$ are the relevant floor values in Table 1;

E , E_S , E_U and H_E are determined in accordance with Article 230.

7. Where an institution that uses own estimates of LGD for a given type of unsecured exposures to corporates and unsecured exposures to regional governments, local authorities and public sector entities is not able to take into account the effect of the funded credit protection securing one of the exposures of that type of exposures in the own estimate of LGD due to lack of data on recoveries for that funded credit protection, the institution shall be permitted to apply the formula set out in Article 230, with the exception that the LGD_U in that formula shall be the institution's own estimate of LGD for unsecured exposures. In that case, the funded credit protection shall be eligible in accordance with Chapter 4 and the institution's own estimate of LGD used as LGD_U shall be calculated based on underlying loss data excluding any recoveries arising from that funded credit protection.';

(88) Article 162 is amended as follows:

(a) paragraph 1 is replaced by the following:

- '1. For exposures for which an institution has not received permission from the competent authority to use own estimates of LGD, the maturity value (M) shall be applied consistently and, either be set at 2,5 years, except for exposures arising from securities financing transactions, for which M shall be 0,5 years, or, alternatively, be calculated in accordance with paragraph 2 ■'.

(b) paragraph 2 is amended as follows:

(i) the introductory wording is replaced by the following:

‘For exposures for which an institution applies own estimates of LGD, the maturity value (M) shall be calculated using periods expressed in years, as set out in this paragraph and subject to paragraphs 3, 4 and 5 of this Article. M shall be no greater than five years, except in the cases specified in Article 384(2) where M as specified therein shall be used. M shall be calculated as follows in each of the following cases: ■’;

(ii) the following points are inserted:

‘(da) for secured lending transactions which are subject to a master netting agreement, M shall be the weighted average remaining maturity of the transactions where M shall be at least 20 days; the notional amount of each transaction shall be used for weighting the maturity;

(db) for a master netting agreement including more than one of the transaction types corresponding to point (c), (d) or (da) of this paragraph, M shall be the weighted average remaining maturity of the transactions where M shall be at least the longest holding period, expressed in years, applicable to such transactions as provided for in Article 224(2), either 10 days or 20 days, depending on the cases; the notional amount of each transaction shall be used for weighting the maturity;’;

(iii) point (f) is replaced by the following:

‘(f) for any instrument other than those referred to in this paragraph or when an institution is not in a position to calculate M as set out in point (a), M shall be the maximum remaining time, in years, that the obligor is permitted to take to fully discharge its contractual obligations, including the principal, interest, and fees, where M shall be at least one year;’;

(iv) points (i) and (j) are replaced by the following:

- ‘(i) for institutions using the approaches referred to in Article 382a(1), point (a) or (b), to calculate the own funds requirements for the CVA risk of transactions with a given counterparty, M shall be no greater than 1 in the formula set out in Article 153(1), point (iii), for the purpose of calculating the risk-weighted exposure amounts for counterparty risk for the same transactions, as referred to in Article 92(4), point (a) or (g), as applicable;
- (j) for revolving exposures, M shall be determined using the maximum contractual termination date of the facility; institutions shall not use the repayment date of the current drawing if that date is not the maximum contractual termination date of the facility.’;

(c) paragraph 3 is amended as follows:

- (i) in the first subparagraph, the introductory wording is replaced by the following:

‘Where the documentation requires daily re-margining and daily revaluation and includes provisions that allow for the prompt liquidation or set off of collateral in the event of default or failure to remargin, M shall be the weighted average remaining maturity of the transactions and M shall be at least one day for.’;

(ii) the second subparagraph is amended as follows:

(1) point (b) is replaced by the following:

‘(b) self-liquidating short-term trade finance transactions and corporate purchased receivables, provided that the respective exposures have a residual maturity of up to one year ■’;

(2) the following point is added:

‘(e) issued as well as confirmed letters of credit that are short term, that is, they have a maturity below one year, and are self-liquidating.’;

(d) paragraph 4 is replaced by the following:

‘4. For exposures to corporates established in the Union which are not large corporates, institutions may choose to set for all such exposures M as set out in paragraph 1 instead of applying paragraph 2.’;

(e) the following paragraph is added:

‘6. For the purpose of expressing in years the minimum numbers of days referred to in paragraph 2, points (c) to (db), and paragraph 3, the minimum numbers of days shall be divided by 365,25.’;

(89) Article 163 is amended as follows:

(a) paragraph 1 is replaced by the following:

‘1. For the sole purpose of calculating risk-weighted exposure amounts and the expected loss amounts of those exposures, and in particular for the purposes of Articles 154 and 157, and Article ~~158~~(1), (5) and (10), the PD for each exposure that is used as an input of the risk-weighted exposure amounts and expected loss formulae shall be the higher of the one-year PD associated with the internal borrower grade or pool to which the retail exposure is assigned and the following PD input floor values:

(a) 0,1 % for QRRE revolvers;

(b) 0,05 % for retail exposures which are not QRRE revolvers.’;

(b) paragraph 4 is replaced by the following:

‘4. For an exposure covered by an unfunded credit protection, an institution using own estimates of LGD under Article 143 for comparable direct exposures to the protection provider may recognise the unfunded credit protection in the PD in accordance with Article 183.’;

(90) Article 164 is amended as follows:

(a) paragraphs 1 and 2 are replaced by the following:

‘1. Institutions shall provide own estimates of LGD subject to the requirements specified in Section 6 of this Chapter and to permission of the competent authorities granted in accordance with Article 143. For dilution risk of purchased receivables, an LGD value of 100 % shall be used. Where an institution can decompose its expected loss estimates for dilution risk of purchased receivables into PDs and LGDs in a reliable manner, the institution may use its own estimates of LGD.

2. Institutions using own estimates of LGD pursuant to Article 143 for comparable direct exposures to the protection provider may recognise the unfunded credit protection in the LGD in accordance with Article 183.’;
- (b) paragraph 3 is deleted;
- (c) paragraph 4 is replaced by the following:
 - ‘4. For the sole purpose of calculating risk-weighted exposure amounts and expected loss amounts for retail exposures, and in particular pursuant to Article 154(1), point (ii), Article 157, and Article 158(1), (5) and (10), the LGD values for each exposure used as an input of the risk-weighted exposure amounts and expected loss formulae shall not be less than the LGD input floor values set out in Table 1, calculated in accordance with paragraph 4a of this Article:

Table 1

LGD input floors (LGD_{floor}) for retail exposures			
Exposure without FCP ($LGD_{U\text{-floor}}$)		Exposure secured by FCP ($LGD_{S\text{-floor}}$)	
Retail exposure secured by residential property	N/A	Retail exposure secured by residential property	5 %
QRRE	50 %	QRRE	N/A
Other retail exposure	30 %	Other retail exposure secured by financial collateral	0 %
		Other retail exposure secured by receivables	10 %
		Other retail exposure secured by residential property or commercial immovable property	10 %
		Other retail exposure secured by other physical collateral	15 %

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(d) the following paragraph is inserted:

‘4a. For the purposes of paragraph 4, the following shall apply:

- a) LGD input floors in paragraph 4, Table 1 shall be applicable for exposures secured by funded credit protection when the funded credit protection is eligible pursuant to this Chapter;
- (b) except for retail exposures secured by residential property, the LGD input floors in paragraph 4, Table 1, of this Article shall be applicable to exposures fully secured by funded credit protection where the value of the FCP, after the application of the relevant volatility adjustments in accordance with Article 230, is equal to or exceeds the exposure value of the underlying exposure; for the purpose of the application of the relevant related adjustments, H_c and H_{fx} , in accordance with Article 230, funded credit protection shall be eligible pursuant to this Chapter;
- (c) except for retail exposures secured by residential property, the applicable LGD input floor for an exposure partially secured by funded credit protection is calculated in accordance with the formula set out in Article 161(6);
- (d) for retail exposures secured by residential property, the applicable LGD input floor shall be fixed at 5 % irrespective of the level of collateral provided by the residential property.

■ ’;

(e) paragraphs 6 and 7 are replaced by the following:

- ‘6. Based on the data collected under Article 430a and on any other relevant indicators, and taking into account forward-looking immovable property market developments the authority designated in accordance with paragraph 5 of this Article shall periodically, and at least annually, assess whether the LGD input floor values referred to in paragraph 4 of this Article are appropriate for retail exposures secured by residential property or other retail exposures secured by residential property or commercial immovable property located in one or more parts of the territory of the Member State of that authority.

Where, on the basis of the assessment referred to in the first subparagraph of this paragraph, the authority designated in accordance with paragraph 5 concludes that the LGD input floor values referred to in paragraph 4 are not adequate, and if it considers that the inadequacy of LGD input floor values could adversely affect current or future financial stability in its Member State, it may set higher LGD input floor values for those exposures located in one or more parts of the territory of the Member State of that authority. Those higher LGD input floor values may also be applied at the level of one or more property segments of such exposures.

The authority designated in accordance with paragraph 5 shall notify EBA and the ESRB before making the decision referred to in the second subparagraph of this paragraph. Within one month of receipt of that notification, EBA and the ESRB shall provide their opinion to the Member State concerned. EBA and the ESRB shall publish the higher LGD input floor values referred to in the second subparagraph of this paragraph.

7. Where the authority designated in accordance with paragraph 5 sets higher LGD input floor values pursuant to paragraph 6, institutions shall have a six-month transitional period to apply them.’;


(91) in Part Three, Title II, Chapter 3, Section 4, Sub-Section 3 is deleted;

(92) Article 166 is amended as follows:

- (a) the title is replaced by the following:

‘Exposures to corporates, institutions, central governments and central banks, regional governments, local authorities and public sector entities and retail exposures’;

- (b) paragraph 8 is replaced by the following:

- ‘8. The exposure value of off-balance-sheet items which are not contracts as listed in Annex II shall be calculated by using either  IRB-CCF or SA-CCFs, in accordance with paragraphs 8a and 8b of this Article and Article 151(8).

Where only the drawn balances of revolving facilities have been securitised, institutions shall ensure that they continue to hold the required amount of own funds against the undrawn balances associated with the securitisation.

An institution that has not received permission to use IRB-CCF shall calculate the exposure value as the committed but undrawn amount multiplied by the SA-CCF concerned.

An institution that uses IRB-CCF shall calculate the exposure value for undrawn commitments as the undrawn amount multiplied by IRB-CCF.’;

(c) the following paragraphs are inserted:

‘8a. For an exposure for which an institution has not received permission to use IRB-CCF **■**, the applicable CCF shall be the SA-CCF as provided for in Chapter 2 for the same types of items as laid down in Article 111. The amount to which the SA-CCF is to be applied shall be the lower of the value of the **■** committed but undrawn amount and the value that reflects any possible constraining of the availability of the facility, including the existence of an upper limit on the potential lending amount which is related to an obligor’s reported cash flow. Where a facility is constrained in that way, the institution shall have sufficient line monitoring and management procedures to support the existence of that constraining.

- 8b. Subject to the permission of competent authorities, institutions that meet the requirements for the use of IRB-CCF as specified in Section 6 shall use IRB-CCF for exposures arising from undrawn revolving commitments treated under the IRB Approach provided that those exposures would not be subject to a SA-CCF of 100 % under the Standardised Approach. SA-CCFs shall be used for:
- (a) all other off-balance-sheet items, in particular undrawn non-revolving commitments;
 - (b) exposures where the minimum requirements for calculating IRB-CCF as specified in Section 6 are not met by the institution or where the competent authority has not permitted the use of IRB-CCF.

For the purposes of this Article, a commitment shall be deemed “revolving” where it lets an obligor obtain a loan where the obligor has the flexibility to decide how often to withdraw from the loan and at what intervals, allowing the obligor to drawdown, repay and redraw loans advanced to it. Contractual arrangements that allow prepayments and subsequent redraws of those prepayments shall be considered revolving.

8c. Where IRB-CCF are used for the sole purpose of calculating risk-weighted exposure amounts and expected loss amounts of exposures arising from revolving commitments other than exposures assigned to the exposure class in accordance with Article 147(2), point (a), in particular pursuant to Article 153(1), Article 157 and Article 158(1), (5) and (10), the exposure value for each exposure used as an input of the risk-weighted exposure amount and expected loss formulae shall not be less than the sum of:

- (a) the drawn amount of the revolving commitment;
- (b) 50 % of the off-balance exposure amount of the remaining undrawn part of the revolving commitment calculated using the applicable SA-CCF provided for in Article 111.

The sum of points (a) and (b) shall be referred to as the “CCF input floor”.’;

(d) paragraph 10 is deleted;

(93) Article 167 is deleted;

(94) in Article 169(3), the following subparagraph is added:

‘EBA shall issue guidelines, in accordance with Article 16 of Regulation (EU) No 1093/2010, on how to apply in practice the requirements on model design, risk quantification, validation and application of risk parameters using continuous or very granular rating scales for each risk parameter.’;

(95) Article 170 is amended as follows:

(a) in paragraph 1, the introductory wording is replaced by the following:

‘The structure of rating systems for exposures to corporates, institutions, central governments and central banks, and regional governments, local authorities and public sector entities shall comply with the following requirements:’;

(b) in paragraph 4, point (b) is replaced by the following:

‘(b) transaction risk characteristics, including product and funded credit protection types, recognised unfunded credit protection, loan-to-value measures, seasoning and seniority; institutions shall explicitly address cases where several exposures benefit from the same funded or unfunded credit protection;’;

(96) in Article 171, the following paragraph is added:

‘3. Institutions shall use a time horizon longer than one year in assigning ratings. An obligor rating shall represent the institution’s assessment of the obligor’s ability and willingness to contractually perform despite adverse economic conditions or the occurrence of unexpected events. Rating systems shall be designed in such a way that idiosyncratic changes and, where they are material drivers of risk for the type of exposure, industry-specific changes are a driver of migrations from one grade or pool to another. ■ Business cycle effects may also be ■ a driver of migrations.’;

(97) in Article 172, paragraph 1 is amended as follows:

(a) the introductory wording is replaced by the following:

‘For exposures to ■ central governments and central banks, exposures to regional governments, local authorities and public sector entities, exposures to institutions and exposures to corporates, the assignment of exposures shall be carried out in accordance with the following criteria.’;

(b) point (d) is replaced by the following:

‘(d) each separate legal entity to which the institution is exposed shall be separately rated.’;

(c) the following subparagraphs are added:

‘For the purposes of the first subparagraph, point (d), an institution shall have appropriate policies for the treatment of individual obligor clients and groups of connected clients. Those policies shall contain a process for the identification of Specific Wrong-Way risk for each legal entity to which the institution is exposed.

For the purposes of Chapter 6, transactions with counterparties where a Specific Wrong-Way risk has been identified shall be treated differently when calculating their exposure value.’;

(98) Article 173 is amended as follows:

(a) in paragraph 1, the introductory wording is replaced by the following:

‘For exposures to ■ central governments and central banks, exposures to regional governments, local authorities and public sector entities, exposures to institutions and exposures to corporates, the assignment process shall meet the following requirements.’;

(b) paragraph 3 is replaced by the following:

‘3. EBA shall develop draft regulatory technical standards setting out the methodologies of the competent authorities to assess the integrity of the assignment process and the regular and independent assessment of risks.

EBA shall submit those draft regulatory technical standards to the Commission by ...
[24 months from the date of entry into force of this amending Regulation].

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.’;

(99) Article 174 is amended as follows:

(a) the introductory wording is replaced by the following:

‘Institutions shall use statistical or other mathematical methods (“models”) to assign exposures to obligor or facility grades or pools ■ . The following requirements shall be met:’;

(b) point (a) is replaced by the following:

‘(a) the model shall have good predictive power and own funds requirements shall not be distorted as a result of its use;’;

(c) the following paragraph is added:

‘For the purposes of the first paragraph, point (a), the input variables shall form a reasonable and effective basis for the resulting predictions. The model shall not have material biases. There shall be a functional link between the inputs and the outputs of the model, which may be determined through expert judgement, where appropriate.’;

(100) Article 176 is amended as follows:

(a) in paragraph 2, the introductory wording is replaced by the following:

‘For exposures to ■ central governments ■ and central banks, exposures to regional governments, local authorities and public sector entities, exposures to institutions and exposures to corporates, institutions shall collect and store.’;

(b) paragraph 3 is replaced by the following:

‘3. For exposures for which this Chapter allows the use of own estimates of LGD or the use of IRB-CCF but for which institutions do not use own estimates of LGD or IRB-CCF, institutions shall collect and store data on comparisons between realised LGDs and the values as set out in Article 161(1), and between realised CCFs and SA-CCFs as set out in Article 166(8a).’;

(101) ■ Article 177 ■ is amended as follows:

(a) ■ the following paragraph is inserted:

‘2a. The scenarios used under paragraph 2 shall also include ESG risk drivers, in particular physical risk and transition risk drivers stemming from climate change.

EBA shall issue guidelines, in accordance with Article 16 of Regulation (EU) No 1093/2010, on the application of paragraph 2 and 2a.’;

(b) paragraph 3 is deleted;

(102) Article 178 is amended as follows:

(a) the title is replaced by the following:

‘Default of an obligor or credit facility’;

(b) in paragraph 1, point (b) is replaced by the following:

‘(b) the obligor is more than 90 days past due on any material credit obligation to the institution, the parent undertaking or any of its subsidiaries.’;

(c) in paragraph 3, point (d) is replaced by the following:

‘(d) the institution consents to a forbearance measure as referred to in Article 47b of the credit obligation where that measure is likely to result in a diminished financial obligation due to the material forgiveness, or postponement, of principal, interest or, where relevant, fees ■’;

- (d) in paragraph 7, the following subparagraphs are added:

‘By ... [12 months from the date of entry into force of this amending Regulation], EBA shall issue guidelines, in accordance with Article 16 of Regulation (EU) No 1093/2010, to update the guidelines referred to in the first subparagraph of this paragraph. In particular, that update shall take due account of the necessity to encourage institutions to engage in proactive, preventive and meaningful debt restructuring to support obligors.

In developing those guidelines, EBA shall duly consider the need for granting a sufficient flexibility to institutions when specifying what constitutes a diminished financial obligation for the purposes of paragraph 3, point (d).’;

(103) in Article 179(1), point (f) is replaced by the following :

- ‘(f) to overcome biases, an institution shall include appropriate adjustments in its estimates to the extent possible; after having included an appropriate adjustment, it shall add to its estimates a sufficient margin of conservatism that is related to the expected range of estimation errors; where methods and data are considered to be less satisfactory, the expected range of errors is larger, and the margin of conservatism shall be larger.’;

(104) Article 180 is amended as follows:

- (a) paragraph 1 is amended as follows:

- (i) the introductory wording is replaced by the following:

‘In quantifying the risk parameters to be associated with rating grades or pools, institutions shall apply the following requirements specific to PD estimation to exposures to ■ central governments and central banks, exposures to regional governments, local authorities and public sector entities, exposures to institutions and exposures to corporates.’;

(ii) point (e) is replaced by the following:

‘(e) to the extent that an institution uses data on internal default experience for the estimation of PDs, the estimates shall be reflective of current underwriting standards and of any differences in the rating system that generated the data and the current rating system; where underwriting standards or rating systems have changed, after including an appropriate adjustment, the institution shall add a greater margin of conservatism in its estimate of PD related to the expected range of estimation errors that is not already covered by the appropriate adjustment.’;

(iii) point (h) is replaced by the following:

‘(h) irrespective of whether an institution is using external, internal, or pooled data sources, or a combination of the three, for its PD estimation, the length of the underlying historical observation period used shall be at least five years for at least one source.’;

(iv) the following point is added:

‘(i) irrespective of the method used to estimate PD, institutions shall estimate a PD for each rating grade based on the observed historical average one-year default rate that is an arithmetic average based on the number of obligors (count weighted); other approaches, including exposure-weighted averages, shall not be permitted.’;

- (v) the following subparagraph is added:

‘For the purposes of the first subparagraph, point (h), of this paragraph where the available observation period spans a longer period for any source, and where those data are relevant, that longer period shall be used. The data shall include a representative mix of good and bad years of the economic cycle relevant for the type of exposures. Subject to the permission of competent authorities, institutions which have not received the permission of the competent authority pursuant to Article 143 to use own estimates of LGD or to use IRB-CCF, may use, when they implement the IRB Approach, relevant data covering a period of two years. The period to be covered shall be increased by one year each year until relevant data cover at least five years.’;

- (b) paragraph 2 is amended as follows:

- (i) point (a) is replaced by the following:

‘(a) institutions shall estimate PDs by obligor or facility grade or pool from long run averages of one-year default rates, and default rates shall be calculated at facility level only where the definition of default is applied at individual credit facility level pursuant to Article 178(1), second subparagraph;’;

(ii) point (e) is replaced by the following:

‘(e) irrespective of whether an institution is using external, internal or pooled data sources, or a combination of the three, for its PD estimation, the length of the underlying historical observation period used shall be at least five years for at least one source;’;

(iii) the following subparagraphs are added:

‘For the purposes of the first subparagraph, point (a), the PD shall be based on the observed historical average one-year default rate.

For the purposes of the first subparagraph, point (e), where the available observation spans a longer period for any source, and where those data are relevant, that longer period shall be used. The data shall include a representative mix of good and bad years of the economic cycle relevant for the type of exposures. ■ Subject to the permission of the competent authorities, institutions may use, when they implement the IRB Approach, relevant data covering a period of two years. The period to be covered shall be increased by one year each year until relevant data cover at least five years.

(c) paragraph 3 is replaced by the following:

‘3. EBA shall develop draft regulatory technical standards to specify the methodologies in accordance with which competent authorities shall assess the methodology of an institution for estimating PD pursuant to Article 143.

EBA shall submit those draft regulatory technical standards to the Commission by ... [24 months from the date of entry into force of this amending Regulation].

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.’;

(105) Article 181 is amended as follows:

(a) paragraph 1 is amended as follows:

- (i) points (c) to (g) are replaced by the following:
- ‘(c) an institution shall consider the extent of any dependence between, on the one hand, the risk of the obligor and, on the other hand, that of funded credit protection, other than master netting agreements and on-balance-sheet netting of loans and deposits, or its provider;
 - (d) currency mismatches between the underlying obligation and the funded credit protection other than master netting agreements and on-balance-sheet netting of loans and deposits shall be treated conservatively in the institution’s assessment of LGD;
 - (e) to the extent that LGD estimates take into account the existence of funded credit protection other than master netting agreements and on-balance-sheet netting of loans and deposits, those estimates shall not solely be based on the estimated market value of the funded credit protection;

- (f) to the extent that LGD estimates take into account the existence of funded credit protection other than master netting agreements and on-balance-sheet netting of loans and deposits, institutions shall establish internal requirements for the management, legal certainty and risk management of that funded credit protection, and those requirements shall be generally consistent with those set out in Chapter 4, Section 3, Sub-section 1;
- (g) to the extent that an institution recognises funded credit protection other than master netting agreements and on-balance-sheet netting of loans and deposits for determining the exposure value for counterparty credit risk in accordance with Chapter 6, Section 5 or 6, any amount expected to be recovered from that funded credit protection shall not be taken into account in the LGD estimates;’;

(ii) points (i) and (j) are replaced by the following:

‘(i) to the extent that fees for late payments, imposed on the obligor before the time of default, have been capitalised in the institution’s income statement, they shall be added to the institution’s measure of exposure and loss;

(j) for exposures to corporates, institutions, central governments and central banks, and regional governments, local authorities and public sector entities, estimates of LGD shall be based on data over a minimum of five years, increasing by one year each year after implementation until a minimum of seven years is reached, for at least one data source, if the available observation period spans a longer period for any source, and the data are relevant, that longer period shall be used.’;

■

(iii) the following subparagraphs are added:

‘For the purposes of the first subparagraph, point (a), of this paragraph institutions shall adequately take into account recoveries realised in the course of the relevant recovery processes from any type of funded credit protection as well as from unfunded credit protection not falling under the definition in Article 142(1), point (10).

For the purposes of the first subparagraph, point (c), cases where there is a significant degree of dependence shall be addressed in a conservative manner.

For the purposes of the first subparagraph, point (e), LGD estimates shall take into account the effect of the potential inability of institutions to expeditiously gain control of their collateral and liquidate it.’;

b) paragraph 2 is amended as follows:

(i) in the first subparagraph, point (b) is ■ replaced by the following:

‘(b) reflect future drawings either in their conversion factors or in their LGD estimates;’;

(ii) the following subparagraph is inserted after the first subparagraph:

‘For the purposes of the first subparagraph, point (b), where institutions include future additional drawings in their conversion factors, those should be taken into account in the LGD in both the numerator and the denominator. Where institutions do not include future additional drawings in their conversion factors, those should be taken into account in the LGD numerator only;’;

(iii) *the second subparagraph* is replaced by the following:

‘For retail exposures, estimates of LGD shall be based on data over a minimum of five years. Subject to the permission of the competent authorities, institutions may use, when they implement the IRB Approach, relevant data covering a period of two years. The period to be covered shall be increased by one year each year until relevant data cover at least five years.’;

(c) the following paragraphs are added:

‘4. EBA shall issue guidelines, in accordance with Article 16 of Regulation (EU) No 1093/2010, to clarify the treatment of any type of funded credit protection and unfunded credit protection for the purposes of paragraph 1, point (a), of this Article and for the purposes of the application of the LGD parameters;

5. *For the purpose of calculating loss, EBA shall, by 31 December 2025, issue updated guidelines, in accordance with Article 16 of Regulation (EU) No 1093/2010, on the following:*

- (a) *with regard to cases that return to non-defaulted status, specifying how artificial cash flow is to be treated and whether it is more appropriate for institutions to discount the artificial cash flow over the actual period of default;*
- (b) *assessing whether the calibration and application of the discount rate is appropriate for the calculation of economic loss across all exposures.’;*

(106) Article 182 is amended as follows:

(a) ■ paragraph 1 is amended as follows:

(i) point (c) is replaced by the following:

‘(c) institutions’ IRB-CCF shall reflect the possibility of additional drawings by the obligor up to and after the time a default event is triggered; ■’;

(ii) the following points are added:

‘(g) institutions’ IRB-CCF shall be estimated using a 12-month fixed-horizon approach ■’;

(h) institutions’ IRB-CCF shall be based on reference data that reflect the obligor, facility and bank management practice characteristics of the exposures to which the estimates are applied.’;

(iii) the following subparagraphs are added:

‘For the purposes of the first subparagraph, point (a), where institutions observe a negative realised conversion factor on their default observations, the realised conversion factor on those observations shall be equal to zero for the purpose of quantification of their IRB-CCF. Institutions may use the information of the negative realised conversion factor in the process of model development for the purpose of risk differentiation.

For the purposes of the first subparagraph, point (c), IRB-CCF shall incorporate a greater margin of conservatism where a stronger positive correlation can reasonably be expected between the default frequency and the magnitude of the conversion factor.

For the purposes of the first subparagraph, point (g), **each default** shall be linked to relevant obligor and facility characteristics at the fixed reference date defined as 12 months prior to the date of default **.**’;

(b) the following paragraphs are inserted:

‘1a. For the purposes of paragraph 1, point (h), IRB-CCF applied to particular exposures shall not be based on data that comingle the effects of disparate characteristics or data from exposures that exhibit materially different risk characteristics. IRB-CCF shall be based on appropriately homogenous segments. For that purpose, the following practices shall only be allowed on the basis of a detailed scrutiny and justification by an institution:

- (a) SME/mid-market underlying data being applied to large corporate obligors;
- (b) data from commitments with a small unused limit availability being applied to facilities with a large unused limit availability;

- (c) data from delinquent obligors or blocked for further drawdowns at the reference date being applied to obligors with no known delinquency or relevant restrictions;
- (d) data that have been affected by changes in the obligors' mix of borrowing and other credit-related products over the observation period unless those data have been effectively adjusted by removing the effects of the changes in the product mix.

1b. For the purposes of paragraph 1a, point (d), institutions shall demonstrate to the competent authorities that they have a detailed understanding of the impact of changes in customer product mix on the exposures reference data sets and associated IRB-CCF, and that the impact is immaterial or has been effectively mitigated within their estimation process. In that regard, the following shall not be deemed appropriate:

- (a) setting floors or caps to CCF or exposure value observations, with the exception of the realised conversion factor equal to zero, in accordance with paragraph 1, second subparagraph;

- (b) using obligor-level estimates that do not fully cover the relevant product transformation options or that inappropriately combine products with very different characteristics;
 - (c) adjusting only material observations affected by product transformation;
 - (d) excluding observations affected by product profile transformation.
- 1c. Institutions shall ensure that their IRB-CCF are effectively quarantined from the potential effects of region of instability caused by a facility being close to being fully drawn at the reference date.
- 1d. Reference data shall not be capped at the principal amount outstanding of a facility or the available facility limit. Accrued interest, other due payments and drawings in excess of facility limits shall be included in the reference data.’;

(c) paragraph 2 is replaced by the following:

‘2. For exposures to corporates, institutions, central governments and central banks, and regional governments, local authorities and public sector entities, estimates of conversion factors shall be based on data over a minimum of five years, increasing by one year each year after implementation until a minimum of seven years is reached, for at least one data source. If the available observation period spans a longer period for any source, and the data are relevant, that longer period shall be used.’;

(d) in paragraph 3, the second subparagraph is replaced by the following:

‘For retail exposures, estimates of conversion factors shall be based on data over a minimum of five years. Subject to the permission of competent authorities, institutions may use, when they implement the IRB Approach, relevant data covering a period of two years. The period to be covered shall be increased by one year each year until relevant data cover at least five years.’;

(e) the following paragraph is added:

‘5. By 31 December 2026, EBA shall issue guidelines, in accordance with Article 16 of Regulation (EU) No 1093/2010, to specify the methodology that institutions are to apply in order to estimate IRB-CCF.’;

■

(107) Article 183 is amended as follows

(a) the title is replaced by the following:

‘Requirements for assessing the effect of unfunded credit protection for exposures to ■ central governments and central banks, exposures to regional governments, local authorities and public sector entities, and exposures to corporates, where own estimates of LGD are used and for retail exposures’;

(b) paragraph 1 is amended as follows:

(i) point (c) is replaced by the following:

- ‘(c) the guarantee shall be evidenced in writing, non-cancellable and non-changeable on the part of the guarantor, in force until the obligation is satisfied in full, to the extent of the amount and tenor of the guarantee, and legally enforceable against the guarantor in a jurisdiction where the guarantor has assets to attach and enforce a judgement;

(ii) the following point is added:

‘(d) the guarantee shall be unconditional.’;

■

(iii) the following subparagraphs are added:

‘For the purposes of the first subparagraph, point (d), an “unconditional guarantee” means a guarantee where the credit protection contract does not contain any clause the fulfilment of which is outside the direct control of the lending institution and ■ that could prevent the guarantor from being obliged to pay out in a timely manner pursuant to the qualifying default of the obligor or to the non-payment by the original obligor ■ . A clause in the credit protection contract providing that a flawed due diligence or fraud by the lending institution cancels or diminishes the extent of the guarantee offered by the guarantor shall not disqualify that guarantee from being considered unconditional.

Guarantees where the payment by the guarantor is subject to the lending institution first having to pursue the obligor and that only cover losses remaining after the institution has completed the workout process shall be considered unconditional.’;

(c) the following paragraph is inserted:

‘1a. Institutions may recognise unfunded credit protection by using either the PD/LGD modelling adjustment approach, in accordance with this Article and subject to the requirement set out in paragraph 4 of this Article, or the substitution of risk parameters approach under A-IRB in accordance with Article 236a and subject to the eligibility requirements of Chapter 4. Institutions shall have clear policies for assessing the effects of unfunded credit protection on risk parameters. The policies of the institutions shall be consistent with their internal risk management practices and shall reflect the requirements of this Article. Those policies shall clearly specify which of the specific methods described in this paragraph are used for each rating system, and institutions shall apply those policies consistently over time.’;

(d) in paragraph 3, the following subparagraph is added:

‘First-to-default credit derivatives may be recognised as eligible unfunded credit protection. However, second-to-default and all other nth-to-default credit derivatives shall not be recognised as eligible unfunded credit protection.’;

(e) paragraph 4 is replaced by the following:

‘4. Where institutions recognise unfunded credit protection by the PD/LGD modelling adjustment approach, the covered part of the underlying exposure shall not be assigned a risk weight which would be lower than the protection-provider-RW-floor. For that purpose, the protection-provider-RW-floor shall be calculated using the same PD, LGD and risk weight function as the ones applicable to comparable direct exposure to the protection provider as referred to in Article 236a.’;

(f) paragraph 6 is deleted;

(108) in Part Three, Title II, Chapter 3, Section 6, Sub-Section 4 is deleted;

(109) in Article 192, the following point is added:

■

‘(5) “substitution of risk parameters approach under A-IRB” means the substitution, in accordance with Article 236a, of both the PD and LGD risk parameters of the underlying exposure with the corresponding PD and LGD that would be assigned under the IRB approach using own estimates of LGD to a comparable direct exposure to the protection provider.’;

(110) in Article 193, the following paragraph is added:

‘7. Collateral that satisfies all eligibility requirements set out in this Chapter can be recognised ■ even for exposures associated with undrawn facilities, where drawing under the facility is conditional on the prior or simultaneous purchase or reception of collateral to the extent of the institution’s interest in the collateral once the facility is drawn, such that the institution does not have any interest in the collateral to the extent the facility is not drawn ■ .’;

(111) in Article 194, paragraph 10 is deleted;

(112) Article 197 is amended as follows:

(a) paragraph 1 is amended as follows:

(i) points (b) to (e) are replaced by the following:

‘(b) debt securities, issued by central governments or central banks, which have a credit assessment by an ECAI or export credit agency where:

(i) the ECAI or export credit agency has been nominated by the institution for the purposes of Chapter 2; and

- (ii) the credit assessment has been determined by EBA to be associated with credit quality step 1, 2, 3 or 4 under the rules for the risk weighting of exposures to central governments and central banks under Chapter 2;
- (c) debt securities, issued by institutions, which have a credit assessment by an ECAI where:
 - (i) the ECAI has been nominated by the institution for the purposes of Chapter 2; and
 - (ii) the credit assessment has been determined by EBA to be associated with credit quality step 1, 2 or 3 under the rules for the risk weighting of exposures to *institutions* under Chapter 2;
- (d) debt securities, issued by other entities, which have a credit assessment by an ECAI where:
 - (i) the ECAI has been nominated by the institution for the purposes of Chapter 2; and
 - (ii) the credit assessment has been determined by EBA to be associated with credit quality step 1, 2 or 3 under the rules for the risk weighting of exposures to *corporates* under Chapter 2;
- (e) debt securities having a short-term credit assessment by an ECAI where:
 - (i) the ECAI has been nominated by the institution for the purposes of Chapter 2; and
 - (ii) the credit assessment has been determined by EBA to be associated with credit quality step 1, 2 or 3 under the rules for the risk weighting of short-term exposures under Chapter 2;';
- (ii) point (g) is replaced by the following:

‘(g) gold bullion;’;

(b) in paragraph 6, the first subparagraph is replaced by the following:

‘For the purposes of paragraph 5 of this Article, where a CIU (the “original CIU”) or any of its underlying CIUs are not limited to investing in instruments that are eligible under paragraphs 1 and 4 of this Article, the following shall apply:

- (a) where the institutions apply the look-through approach referred to in Article 132a(1) or Article 152(2) for direct exposures to a CIU, they may use units or shares in that CIU as collateral up to the amount equal to the value of the instruments held by that CIU that are eligible under paragraphs 1 and 4 of this Article;
- (b) where institutions apply the mandate-based approach referred to in Article 132a(2) or 152(5) for direct exposures to a CIU, they may use units or shares in that CIU as collateral up to the amount equal to the value of the instruments held by that CIU that are eligible under paragraphs 1 and 4 of this Article under the assumption that that CIU or any of its underlying CIUs have invested in non-eligible instruments to the maximum extent allowed under their respective mandates.’;

(113) in Article 198, paragraph 2 is replaced by the following:

‘2. Where the CIU or any underlying CIU are not limited to investing in instruments that are eligible for recognition under Article 197(1) and (4) and in the items referred to in paragraph 1, point (a), of this Article, the following shall apply:

- (a) where institutions apply the look-through approach referred to in Article 132a(1) or 152(2) for direct exposures to a CIU, they may use units or shares in that CIU as collateral up to the amount equal to the value of the instruments held by that CIU, that are eligible under Article 197(1) and (4), and the items referred to in paragraph 1, point (a), of this Article;
- (b) where institutions apply the mandate-based approach referred to in Article 132a(2) or 152(5) for direct exposures to a CIUs, they may use units or shares in that CIU as collateral up to the amount equal to the value of the instruments held by that CIU, that are eligible under Article 197(1) and (4), and the items referred to in paragraph 1, point (a), of this Article under the assumption that that CIU or any of its underlying CIUs have invested in non-eligible instruments to the maximum extent allowed under their respective mandates.

Where non-eligible instruments can have a negative value due to liabilities or contingent liabilities resulting from ownership, institutions shall do both of the following:

- (a) calculate the total value of the non-eligible instruments;
- (b) where the amount obtained under point (a) is negative, subtract the absolute value of that amount from the total value of the eligible instruments.’;

(114) Article 199 is amended as follows:

(a) paragraph 2 is replaced by the following:

‘2. Unless otherwise specified under Article 124(9), institutions may use as eligible collateral residential property which is or will be occupied or let by the owner, or the beneficial owner in the case of personal investment companies, and commercial immovable property, including offices and other commercial premises, where both of the following conditions are met:

- (a) the property value does not materially depend upon the credit quality of the obligor;

- (b) the risk of the borrower does not materially depend upon the performance of the underlying property or project, but on the underlying capacity of the borrower to repay the debt from other sources, and as a consequence the repayment of the facility does not materially depend on any cash flow generated by the underlying property serving as collateral.

For the purposes of the first subparagraph, point (a), institutions may exclude situations where purely macro-economic factors affect both the property value and the performance of the borrower.’;

- (b) in paragraph 3, points (a) and (b) are replaced by the following:
 - ‘(a) the aggregated amount reported by institutions under Article 430a(1), point (a), divided by the aggregated amount reported by institutions under Article 430a(1), point (c), does not exceed 0,3 %;
 - (b) the aggregated amount reported by institutions under Article 430a(1), point (b), divided by the aggregated amount reported by institutions under Article 430a(1), point (c), does not exceed 0,5 %.’;

- (c) in paragraph 4, points (a) and (b) are replaced by the following:
- ‘(a) the aggregated amount reported by institutions under Article 430a(1), point (d), divided by the aggregated amount reported by institutions under Article 430a(1), point (f), does not exceed 0,3 %;
 - (b) the aggregated amount reported by institutions under Article 430a(1), point (e), divided by the aggregated amount reported by institutions under Article 430a(1), point (f), does not exceed 0,5 %.’;
- (d) the following paragraph is inserted:
- ‘4a. Institutions may also apply the derogations referred to in paragraphs 3 and 4 of this Article in cases where the competent authority of a third country which applies supervisory and regulatory arrangements at least equivalent to those applied in the Union as determined in a decision of the Commission adopted *in accordance with Article* 107(4), publishes corresponding loss rates for exposures secured by residential property or commercial immovable property situated within the territory of that third country.’;

- (e) in paragraph 5, the following subparagraph is added:

‘Where a public development credit institution as defined in Article 429a(2) of this Regulation issues a promotional loan as defined in Article 429a(3) of this Regulation to another institution, or to a financial institution that is authorised to carry out activities as referred to in Annex I, point 2 or 3, to Directive 2013/36/EU and that meets the conditions set out in Article 119(5) of this Regulation, and where that other institution or financial institution passes through directly or indirectly that promotional loan to an ultimate obligor and cedes the receivable from the promotional loan as collateral to the public development credit institution, the public development credit institution may use the ceded receivable as eligible collateral, regardless of the original maturity of the ceded receivable.’;

- (f) in paragraph 6, point (d) is replaced by the following:

‘(d) the institution demonstrates that in at least 90 % of all liquidations for a given type of collateral the realised proceeds from the collateral are not below 70 % of the collateral value; where there is material volatility in the market prices, the institution demonstrates to the satisfaction of the competent authority that its valuation of the collateral is sufficiently conservative.’;

(115) Article 201 is amended as follows:

(a) paragraph 1 is amended as follows:

(i) point (d) is replaced by the following:

‘(d) international organisations to which a 0 % risk weight is assigned in accordance with in Article 118;’;

(ii) the following point is inserted:

‘(fa) regulated financial sector entities;’;

(iii) point (g) is replaced by the following:

‘(g) where the credit protection is not provided to a securitisation exposure, other undertakings, that have a credit assessment by a nominated ECAI, including parent undertakings, subsidiaries or affiliated entities of the obligor where a direct exposure to those parent undertakings, subsidiaries or affiliated entities has a lower risk weight than ■ the ■ exposure to the obligor;’;

(iv) the following subparagraph is added:

‘For the purposes of the first subparagraph, point (fa), of this Article,
“regulated financial sector entity” means a financial sector entity meeting the
condition set out in Article 142(1), point (4)(b).’;

(b) paragraph 2 is replaced by the following:

‘2. In addition to the protection providers listed in paragraph 1, corporate entities
that are internally rated by the institution in accordance with Chapter 3, Section
6, shall be eligible providers of unfunded credit protection where the institution
uses the IRB approach for exposures to those corporate entities ■ .’;

(116) Article 202 is deleted;

(117) in Article 204, the following paragraph is added:

‘3. First-to-default and all other nth-to-default credit derivatives shall not be eligible
types of unfunded credit protection under this Chapter.’;

■

(118) in Article 207(4), point (d) is replaced by the following:

‘(d) they shall calculate the market value of the collateral, and revalue it accordingly, at least once every six months and whenever they have reason to believe that a significant decrease in the market value of the collateral has occurred; ESG-related considerations shall prompt an assessment of whether a significant decrease in the market value of the collateral has occurred;’;

(119) Article 208 is amended as follows:

(a) paragraph 3 is amended as follows:

(i) ■ point (b) is replaced by the following ■ :

‘(b) the property valuation is reviewed when information available to institutions indicates that the property value may have declined materially relative to general market prices and that review is carried out by a valuer who possesses the necessary qualifications, ability and experience to execute a valuation and who is independent from the credit decision process; ESG-related considerations, including those related to limitations imposed by the relevant Union and Member States regulatory objectives and legal acts, as well as, where relevant for internationally active institutions, third-country legal and regulatory objectives, shall be considered to be an indication that the property value might have declined materially, relative to general market prices; for loans exceeding EUR 3 million or 5 % of the own funds of an institution, the property valuation shall be reviewed by such valuer at least every three years.’;

- (ii) the second subparagraph is deleted;
- (b) the following paragraph is inserted:
 - ‘3a. Institutions may monitor the value of the immovable property and identify the immovable property in need of revaluation, in accordance with paragraph 3, by means of advanced statistical or other mathematical methods (“models”), provided that those methods are developed independently from the credit decision process and all of the following conditions are met:
 - (a) the institutions set out, in their policies and procedures, the criteria for using models to ■ monitor the values of collateral and to identify the properties that should be revaluated; those policies and procedures shall account for such models’ proven track record, property-specific variables considered, the use of minimum available and accurate information, and the models’ uncertainty;
 - (b) the institutions ensure that the models used are:
 - (i) property- and location-specific at a sufficient level of granularity;
 - (ii) valid and accurate, and subject to robust and regular back-testing against the actual observed transaction prices;

- (iii) based on a sufficiently large and representative sample, based on observed transaction prices;
- (iv) based on up-to-date data of high quality;
- (c) the institutions are ultimately responsible for the appropriateness and performance of the models ■ ;
- (d) the institutions ensure that the documentation of the models is up to date;
- (e) the institutions have in place adequate IT processes, systems and capabilities and have sufficient and accurate data for any model-based monitoring of the value of immovable property collateral and identification of property in need of revaluation;
- (f) the estimates of models are independently validated and the validation process is generally consistent with the principles set out in Article 185, where applicable.’;

(c) paragraph 5 is replaced by the following:

- ‘5. The immovable property taken as credit protection shall be adequately insured against the risk of damage and institutions shall have in place procedures to monitor the adequacy of the insurance.

By way of derogation from Article 92(5), point (a)(ii), and without prejudice to the derogation set out in Article 92(3), second subparagraph, for exposures secured by immovable property granted before 1 January 2025, institutions that apply the IRB Approach referred to in Chapter 3 of this Title by using their own estimates of LGD shall not be required to apply the provisions set out in the first subparagraph of this paragraph.’;

(120) ■ Article 210 is amended as follows:

(a) point (g) is replaced by the following:

‘(g) when conducting valuation and revaluation, institutions shall take fully into account any deterioration or obsolescence of the collateral, paying particular attention to the effects of the passage of time on fashion- or date-sensitive collateral; for physical collateral, obsolescence of collateral shall also include ESG-related valuation considerations related to prohibitions or limitations imposed by the relevant Union and Member States regulatory objectives and legal acts, as well as, where relevant for internationally active institutions, third-country legal and regulatory objectives;’;

(b) the following paragraph is added:

‘Where general security agreements, or other forms of floating charge, provide the lending institution with a registered claim over a company’s assets and where that claim contains both assets that are not eligible as collateral under the IRB Approach and assets that are eligible as collateral under the IRB Approach, the institution may recognise those latter assets as eligible funded credit protection. In that case, that recognition shall be conditional on those assets meeting the requirements for eligibility of collateral under the IRB Approach as set out in this Chapter.’;

(121) in Article 213, paragraph 1 is replaced by the following:

‘1. Subject to Article 214(1), credit protection deriving from a guarantee or credit derivative shall qualify as eligible unfunded credit protection where all of the following conditions are met:

- (a) the credit protection is direct;
- (b) the extent of the credit protection is clearly set out and incontrovertible;
- (c) the credit protection contract does not contain any clause, the fulfilment of which is outside the direct control of the lending institution, that:

- (i) would allow the protection provider to cancel or change the credit protection unilaterally;
 - (ii) would increase the effective cost of the credit protection as a result of a deterioration in the credit quality of the protected exposure;
 - (iii) could prevent the protection provider from being obliged to pay out in a timely manner in the event that the original obligor fails to make any payments due, or where the leasing contract has expired for the purpose of recognising guaranteed residual value under Articles 134(7) and 166(4);
 - (iv) could allow the maturity of the credit protection to be reduced by the protection provider;
- (d) the credit protection contract is legally effective and enforceable in all jurisdictions which are relevant at the time of the conclusion of the credit agreement.

For the purposes of the first subparagraph, point (c), a clause in the credit protection contract providing that flawed due diligence or fraud by the lending institution cancels or diminishes the extent of the credit protection offered by the guarantor, shall not disqualify that credit protection from being eligible. ■

For the purposes of the first subparagraph, point (c), the protection provider may make one lump sum payment of all monies due under the claim, or may assume the future payment obligations of the obligor covered by the credit protection contract.’;

(122) Article 215 is amended as follows:

(a) paragraph 1 is amended as follows:

(i) point (a) is replaced by the following:

‘(a) on the qualifying default of or non-payment by the obligor, the lending institution has the right to pursue, in a timely manner, the guarantor for any monies due under the claim in respect of which the protection is provided;’;

(ii) the following subparagraphs are added:

‘The payment by the guarantor shall not be subject to the lending institution first having to pursue the obligor.

In the case of unfunded credit protection covering residential mortgage loans, the requirements in Article 213(1), point (c)(iii), and in the first subparagraph, point (a), of this paragraph, shall only be required to be satisfied within 24 months.’;

(b) paragraph 2 is replaced by the following:

‘2. In the case of guarantees provided in the context of mutual guarantee schemes or provided by or counter-guaranteed by entities as listed in Article 214(2), the requirements in paragraph 1, point (a), of this Article and in Article 213(1), point (c)(iii), shall be considered to be satisfied where either of the following conditions is met:

(a) pursuant to the qualifying default of ■ or non-payment by the original obligor ■, the lending institution has the right to obtain in a timely manner a provisional payment by the guarantor that meets both the following conditions:

- (i) the provisional payment represents a robust estimate of the amount of the loss that the lending institution is likely to incur, including losses resulting from the non-payment of interest and other types of payment which the borrower is obliged to make;
- (ii) the provisional payment is proportional to the coverage of the guarantee;

- (b) the lending institution can demonstrate to the satisfaction of the competent authority that the effects of the guarantee, which shall also cover losses resulting from the non-payment of interest and other types of payments which the borrower is obliged to make, justify such treatment; that justification shall be properly documented and subject to dedicated internal approval and audit procedures.’;

(123) in Article 216, the following paragraph is added:

‘3. By way of derogation from paragraph 1, for a corporate exposure covered by a credit derivative, the credit event referred to in point (a)(iii) of that paragraph shall not be required to be specified in the derivative contract, provided that all of the following conditions are met:

- (a) a 100 % vote is needed to amend the maturity, principal, coupon, currency or seniority status of the underlying corporate exposure;
- (b) the legal domicile in which the corporate exposure is governed has a well-established bankruptcy code that allows for a company to reorganise and restructure, and provides for an orderly settlement of creditor claims.

Where the conditions set out in points (a) and (b) of this paragraph are not met, the credit protection may nonetheless be eligible subject to a reduction in the value as specified in Article 233(2).’;

(124) Article 217 is deleted;

(125) Article 219 is replaced by the following:

‘Article 219

On-balance-sheet netting

Loans to and deposits with the lending institution subject to on-balance-sheet netting shall be treated by that institution as cash collateral for the purpose of calculating the effect of funded credit protection for those loans and deposits of the lending institution subject to on-balance-sheet netting.’;

(126) Article 220 is amended as follows:

(a) the title is replaced by the following:

‘Using the Supervisory Volatility Adjustments Approach for master netting agreements’;

(b) paragraph 1 is replaced by the following:

- ‘1. Institutions that calculate the “fully adjusted exposure value” (E*) for the exposures subject to an eligible master netting agreement covering securities financing transactions or other capital market-driven transactions shall calculate the volatility adjustments that they need to apply by using the Supervisory Volatility Adjustments Approach set out in Articles 223 to 227 for the Financial Collateral Comprehensive Method.’;

(c) in paragraph 2, point (c) is replaced by the following:

- ‘(c) apply the value of the volatility adjustment, or, where relevant, the absolute value of the volatility adjustment appropriate for a given group of securities or for a given type of commodities, to the absolute value of the positive or negative net position in the securities in that group of securities, or to the commodities from that type of commodities;’;

(d) paragraph 3 is replaced by the following:

‘3. Institutions shall calculate E^* in accordance with the following formula:

$$E^* = \max \left(0; \sum_i E_i - \sum_j C_j + 0,4 \cdot E_{\text{net}} + 0,6 \cdot \frac{E_{\text{gross}}}{\sqrt{N}} + \sum_k |E_k^{\text{fx}}| \cdot H_k^{\text{fx}} \right)$$

where:

i = the index that denotes all separate securities, commodities or cash positions under the agreement that are either lent, sold with an agreement to repurchase, or posted by the institution to the counterparty;

j = the index that denotes all separate securities, commodities or cash positions under the agreement that are either borrowed, purchased with an agreement to resell, or held by the institution;

k = the index that denotes all separate currencies in which any securities, commodities or cash positions under the agreement are denominated;

E_i = the exposure value of a given security, commodity or cash position i, that is either lent, sold with an agreement to repurchase, or posted to the counterparty under the agreement that would apply in the absence of credit protection, where institutions calculate the risk-weighted exposure amounts in accordance with Chapter 2 or 3, as applicable;

C_j = the value of a given security, commodity or cash position j that is either borrowed, purchased with an agreement to resell, or held by the institution under the agreement;

E_k^{fx} = the net position (positive or negative) in a given currency k other than the settlement currency of the agreement as calculated in accordance with paragraph 2, point (b);

H_k^{fx} = the foreign exchange volatility adjustment for currency k;

E_{net} = the net exposure of the agreement, calculated as follows:

$$E_{net} = \left| \sum_{l=1}^N |E_l^{sec}| \cdot H_l^{sec} \right|$$

where:

l = the index that denotes all distinct groups of the same securities and all distinct types of the same commodities under the agreement;

E_l^{sec} = the net position (positive or negative) in a given group of securities l , or a given type of commodities l , under the agreement, calculated in accordance with paragraph 2, point (a);

H_l^{sec} = the volatility adjustment appropriate to a given group of securities l , or a given type of commodities l , determined in accordance with paragraph 2, point (c); the sign of H_l^{sec} shall be determined as follows:

- (a) it shall have a positive sign where the group of securities l is lent, sold with an agreement to repurchase, or transacted in a manner similar to either a securities lending or a repurchase agreement;

- (b) it shall have a negative sign where the group of securities l is borrowed, purchased with an agreement to resell, or transacted in a manner similar to either a securities borrowing or a reverse repurchase agreement;

N = the total number of distinct groups of the same securities and distinct types of the same commodities under the agreement; for the purposes of this calculation, those groups and types E_l^{sec} for which $|E_l^{\text{sec}}|$ is less than $\frac{1}{10} \max_l(|E_l^{\text{sec}}|)$ shall not be counted;

E_{gross} = the gross exposure of the agreement, calculated as follows:

$$E_{\text{gross}} = \sum_{l=1}^N |E_l^{\text{sec}}| \cdot |H_l^{\text{sec}}|;$$

(127) Article 221 is amended as follows:

(a) paragraphs 1, 2 and 3 are replaced by the following:

- ‘1. For the purpose of calculating risk-weighted exposure amounts and expected loss amounts for securities financing transactions or other capital market-driven transactions other than derivative transactions covered by an eligible master netting agreement that meets the requirements set out in Chapter 6, Section 7, an institution may calculate the fully adjusted exposure value (E^*) of the agreement using the internal model approach, provided that the institution meets the conditions set out in paragraph 2.
2. An institution may use the internal model approach where all of the following conditions are met:
 - (a) the institution uses that approach only for exposures for which the risk-weighted exposures amounts are calculated under the IRB Approach set out in Chapter 3;
 - (b) the institution is granted the permission to use that approach by its competent authority.

3. An institution that uses an internal model approach shall do so for all counterparties and securities, with the exception of immaterial portfolios for which it may use the Supervisory Volatility Adjustments Approach laid down in Article 220’;

(b) paragraph 8 is deleted.

(128) in Article 222, paragraph 3 is replaced by the following:

- ‘3. Institutions shall assign to those portions of exposure values that are collateralised by the market value of eligible collateral the risk weight that they would assign under Chapter 2 where the lending institution had a direct exposure to the collateral instrument. For that purpose, the exposure value of an off-balance-sheet item listed in Annex I shall be equal to 100 % of the item’s value rather than the exposure value indicated in Article 111(2).’;

(129) Article 223 is amended as follows

(a) ■ paragraph 4 ■ is replaced by the following:

- ‘4. For the purpose of calculating E in paragraph 3, the following shall apply:

- (a) for institutions calculating risk-weighted exposure amounts under the Standardised Approach, the exposure value of an off-balance-sheet item listed in Annex I shall be 100 % of that item's value rather than the exposure value indicated in Article 111(2);
 - (b) for off-balance-sheet items other than derivatives treated under the IRB Approach, institutions shall calculate their exposure values using a CCF of 100 % instead of the SA-CCF or IRB-CCF provided for in Article 166(8), (8a) and (8b).';
- (b) paragraph 6 is replaced by the following:
 - '6. Institutions shall calculate volatility adjustments by using the Supervisory Volatility Adjustments Approach referred to in Articles 224 to 227.';

(130) in Article 224, paragraph 1, Tables 1 to 4 are replaced by the following:

‘Table 1

Credit quality step with which the credit assessment of the debt security is associated	Residual maturity (m), expressed in years	Volatility adjustments for debt securities issued by entities as referred to in Article 197(1), point (b)			Volatility adjustments for debt securities issued by entities as referred to in Article 197(1), points (c) and (d)			Volatility adjustments for securitisation positions and meeting the criteria laid down in Article 197(1), point (h)		
		20-day liquidation period (%)	10-day liquidation period (%)	5-day liquidation period (%)	20-day liquidation period (%)	10-day liquidation period (%)	5-day liquidation period (%)	20-day liquidation period (%)	10-day liquidation period (%)	5-day liquidation period (%)
1	$m \leq 1$	0,707	0,5	0,354	1,414	1	0,707	2,828	2	1,414
	$1 < m \leq 3$	2,828	2	1,414	4,243	3	2,121	11,314	8	5,657
	$3 < m \leq 5$	2,828	2	1,414	5,657	4	2,828	11,314	8	5,657
	$5 < m \leq 10$	5,657	4	2,828	8,485	6	4,243	22,627	16	11,314
	$m > 10$	5,657	4	2,828	16,971	12	8,485	22,627	16	11,314
2 to 3	$m \leq 1$	1,414	1	0,707	2,828	2	1,414	5,657	4	2,828
	$1 < m \leq 3$	4,243	3	2,121	5,657	4	2,828	16,971	12	8,485
	$3 < m \leq 5$	4,243	3	2,121	8,485	6	4,243	16,971	12	8,485
	$5 < m \leq 10$	8,485	6	4,243	16,971	12	8,485	33,941	24	16,971
	$m > 10$	8,485	6	4,243	28,284	20	14,142	33,941	24	16,971
4	all	21,213	15	10,607	N/A	N/A	N/A	N/A	N/A	N/A

Table 2

Credit quality step with which the credit assessment of a short term debt security is associated	Residual maturity (m), expressed in years	Volatility adjustments for debt securities issued by entities as referred to in Article 197(1), point (b), with short-term credit assessments			Volatility adjustments for debt securities issued by entities as referred to in Article 197(1), points (c) and (d), with short-term credit assessments			Volatility adjustments for securitisation positions and meeting the criteria laid down in Article 197(1), point (h), with short-term credit assessments		
		20-day liquidation period (%)	10-day liquidation period (%)	5-day liquidation period (%)	20-day liquidation period (%)	10-day liquidation period (%)	5-day liquidation period (%)	20-day liquidation period (%)	10-day liquidation period (%)	5-day liquidation period (%)
1		0,707	0,5	0,354	1,414	1	0,707	2,828	2	1,414
2 to 3		1,414	1	0,707	2,828	2	1,414	5,657	4	2,828

Table 3

Other collateral or exposure types

	20-day liquidation period (%)	10-day liquidation period (%)	5-day liquidation period (%)
Main index equities, main index convertible bonds	28,284	20	14,142
Other equities or convertible bonds listed on a recognised exchange	42,426	30	21,213
Cash	0	0	0
Gold bullion	28,284	20	14,142

Table 4

Volatility adjustment for currency mismatch (H_{fx})

20-day liquidation period (%)	10-day liquidation period (%)	5-day liquidation period (%)
11,314	8	5,657

;

(131) Article 225 is deleted;

(132) Article 226 is replaced by the following:

‘Article 226

Scaling up of volatility adjustment under the Financial Collateral Comprehensive Method

The volatility adjustments set out in Article 224 are the volatility adjustments an institution shall apply where there is daily revaluation. Where the frequency of revaluation is less than daily, institutions shall apply larger volatility adjustments. Institutions shall calculate them by scaling up the daily revaluation volatility adjustments, using the following square-root-of-time formula:

$$H = H_M \cdot \sqrt{\frac{N_R + (T_M - 1)}{T_M}}$$

where:

H = the volatility adjustment to be applied;

H_M = the volatility adjustment where there is daily revaluation;

N_R = the actual number of business days between revaluations;

T_M = the liquidation period for the type of transaction in question.’;

(133) in Article 227, paragraph 1 is replaced by the following:

- ‘1. Institutions that use the Supervisory Volatility Adjustments Approach referred to in Article 224, may, for repurchase transactions and securities lending or borrowing transactions, apply a 0 % volatility adjustment instead of the volatility adjustments calculated under Articles 224 and 226, provided that the conditions set out in paragraph 2, points (a) to (h), of this Article are satisfied. Institutions that use the internal model approach set out in Article 221 shall not use the treatment set out in this Article.’;

(134) Article 228 is replaced by the following:

‘Article 228

Calculating risk-weighted exposure amounts under the Financial Collateral
Comprehensive method for exposures treated under the Standardised Approach

Under the Standardised Approach, institutions shall use E^ as calculated under Article 223(5) as the exposure value for the purposes of Article 113. In the case of off-balance-sheet items listed in Annex I, institutions shall use E^* as the value to which the percentages indicated in Article 111(2) shall be applied to arrive at the exposure value.’;*

(135) Article 229 is amended as follows:

(a) the title is replaced by the following:

‘Valuation principles for eligible collateral other than financial collateral’;

(b) paragraph 1 is replaced by the following:

‘1. The valuation of immovable property shall meet all of the following requirements:

- (a) the value is appraised independently from an institution’s mortgage acquisition, loan processing and loan decision process by an independent valuer who possesses the necessary qualifications, ability and experience to execute a valuation;
- (b) the value is appraised using prudently conservative valuation criteria which meet all of the following requirements:
 - (i) the value excludes expectations on price increases;
 - (ii) the value is adjusted to take into account the potential for the current market value to be significantly above the value that would be sustainable over the life of the loan;
- (c) *the value is documented in a transparent and clear manner;*
- (d) the value is not higher than a market value for the immovable property where such market value can be determined;

■

- (e) *where the property is revalued, the property value does not exceed the average value measured for that property, or for a comparable property over the last six years for residential property or eight years for commercial immovable property or the value at origination, whichever is higher.*

For the purpose of calculating the average value, institutions shall take the average across property values observed at equal intervals and the reference period shall include at least three data points.

For the purpose of calculating the average value, institutions may use the results of the monitoring of property values in accordance with Article 208(3). The property value may exceed that average value or the value at origination, as applicable, in the case of modifications made to the property that unequivocally increase its value, such as improvements of the energy performance or improvements to the resilience, protection and adaptation to physical risks of the building or housing unit. The property value shall not be revalued upward if institutions do not have sufficient data to calculate the average value except if the value increase is based on modifications that unequivocally increase its value.

The valuation of immovable property shall take account of any prior claims on the property, unless a prior claim is taken into account in the calculation of the gross exposure amount pursuant to Article 124(6), point (c), or as reducing the amount of 55 % of the property value pursuant to Article 125(1) or Article 126(1), and reflect, where applicable, the results of the monitoring required under Article 208(3).’;

(c) the following paragraph is added :

‘4. EBA shall develop draft regulatory technical standards to specify the criteria and factors to be considered for the assessment of the term “comparable property”, as referred to in paragraph 1, point (e).

EBA shall submit those draft regulatory technical standards to the Commission by ... [36 months from the date of entry into force of this amending Regulation].

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.’;

(136) Article 230 is replaced by the following:

‘Article 230

Calculating risk-weighted exposure amounts and expected loss amounts for an exposure with an eligible funded credit protection under the IRB Approach

1. Under the IRB Approach, except for those exposures that fall under the scope of Article 220, institutions shall use the effective LGD (LGD*) as the LGD for the purposes of Chapter 3 to recognise funded credit protection eligible pursuant to this Chapter. Institutions shall calculate LGD* as follows:

$$LGD^* = LGD_U \cdot \frac{E_U}{E \cdot (1 + H_E)} + LGD_S \cdot \frac{E_S}{E \cdot (1 + H_E)}$$

where:

E = the exposure value before taking into account the effect of the funded credit protection; for an exposure secured by financial collateral eligible in accordance with this Chapter, that amount shall be calculated in accordance with Article 223(3); in the case of securities lent or posted, that amount shall be equal to the cash lent or securities lent or posted; for securities that are lent or posted, the exposure value shall be increased by applying the volatility adjustment (H_E) in accordance with Articles 223 to 227;

E_S = the current value of the funded credit protection received after the application of the volatility adjustment applicable to that type of funded credit protection (H_C) and the application of the volatility adjustment for currency mismatches (H_{fx}) between the exposure and the funded credit protection, in accordance with paragraphs 2 and 3; E_S shall be capped at the following value: $E \cdot (1 + H_E)$;

$$E_U = E \cdot (1 + H_E) - E_S;$$

LGD_U = the applicable LGD for an unsecured exposure as set out in Article 161(1);

LGD_S = the applicable LGD to exposures secured by the type of eligible FCP used in the transaction, as specified in paragraph 2, Table 1.

2. Table 1 specifies the values of LGD_S and H_c applicable in the formula set out in paragraph 1.

Table 1

Type of FCP	LGD_S	Volatility adjustment (H_c)
Financial collateral	0 %	Volatility adjustment H_c as set out in Articles 224 to 227
Receivables	20 %	40 %
Residential property and commercial immovable property	20 %	40 %
Other physical collateral	25 %	40 %
Ineligible FCP	Not applicable	100 %

3. Where an eligible funded credit protection is denominated in a different currency than that of the exposure, the volatility adjustment for currency mismatch (H_{fx}) shall be the same as the one that applies pursuant to Articles 224 to 227.
4. As an alternative to the treatment set out in paragraphs 1 and 2 of this Article, and subject to Article 124(9), institutions may assign a 50 % risk weight to the part of the exposure that is, within the limits set out in Article 125(1), first subparagraph, and Article 126(1), first subparagraph, respectively, fully collateralised by residential property or commercial immovable property situated within the territory of a Member State where all of the conditions set out in Article 199(3) or (4) are met.
5. To calculate risk-weighted exposure amounts and expected loss amounts for IRB exposures that fall within the scope of Article 220, institutions shall use E* in accordance with Article 220(4) and shall use LGD for unsecured exposures, as set out in Article 161(1), points (a), (aa) and (b).’;

(137) Article 231 is replaced by the following:

‘Article 231

Calculating risk-weighted exposure amounts and expected loss amounts in the case of pools of eligible funded credit protection for an exposure treated under the IRB Approach

Institutions that have obtained multiple types of funded credit protection may, for exposures treated under the IRB Approach, apply the formula set out in Article 230, sequentially for each individual type of collateral. For that purpose, those institutions shall, after each step of recognising one individual type of FCP, reduce the remaining value of the unsecured exposure (E_U) by the adjusted value of the collateral (E_S) recognised in that step. In accordance with Article 230(1), the total of E_S across all funded credit protection types shall be capped at the value of $E \cdot (1 + H_E)$, resulting in the following formula:

$$LGD^* = LGD_U \cdot \frac{E_U}{E \cdot (1 + H_E)} + \sum_i LGD_{S,i} \cdot \frac{E_{S,i}}{E \cdot (1 + H_E)}$$

where:

$LGD_{S,i}$ = the LGD applicable to FCP i, as specified in Article 230(2);

$E_{S,i}$ = the current value of FCP i received after the application of the volatility adjustment applicable for the type of FCP (H_c) pursuant to Article 230(2).’;

(138) Article 232 is amended as follows:

(a) paragraph 1 is replaced by the following:

‘1. Where the conditions set out in Article 212(1) are met, cash on deposit with, or cash assimilated instruments held by, a third-party institution in a non-custodial arrangement and pledged to the lending institution, may be treated as a guarantee provided by the third-party institution.’;

(b) in paragraph 3, the following point is inserted:

‘(ba) a risk weight of 52,5 %, where the senior unsecured exposure to the undertaking providing the life insurance is assigned a risk weight of 75 %’;

(139) in Article 233, paragraph 4 is replaced by the following:

‘4. Institutions shall base the volatility adjustments for any currency mismatch on a 10 business day liquidation period, assuming daily revaluation, and shall calculate those adjustments based on the Supervisory Volatility Adjustments Approach as set out in Article 224. Institutions shall scale up the volatility adjustments in accordance with Article 226.’;

(140) Article 235 is amended as follows:

(a) the title is replaced by the following:

‘Calculating risk-weighted exposure amounts under the substitution approach where the guaranteed exposure is treated under the Standardised Approach’;

(b) paragraph 1 is replaced by the following:

‘1. For the purposes of Article 113(3), institutions shall calculate the risk-weighted exposure amounts for exposures with unfunded credit protection to which those institutions apply the Standardised Approach, irrespective of the treatment of comparable direct exposure to the protection provider, in accordance with the following formula:

$$\max\{0, E - G_A\} \cdot r + G_A \cdot g$$

where:

E = the exposure value calculated in accordance with Article 111; for that purpose, the exposure value of an off-balance-sheet item listed in Annex I shall be 100 % of its value rather than the exposure value indicated in Article **111(2)**;

G_A = the amount of credit protection adjusted for foreign exchange risk (G*) as calculated under Article 233(3) further adjusted for any maturity mismatch as laid down in Section 5 of this Chapter;

r = the risk weight of exposures to the obligor as specified in Chapter 2;

g = the risk weight *applicable to a direct exposure* to the protection provider as specified in Chapter 2.';

(c) paragraph 3 is replaced by the following:

‘3. Institutions may extend the preferential treatment set out in Article 114(4) and (7), to exposures or parts of exposures guaranteed by the central government or the central bank as if those exposures were direct exposures to the central government or the central bank, provided that the conditions set out in Article 114(4) or (7), as applicable, are met for such direct exposures.’;

(141) the following article is inserted:

‘Article 235a

Calculating risk-weighted exposure *amounts* and expected loss amounts under the substitution approach where the guaranteed exposure is treated under the IRB Approach and a comparable direct exposure to the protection provider is treated under the Standardised Approach

1. For exposures with unfunded credit protection to which an institution applies the IRB Approach set out in Chapter 3 and where comparable direct exposures to the protection provider are treated under the Standardised Approach, institutions shall calculate the risk-weighted exposure amounts in accordance with the following formula:

$$\max\{0, E - G_A\} \cdot r + G_A \cdot g$$

where:

E = the exposure value determined in accordance with Chapter 3, Section 5; for that purpose, institutions shall calculate the exposure value for off-balance-sheet items other than derivatives treated under the IRB Approach using a CCF of 100 % instead of the SA-CCFs or IRB-CCF provided for in Article 166(8), (8a) and (8b);

G_A = the amount of credit protection adjusted for foreign exchange risk (G^*) as calculated in accordance with Article 233(3) further adjusted for any maturity mismatch as laid down in ■ Section 5 of this Chapter;

r = the risk weight of exposures to the obligor as specified in Chapter 3;

g = the risk weight *applicable to a direct exposure* to the protection provider as specified in Chapter 2.

2. Where the amount of credit protection (G_A) is less than the exposure value (E), institutions may apply the formula specified in paragraph 1 only where the protected and unprotected parts of the exposure are of equal seniority.
3. Institutions may extend the preferential treatment set out in Article 114(4) and (7), to exposures or parts of exposures guaranteed by the central government or the central bank as if those exposures were direct exposures to the central government or the central bank, provided that the conditions set out in Article 114(4) or (7), as applicable, are met for such direct exposures.
4. The expected loss amount for the covered part of the exposure value shall be zero.
5. For any uncovered part of the exposure value (E), institutions shall use the risk weight and the expected loss corresponding to the underlying exposure. For the calculation set out in Article 159, institutions shall assign any general or specific credit risk adjustments or additional value adjustments in accordance with Article 34 related to the non-trading book business of the institution or other own funds reductions related to the exposure other than the deductions made in accordance with Article 36(1), point (m), to the uncovered part of the exposure value.';

(142) Article 236 is replaced by the following:

‘Article 236

Calculating risk-weighted exposure amounts and expected loss amounts under the substitution approach where the guaranteed exposure is treated under the IRB Approach *without the use of own estimates of LGD* and a comparable direct exposure to the protection provider is treated under the IRB Approach

1. For an exposure with unfunded credit protection to which an institution applies the IRB Approach set out in Chapter 3, but without using its own estimates of LGD, and where comparable direct exposures to the protection provider are treated under the IRB Approach set out in Chapter 3, the institution shall determine the covered part of the exposure as the lower of the exposure value (E) and the adjusted value of the unfunded credit protection (G_A).

- 1a. Institutions that apply the IRB Approach to comparable direct exposures to the protection provider using own estimates of PD shall calculate the risk-weighted exposure amount and the expected loss amount for the covered part of the exposure value by using the PD of the protection provider and the LGD applicable for a comparable direct exposure to the protection provider as referred to in Article 161(1), in accordance with paragraph 1b of this Article. For subordinated exposures and non-subordinated unfunded credit protection, the LGD to be applied by institutions to the covered part of the exposure value shall be the LGD associated with senior claims and the institutions **■** may account for any *funded credit protection securing the unfunded credit protection* in accordance with this Chapter.
- 1b. Institutions shall calculate the risk weight and expected loss applicable to the covered part of the underlying exposure using the PD, the LGD specified in paragraph 1a of this Article, and the same risk weight function as the ones used for a comparable direct exposure to the protection provider, and shall, where applicable, use the maturity (M) related to the underlying exposure, calculated in accordance with Article 162.

- 1c. Institutions that apply the IRB Approach to comparable direct exposures to the protection provider using the method provided for in Article 153(5) shall use the risk weight and expected loss applicable to the covered part of the exposure that correspond to the ones provided for in Articles 153(5) and 158(6).
- 1d. Notwithstanding paragraph 1c of this Article, institutions that apply the IRB Approach to guaranteed exposures using the method provided for in Article 153(5) shall calculate the risk weight and expected loss applicable to the covered part of the exposure using the PD, the LGD applicable for a comparable direct exposure to the protection provider as referred to in Article 161(1), in accordance with paragraph 1b of this Article, and the same risk weight function as the ones used for a comparable direct exposure to the protection provider, and shall, where applicable, use the maturity (M) related to the underlying exposure, calculated in accordance with Article 162. For subordinated exposures and non-subordinated unfunded credit protection, the LGD to be applied by institutions to the covered part of the exposure value shall be the LGD associated with senior claims and the institutions may account for any funded credit protection securing the unfunded credit protection in accordance with this Chapter.

2. For any uncovered part of the exposure value (E), institutions shall use the risk weight and the expected loss corresponding to the underlying exposure. For the calculation set out in Article 159, institutions shall assign any general or specific credit risk adjustments or additional value adjustments in accordance with Article 34 related to the non-trading book business of the institution or other own funds reductions related to the exposure other than the deductions made in accordance with Article 36(1), point (m), to the uncovered part of the exposure value.
3. For the purposes of this Article, (G_A) is the amount of credit protection adjusted for foreign exchange risk (G^*) as calculated under Article 233(3) further adjusted for any maturity mismatch as laid down in Section 5 of this Chapter. The exposure value (E) is the exposure value determined in accordance with Chapter 3, Section 5. Institutions shall calculate the exposure value for off-balance-sheet items other than derivatives treated under the IRB Approach using a CCF of 100 % instead of the SA-CCFs or IRB-CCF provided for in Article 166(8), (8a) and (8b).’;

(143) the following article is inserted:

‘Article 236a

Calculating risk-weighted exposure amounts and expected loss amounts under the substitution approach where the guaranteed exposure is treated under the IRB Approach using own estimates of LGD and a comparable direct exposure to the protection provider is treated under the IRB Approach

1. For an exposure with unfunded credit protection to which an institution applies the IRB Approach set out in Chapter 3 using its own estimates of LGD and where comparable direct exposures to the protection provider are treated under the IRB Approach set out in Chapter 3, but *without using its own estimates of LGD*, the institution shall determine the covered part of the exposure as the lower of the exposure value (E) and the adjusted value of the unfunded credit protection (G_A), *calculated in accordance with Article 235a(1)*. The institution shall calculate the risk-weighted exposure amount and the expected loss amount for the covered part of the exposure value by using the PD, the LGD and the same risk weight function as the ones used for a comparable direct exposure to the protection provider, and shall, where applicable, use the maturity (M) related to the underlying exposure, calculated in accordance with Article 162.
2. Institutions that apply the IRB Approach set out in Chapter 3, but without using their own estimates of LGD to comparable direct exposures to the protection provider, shall determine the LGD in accordance with Article **161(1)**. For subordinated exposures and non-subordinated unfunded credit protection, the LGD to be applied by institutions to the covered part of the exposure value shall be the LGD associated with senior claims and the institutions may account for any funded credit protection securing the unfunded credit protection in accordance with this Chapter.

3. Institutions that apply the IRB Approach set out in Chapter 3 using their own estimates of LGD to comparable direct exposures to the protection provider shall calculate the risk weight and the expected loss applicable to the covered part of the underlying exposure using the PD, the LGD and the same risk weight function as the ones used for a comparable direct exposure to the protection provider, and shall, where applicable, use the maturity (M) related to the underlying exposure, calculated in accordance with Article 162.
4. Institutions that apply the IRB Approach to comparable direct exposures to the protection provider using the method provided for in Article 153(5) shall use the risk weight and expected loss applicable to the covered part of the exposure that correspond to the ones provided in Articles 153(5) and 158(6).
5. For any uncovered part of the exposure value (E), institutions shall use the risk weight and the expected loss corresponding to the underlying exposure. For the calculation set out in Article 159, institutions shall assign any general or specific credit risk adjustments or additional value adjustments in accordance with Article 34 related to the non-trading book business of the institution or other own funds reductions related to the exposure other than the deductions made in accordance with Article 36(1), point (m), to the uncovered part of the exposure value.';

(144) in Part Three, Title II, Chapter 4, Section 6 is deleted;

(145) in Article 252, point (b), the definition of *RW** is replaced by the following:

‘RW = risk-weighted exposure amounts for the purposes of Article 92(4), point (a);’*

(146) ■ Article 273 is amended as follows:

(a) in paragraph 1, the first subparagraph is replaced by the following:

‘Institutions shall calculate the exposure value for the contracts listed in Annex II and for credit derivatives, with the exception of the credit derivatives referred to in paragraphs 3 and 5 of this Article, on the basis of one of the methods set out in Sections 3 to 6 in accordance with this Article.’;

(b) in paragraph 3, point (b) is replaced by the following:

‘(b) in accordance with Article 183, where permission has been granted in accordance with Article 143.’;

(147) in Article 273a, paragraph 3 is amended as follows:

(a) in the first subparagraph, point (b) is replaced by the following:

‘(b) the absolute value of the aggregated long position shall be summed with the absolute value of the aggregated short position;’;

(b) *the following subparagraphs are added:*

‘For the purposes of the first subparagraph, the meaning of long and short positions is the same as that set out in Article 94(3).

For the purposes of the first subparagraph, the value of the aggregated long (short) position shall be equal to the sum of the values of the individual long (short) positions included in the calculation in accordance with point (c).’;

(148) Article 273b is amended as follows:

(a) the title is replaced by the following:

‘Non-compliance with the conditions for using simplified methods for calculating the exposure value of derivatives and the simplified approach for calculating the own funds requirements for CVA risk’;

(b) in paragraph 2, the introductory wording is replaced by the following:

‘Institutions shall cease to calculate the exposure values of their derivative positions in accordance with Section 4 or 5 and to calculate the own funds requirements for CVA risk in accordance with Article 385, as applicable, within three months of the occurrence of one of the following:’;

(c) paragraph 3 is replaced by the following:

- ‘3. Institutions that have ceased to calculate the exposure values of their derivative positions in accordance with Section 4 or 5 and to calculate the own funds requirements for CVA risk in accordance with Article 385, as applicable, shall only be permitted to resume calculating the exposure value of their derivative positions as set out in Section 4 or 5 and the own funds requirements for CVA risk in accordance with Article 385 where they demonstrate to the competent authority that all of the conditions set out in Article 273a(1) or (2), have been met for an uninterrupted period of one year.’;

(149) Article 274 is amended as follows:

(a) paragraph 4 is replaced by the following:

- ‘4. Where multiple margin agreements apply to the same netting set, or the same netting set includes both transactions subject to a margin agreement and transactions not subject to a margin agreement, an institution shall calculate its exposure value as follows:
- (a) the institution shall establish the hypothetical sub-netting sets concerned, composed of transactions included in the netting set, as follows:

- (i) all transactions subject to a margin agreement and to the same margin period of risk as determined in accordance with Article 285(2) to (5), shall be allocated to the same sub-netting set;
 - (ii) all transactions not subject to a margin agreement shall be allocated to the same sub-netting set, distinct from the sub-netting sets established in accordance with point (i) of this paragraph;
- (b) the institution shall calculate the replacement cost of the netting set in accordance with Article 275(2), taking into account all transactions within the netting set, whether or not subject to a margin agreement, and apply all of the following:
 - (i) CMV shall be calculated for all transactions within a netting set gross of any collateral held or posted where positive and negative market values are netted in computing the CMV;
 - (ii) NICA, VM, TH, and MTA, where applicable, shall be calculated separately as the sum across the same inputs applicable to each individual margin agreement of the netting set;

- (c) the institution shall calculate the potential future exposure of the netting set referred to in Article 278 by applying all of the following:
 - (i) the multiplier referred to in Article 278(1) shall be based on the inputs CMV, NICA and VM, as applicable, in accordance with point (b) of this paragraph;
 - (ii) $\sum_a AddOn^{(a)}$ shall be calculated in accordance with Article 278, separately for each hypothetical sub-netting set referred to in point (a) of this paragraph.;
- (b) in paragraph 6, the following subparagraphs are added:

‘By way of derogation from the first subparagraph, institutions shall replace a vanilla digital option the strike of which equals K with the relevant collar combination of two sold and bought vanilla call or put options that meet the following requirements:

 - (a) the two options of the collar combination have:
 - (i) the same expiry date and the same spot or forward price of the underlying instrument as the vanilla digital option;
 - (ii) strikes equal to $0,95 \cdot K$ and $1,05 \cdot K$ respectively;

- (b) the collar combination replicates exactly the vanilla digital option payoff outside the range between the two strikes referred to in point (a).

The risk position of the two options of the collar combination referred to in the second subparagraph shall be calculated separately in accordance with Article 279.’;

(150) in Article 276(1), point (d) is replaced by the following:

‘(d) the volatility-adjusted value of any type of collateral received or posted shall be calculated in accordance with Article 223;’;

(151) in Article 277a(2), the following subparagraph is added:

‘For the purposes of the first subparagraph, point (a), of this paragraph, institutions shall assign transactions to a separate hedging set of the relevant risk category following the same hedging set construction set out in paragraph 1.’;

(152) *Article 279a is amended as follows:*

(a) *in paragraph 1, point (a), the introductory wording is replaced by the following:*

‘(a) for call and put options that entitle the option buyer to purchase or sell an underlying instrument at a positive price on a single or multiple dates in the future, except where those options are mapped to the interest rate risk or commodity risk category, institutions shall use the following formula:’;

(b) *paragraph 3 is amended as follows:*

(i) *in the first subparagraph, point (a) is replaced by the following:*

‘(a) in accordance with international regulatory developments, the formulae that institutions shall use to calculate the supervisory delta of call and put options mapped to the interest rate risk or commodity risk category compatible with market conditions in which interest rates or commodity prices may be negative and the supervisory volatility that is suitable for those formulae;’;

(ii) *the second subparagraph is replaced by the following:*

‘EBA shall submit those draft regulatory technical standards to the Commission by ... [12 months from the date of the entry into force of this amending Regulation].’;

(153) *Article 285 is amended as follows:*

(a) *paragraph 7 is replaced by the following:*

‘7. If an institution is not able to model collateral jointly with the exposure, it shall not recognise in its exposure value calculations for OTC derivatives the effect of collateral other than cash of the same currency as the exposure itself, unless the institution uses the volatility adjustments under the standard Supervisory Volatility Adjustments Approach in accordance with Chapter 4.’;

(b) *the following paragraph is inserted:*

‘7a. If an institution is not able to model collateral jointly with the exposure, it shall not recognise in its exposure value calculations for securities financing transactions the effect of collateral other than cash of the same currency as the exposure itself.’;

(154) in Article 291(5), point (f) is replaced by the following:

‘(f) to the extent that the calculation uses existing market risk calculations for own funds requirements for default risk as set out in Title IV, Chapter 1a, Section 4 or 5, or for default risk using an internal default risk model as set out in Title IV, Chapter 1b, Section 3, that already contain an LGD assumption, the LGD in the formula used shall be 100 %.’;

(155) in Part Three, Title III is replaced by the following:

‘TITLE III

OWN FUNDS REQUIREMENT FOR OPERATIONAL RISK

CHAPTER 1

Calculation of the own funds requirement for operational risk

Article 311a

Definitions

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

- (1) “operational risk event” means any event linked to an operational risk which generates a loss or multiple losses, within one or multiple financial years;
- (2) “aggregated gross loss” means the sum of all gross losses linked to the same operational risk event over one or multiple financial years;
- (3) “aggregated net loss” means the sum of all net losses linked to the same operational risk event over one or multiple financial years;

(4) *“grouped losses” means all operational losses caused by a common underlying trigger or root cause that could be grouped into one operational risk event.*

Article 312

Own funds requirement for operational risk

The own funds requirement for operational risk shall be the business indicator component calculated in accordance with Article 313.

Article 313

Business indicator component

Institutions shall calculate their business indicator component in accordance with the following formula:

$$BIC = \begin{cases} 0,12 \cdot BI, & \text{where } BI \leq 1 \\ 0,12 + 0,15 \cdot (BI - 1), & \text{where } 1 < BI \leq 30 \\ 4,47 + 0,18 \cdot (BI - 30), & \text{where } BI > 30 \end{cases}$$

where:

BIC = the business indicator component;

BI = the business indicator, expressed in billions of euro, calculated in accordance with Article 314.

Article 314

Business indicator

1. Institutions shall calculate their business indicator in accordance with the following formula:

$$BI = ILDC + SC + FC$$

where:

BI = the business indicator, expressed in billions of euro;

ILDC = the interest, leases and dividend component, expressed in billions of euro and calculated in accordance with paragraph 2;

SC = the services component, expressed in billions of euro and calculated in accordance with paragraph 5;

FC = the financial component, expressed in billions of euro and calculated in accordance with paragraph 6.

2. For the purposes of paragraph 1, the interest, leases and dividend component shall be calculated in accordance with the following formula:

$$ILDC = \min(IC, 0,0225 \cdot AC) + DC$$

where:

ILDC = the interest, leases and dividend component;

IC = the interest component, which is the institution's interest income from all financial assets and other interest income, including finance income from financial *leases* and income from operating leases and profits from leased assets, minus the institution's interest expenses from all financial liabilities and other interest expenses, including interest expense from financial and operating leases, depreciation and impairment of, and losses from, operating leased assets, calculated as the annual average of the absolute values of the *differences* over the *last* three financial years;

AC = the asset component, which is the sum of the institution's total gross outstanding loans, advances, interest bearing securities, including government bonds, and lease assets, calculated as the annual average over the *last* three financial years on the basis of the amounts at the end of each of the respective financial years;

DC = the dividend component, which is the institution's dividend income from investments in stocks and funds not consolidated in the financial statements of the institution, including dividend income from non-consolidated subsidiaries, associates and joint ventures, calculated as the annual average over the *last* three financial years.

3. *By way of derogation from paragraph 2, an EU parent institution may, until 31 December 2027, request permission from its consolidating supervisor to calculate a separate interest, leases and dividend component for any of its specific subsidiary institutions and to add the outcome of that calculation to the interest, leases and dividend component calculated, on a consolidated basis, for the other entities of the group where all of the following conditions are met:*

- (a) the subsidiaries' retail or commercial banking activities account for the majority of their activity;*
- (b) a significant proportion of the subsidiaries' retail or commercial banking activities comprise loans associated with a high PD;*
- (c) the use of the derogation provides an appropriate basis for calculating the EU parent institution's own funds requirement for operational risk.*

Once granted, the permission, and its conditions, shall be reassessed by the consolidating supervisor every two years.

The consolidating supervisor shall notify EBA as soon as such permission is granted, confirmed or withdrawn.

By 31 December 2031, EBA shall report to the Commission on the use and appropriateness of the derogation referred to in the first subparagraph having regard, in particular, to the specific business models concerned and to the adequacy of the related own funds requirement for operational risk. On the basis of that report, and taking due account of the related internationally agreed standards developed by the BCBS, the Commission shall, where appropriate, submit to the European Parliament and to the Council a legislative proposal by 31 December 2032.

- 4. Until 31 December 2027 or until the consolidating supervisor grants permission in accordance with paragraph 3, whichever is earlier, an EU parent institution that has been granted permission to apply the alternative standardised approach to its business lines of retail banking and commercial banking to calculate its own funds requirement for operational risk may, after having informed its consolidating supervisor, continue to use the alternative standardised approach as set out in the version of this Regulation applicable on ... [one day before the date of entry into force of this amending Regulation] for the purpose of calculating the own funds requirement for operational risk relating to those two business lines and according to the scope of the existing permission.*

5. For the purposes of paragraph 1, the services component shall be calculated in accordance with the following formula:

$$SC = \max(OI, OE) + \max(FI, FE)$$

where:

SC = the services component;

OI = the other operating income, which is the annual average over the *last* three financial years of the institution's income from ordinary banking operations not included in other items of the business indicator but of similar nature;

OE = the other *operating* expenses, which is the annual average over the *last* three financial years of the institution's expenses and losses from ordinary banking operations not included in other items of the business indicator but of similar nature, and from operational risk events;

FI = the fee and commission income component, which is the annual average over the *last* three financial years of the institution's income received from providing advice and services, including income received by the institution as an outsourcer of financial services;

FE = the fee and commission expenses component, which is the annual average over the *last* three financial years of the institution's expenses paid for receiving advice and services, including outsourcing fees paid by the institution for the supply of financial services, but excluding outsourcing fees paid for the supply of non-financial services.

Subject to the prior permission of the competent authority, and to the extent that the institutional protection scheme has at its disposal suitable and uniformly stipulated systems for the monitoring and classification of operational risks, institutions that are members of an institutional protection scheme meeting the requirements of Article 113(7) may calculate the services component net of any income received from, or expenses paid to, institutions that are members of the same institutional protection scheme. Any losses resulting from the related operational risks are subject to mutualisation across institutional protection scheme members.

6. For the purposes of paragraph 1, the financial component shall be calculated in accordance with the following formula:

$$FC = TC + BC$$

where:

FC = the financial component;

TC = the trading book component, which is the annual average of the absolute values over the *last* three financial years of the net profit or loss, as applicable, on the institution's trading book, *determined as appropriate either in accordance with accounting standards or in accordance with Part Three, Title I, Chapter 3*, including from trading assets and trading liabilities, from hedge accounting and from exchange differences;

BC = the banking book component, which is the annual average of the absolute values over the *last* three financial years of the net profit or loss, as applicable, on the institution's *non-trading* book, including from financial assets and liabilities measured at fair value through profit and loss, from hedge accounting, from exchange differences and from realised gains and losses on financial assets and liabilities not measured at fair value through profit and loss.

7. Institutions shall not use any of the following elements in the calculation of their business indicator:
- (a) income and expenses from insurance or reinsurance business;
 - (b) premiums paid and payments received from insurance or reinsurance policies purchased;
 - (c) administrative expenses, including staff expenses, outsourcing fees paid for the supply of non-financial services, and other administrative expenses;
 - (d) recovery of administrative expenses including recovery of payments on behalf of customers;
 - (e) expenses of premises and fixed assets, except where those expenses result from operational *risk* events;
 - (f) depreciation of tangible assets and amortisation of intangible assets, except the depreciation related to operating lease assets, which shall be included in financial and operating lease expenses;
 - (g) provisions and reversal of provisions, except where those provisions relate to operational *risk* events;

- (h) expenses due to share capital repayable on demand;
 - (i) impairment and reversal of impairment;
 - (j) changes in goodwill recognised in profit or loss;
 - (k) corporate income tax.
8. *Where an institution has been in operation for less than three years, it shall use forward-looking business estimates in calculating the relevant components of its business indicator, subject to the satisfaction of its competent authority. The institution shall start using historical data as soon as that data are available.*
9. EBA shall develop draft regulatory technical standards to specify the following:
- (a) the components of the business indicator, *and their use*, by developing *lists* of typical sub-items, taking into account international regulatory standards *and, where appropriate, the prudential boundary defined in Part Three, Title I, Chapter 3*;

(b) the elements listed in paragraph 7 of this Article.

EBA shall submit those draft regulatory technical standards to the Commission by ... [18 months from the date of entry into force of this amending Regulation].

Power is delegated to the Commission to *supplement this Regulation by adopting* the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.

10. EBA shall develop draft implementing technical standards to specify the items of the business indicator by mapping those items with the *corresponding* reporting cells ■ set out in Commission Implementing Regulation (EU) 2021/451*, *where appropriate*.

EBA shall submit those draft *implementing* technical standards to the Commission by ... [18 months from the date of entry into force of this amending Regulation].

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

Article 315

Adjustments to the business indicator

1. Institutions shall include business indicator items of merged or acquired entities or activities in their business indicator calculation from the time of the merger or acquisition, as applicable, and shall cover the *last* three financial years.
2. Institutions may request permission from the competent authority to exclude *from the business indicator amounts* related to disposed entities or activities ■ .
3. EBA shall develop draft regulatory technical standards to specify the following:
 - (a) how institutions are to determine the adjustments to the business indicator referred to in *paragraphs* 1 and 2;
 - (b) the conditions under which competent authorities are able to grant the permission referred to in paragraph 2;
 - (c) the timing for the adjustments referred to in paragraph 2.

EBA shall submit those draft regulatory technical standards to the Commission by ...
[■ 18 months from the date of entry into force of this amending Regulation].

Power is delegated to the Commission to *supplement this Regulation by adopting* the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.

CHAPTER 2

Data collection and governance

Article 316

Calculation of the annual operational risk loss

1. Institutions with a business indicator equal to or exceeding EUR 750 million shall calculate *their* annual operational risk *loss* as the sum of all net losses over a given financial year, calculated in accordance with Article 318(1), that are equal to or exceed the loss data thresholds set out in Article 319(1) or (2).

By way of derogation from the first subparagraph, competent authorities may grant a waiver from the requirement to calculate an annual operational risk loss to institutions with a business *indicator* that does not exceed EUR 1 billion, provided that the institution has demonstrated to the satisfaction of the competent authority that it would be unduly burdensome for the institution to apply the first subparagraph.

2. For the purposes of paragraph 1, the relevant business indicator shall be the highest value of the business indicator that the institution has reported at the last eight reporting reference dates. An institution that has not yet reported its business indicator shall use its most recent business indicator.

3. EBA shall develop draft regulatory technical standards to specify the condition of “unduly burdensome” for the purposes of paragraph 1.

EBA shall submit those draft regulatory technical standards to the Commission by ...
[18 months from the date of entry into force of this amending Regulation].

Power is delegated to the Commission to ***supplement this Regulation by adopting*** the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.

Article 317

Loss data set

1. Institutions that calculate ***an*** annual operational risk ***loss*** in accordance with Article 316(1) shall have in place arrangements, processes and mechanisms to establish and maintain updated on an ongoing basis a loss data set compiling for each recorded operational risk event the gross loss amounts, non-insurance recoveries, insurance recoveries, reference ***dates*** and grouped losses, including those from misconduct events.
2. The institution’s loss data set shall capture all operational risk events stemming from all entities that are part of the scope of consolidation pursuant to Part One, Title II, Chapter 2.

3. For the purpose of paragraph 1, institutions shall:
- (a) include in the loss data set each operational risk event recorded during one or multiple financial years;
 - (b) use ■ the date of accounting for including losses related to operational risk events in the loss data set;
 - (c) allocate losses and ■ recoveries *related to a common operational risk event or related operational risk events over time and* posted to the accounts over several years, to the corresponding financial years of the loss data set, in line with their accounting treatment.
4. Institutions shall also collect:
- (a) information about the reference dates of operational risk events, including:
 - (i) the date when the operational risk event happened or first began (“date of occurrence”), where available;
 - (ii) the date on which the institution became aware of the operational risk event (“date of discovery”);
 - (iii) the date or dates on which an operational risk event results in a loss, or the reserve or provision against a loss, recognised in the institution’s profit and loss accounts (“date of accounting”);

- (b) information on any recoveries of gross loss amounts as well as descriptive information about the drivers or causes of the loss events.

The level of detail of any descriptive information shall be commensurate with the size of the gross loss amount.

5. An institution shall not include in the loss data set operational risk events related to credit risk that are accounted for in the risk-weighted exposure amount for credit risk. Operational risk events that relate to credit risk but are not accounted for in the risk-weighted exposure amount for credit risk shall be included in the loss data set.
6. Operational risk events related to market risk shall be treated as operational risk and shall be included in the loss data set.
7. An institution shall, upon request from the competent authority, be able to map its historical internal loss data to the *event* type **■** .
8. For the purposes of this Article, institutions shall ensure the soundness, robustness and performance of their IT *systems and* infrastructure necessary to maintain and update the loss data set, in particular by ensuring all of the following:
 - (a) their IT systems and infrastructure are sound and resilient and that that soundness and resilience can be maintained on a continuous basis;

- (b) their IT *systems and* infrastructure are subject to configuration management, change management and release management processes;
- (c) where an institution outsources parts of the maintenance of its IT *systems and* infrastructure, the soundness, robustness and performance of the IT systems and infrastructure is ensured by confirming at least the following:
 - (i) its IT systems and infrastructure are sound and resilient and that soundness and resilience can be maintained on a continuous basis;
 - (ii) the process for planning, creating, testing and deploying the IT *systems and* infrastructure is sound and proper with reference to project management, risk management, governance, engineering, quality assurance and test planning, systems' modelling and development, quality assurance in all activities, including code reviews and, where appropriate, code verification, and testing, including user acceptance;

- (iii) its IT *systems and* infrastructure are subject to configuration management, change management and release management processes;
 - (iv) the process for planning, creating, testing and deploying the IT *systems and* infrastructure and contingency plans is approved by the management body or senior management and the management body and senior management are periodically informed about the IT systems and infrastructure performance.
9. For the purposes of paragraph 7, EBA *shall* develop draft regulatory technical standards establishing a risk taxonomy on operational risk *that complies with international standards* and a methodology to classify *the loss events included in the loss data set based on that risk taxonomy on operational risk*.

EBA shall submit those draft regulatory technical standards to the Commission by ... [18 months from the date of entry into force of this amending Regulation].

Power is delegated to the Commission to *supplement this Regulation by adopting* the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.

10. For the purposes of paragraph 8, EBA shall issue guidelines, in accordance with Article 16 of Regulation (EU) No 1093/2010, explaining the technical elements necessary to ensure the soundness, robustness and performance of governance arrangements to maintain the loss data set, with a particular focus on IT systems and infrastructures.

Article 318

Calculation of net loss and gross loss

1. For the purposes of Article 316(1), institutions shall calculate for each operational risk event a net loss as follows:

net loss = gross loss – recovery

where:

gross loss = a loss linked to an operational risk event before recoveries of any type;

recovery = one or multiple independent occurrences, related to the original operational risk event, separated in time, in which funds or inflows of economic benefits are received from a third party.

Institutions shall maintain on an ongoing basis an updated calculation of the net loss for each specific operational risk event. To that end, institutions shall update the net loss calculation based on the observed or estimated variations of the gross loss and the recovery for each of the last 10 financial years. Where losses, linked to the same operational risk event, are observed during multiple financial years within that 10-year time window, the institution shall calculate and maintain updated:

- (a) the net loss, gross loss and recovery for each of the financial years of the 10-year time window where that net loss, gross loss and recovery were recorded;
- (b) the aggregated net loss, aggregated gross loss and aggregated recovery of all relevant financial years of the 10-year time window.

2. For the purposes of paragraph 1, the following items shall be included in the gross loss computation:
- (a) direct charges, such as impairments, settlements, amounts paid to make good the damage, penalties and interest in arrears and legal fees, to the institution's profit and loss accounts and write-downs due to the operational risk event, including:
 - (i) where the operational risk event relates to market risk, the costs to unwind market positions in the *recorded* loss amount of the operational risk items;
 - (ii) where payments relate to failures or inadequate processes of the institution, penalties, interest charges, late-payment charges, legal fees and, with the exclusion of the tax amount originally due, tax, *unless that amount is already included under point (e)*;
 - (b) costs incurred as a consequence of the operational risk event, including external expenses with a direct link to the operational risk event and costs of repair or replacement, incurred to restore the position that was prevailing before the operational risk event occurred;
 - (c) provisions or reserves accounted for in the profit and loss accounts against the potential operational loss impact, including those from misconduct events;

- (d) losses stemming from operational risk events with a definitive financial impact which are temporarily booked in transitory or suspense accounts and are not yet reflected in the profit and loss accounts (“pending losses”);
- (e) negative economic impacts booked in a financial year and which are due to operational risk events impacting the cash flows or financial statements of previous financial years (“timing losses”).

For the purposes of the first subparagraph, point (d), material pending losses shall be included in the loss data set within a time period commensurate with the size and age of the pending item.

For the purposes of the first subparagraph, point (e), the institution shall include in the loss data set material timing losses where those losses are due to operational risk events that span more than one financial year ■ . Institutions shall include in the recorded loss amount of the operational risk item of a financial year losses that are due to the correction of booking errors that occurred in any previous financial year, even where those losses do not directly affect third parties. Where there are material timing losses and the operational risk event affects directly third parties, including customers, providers and employees of the institution, the institution shall also include the official restatement of previously issued financial reports.

3. For the purposes of paragraph 1, the following items shall be excluded from the gross loss computation:
 - (a) costs of general maintenance of contracts on property, plant or equipment;
 - (b) internal or external expenditure to enhance the business after the operational risk losses, including upgrades, improvements, risk assessment initiatives and enhancements;
 - (c) insurance premiums.
4. For the purposes of paragraph 1, recoveries shall be used to reduce gross losses only where the institution has received payment. Receivables shall not be considered as recoveries.

Upon request from the competent authority, the institution shall provide all documentation needed to verify the payments received and factored in the calculation of the net loss of an operational risk event.

Article 319

Loss data thresholds

1. To calculate the annual operational risk loss referred to in Article 316(1), institutions shall take into account from the loss data set operational risk events with a net loss, calculated in accordance with Article 318, that are equal to or exceed EUR 20 000.
2. Without prejudice to paragraph 1 of this Article, and for the purposes of Article 446, institutions shall also calculate the annual operational risk loss referred to in Article 316(1), taking into account from the loss data set operational risk events with a net loss, calculated in accordance with Article 318, that are equal to or exceed EUR 100 000.
3. In the case of an operational risk event that leads to losses during more than one financial year, as referred to in Article 318(1), second subparagraph, the net loss to be taken into account for the thresholds referred to in *paragraphs* 1 and 2 of this Article shall be the aggregated net loss.

1. *An institution may request permission from the competent authority* to exclude from the calculation of its annual operational risk **loss** exceptional operational risk events that are no longer relevant to the institution's risk profile, where all of the following conditions are met:
 - (a) the institution can demonstrate to the satisfaction of the competent authority that the **cause of the** operational risk event at the origin of those operational risk losses will not occur again;
 - (b) the **aggregated net loss of the corresponding** operational risk **event** is either of the following:
 - (i) equal to or exceed **10** % of the institution's average annual operational risk loss, calculated **over the last 10 financial years and** based on the threshold referred to in Article 319(1), where the operational risk loss event refers to activities that are still part of the business indicator;
 - (ii) **related to an** operational risk **■** event **that** refers to activities divested from the business indicator in accordance with Article 315(2);

- (c) the operational risk loss was in the loss database for a minimum period of one year, unless the operational risk loss is related to activities divested from the business indicator in accordance with Article 315(2).

For the purposes of the first subparagraph, point (c), of this paragraph the minimum period of one year shall start from the date on which the operational risk event, included in the loss data set, first became greater than the materiality threshold provided for in Article 319(1).

2. An institution requesting the permission referred to in paragraph 1 shall provide the competent authority with documented justifications for the exclusion of an exceptional *operational risk event*, including:

- (a) a description of the operational risk event;
- (b) proof that the loss from the operational risk event is above the materiality threshold for loss exclusion referred to in paragraph 1, point (b)(i), including the date on which that operational risk event became greater than the materiality threshold;

- (c) the date on which the operational risk event concerned would be excluded, considering the minimum retention period set out in paragraph 1, point (c);
- (d) the reason why the operational risk event is no longer deemed relevant to the institution's risk profile;
- (e) a demonstration that there are no similar or residual legal exposures and that the operational risk event to be excluded has no relevance to other activities or products;
- (f) reports of the institution's independent review or validation, confirming that the operational risk event is no longer relevant and that there are no similar or residual legal exposures;
- (g) proof that competent bodies of the institution, through the institution's approval processes, have approved the request for exclusion of the operational risk event and the date of such approval;
- (h) the impact of the exclusion of the operational risk event on the annual operational risk loss.

3. EBA shall develop draft regulatory technical standards to specify the conditions that the competent authority has to assess pursuant to paragraph 1, including how the average annual operational risk loss is to be computed and the specifications on the information to be collected pursuant to paragraph 2 or any further information deemed necessary to carry out the assessment.

EBA shall submit those draft regulatory technical standards to the Commission by ... [30 months from the date of entry into force of this amending Regulation].

Power is delegated to the Commission to *supplement this Regulation by adopting* the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.

Article 321

Inclusion of losses from merged or acquired entities or activities

1. Losses stemming from merged or acquired entities or activities shall be included in the loss data set as soon as the business indicator items related to those entities or activities are included in the institution's business indicator calculation in accordance with Article 315(1). To that end, institutions shall include losses observed during a 10-year period prior to the acquisition or merger.

2. EBA shall develop draft regulatory technical standards to specify how institutions are to determine the adjustments to their loss data set following the inclusion of losses from merged or acquired entities or activities as referred to in paragraph 1.

EBA shall submit those draft regulatory technical standards to the Commission by ... [30 months from the date of entry into force of this amending Regulation].

Power is delegated to the Commission to *supplement this Regulation by adopting* the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.

Article 322

Comprehensiveness, accuracy and quality of the loss data

1. Institutions shall have in place the organisation and processes to *ensure* the comprehensiveness, accuracy and quality of the loss data *and to subject that data to independent review*.
2. Competent authorities shall periodically, *and at least every five years*, review the quality of the loss data of an institution that calculates *an* annual operational risk *loss* in accordance with Article 316(1). Competent authorities shall carry out such review at least every three years for an institution with a business indicator that exceeds EUR 1 billion.

Operational risk management framework

1. Institutions shall have in place:
 - (a) a well-documented assessment and management system for operational risk which is closely integrated into day-to-day risk management processes, forms an integral part of the process of monitoring and controlling the institution's operational risk profile, and for which clear responsibilities have been assigned; the assessment and management system for operational risk shall identify the institution's exposures to operational risk and track relevant operational risk data, including material loss data;
 - (b) an operational risk management function that is independent from the institution's business and operational units;
 - (c) a system of reporting to senior management that provides operational risk reports to relevant functions within the institution;
 - (d) a system of regular monitoring and reporting of operational risk exposures and loss experience, and procedures for taking appropriate corrective actions;
 - (e) routines for ensuring compliance, and policies for the treatment of non-compliance;

- (f) regular reviews of the institution's operational risk assessment and management processes and systems, carried out by internal or external auditors that possess the necessary knowledge;
 - (g) internal validation processes that operate in a sound and effective manner;
 - (h) transparent and accessible data flows and processes associated with the institution's operational risk assessment system.
2. EBA shall develop draft regulatory technical standards to specify the obligations under paragraph 1, points (a) to (h), taking into consideration the size and complexity of the institution.

EBA shall submit those draft regulatory technical standards to the Commission by ... [30 months from the date of entry into force of this amending Regulation].

Power is delegated to the Commission to ***supplement this Regulation by adopting*** the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.

* Commission Implementing Regulation (EU) 2021/451 of 17 December 2020 laying down implementing technical standards for the application of Regulation (EU) No 575/2013 of the European Parliament and of the Council with regard to supervisory reporting of institutions and repealing Implementing Regulation (EU) No 680/2014 (OJ L 97, 19.3.2021, p. 1).';

(156) Article 325 is amended as follows:

(a) paragraphs 1 to 5 are replaced by the following:

‘1. An institution shall calculate the own funds requirements for market risk for all its trading book positions and all its non-trading book positions that are subject to foreign exchange risk or commodity risk in accordance with the following approaches:

- (a) the alternative standardised approach set out in Chapter 1a;
- (b) the alternative internal model approach set out in Chapter 1b for those positions assigned to trading desks for which the institution has been granted permission by its competent authority to use that alternative approach as set out in Article 325az(1);
- (c) the simplified standardised approach referred to in paragraph 2 of this Article, provided that the institution meets the conditions set out in Article 325a(1).

By way of derogation from the first subparagraph, an institution shall not calculate own funds requirements for foreign exchange risk for trading book positions and non-trading book positions that are subject to foreign exchange risk where those positions are deducted from the institution's own funds. ***The institution shall document its use of the derogation set out in this subparagraph, including its impact and materiality, and make the information available, upon request, to its competent authority.***

2. The own funds requirements for market risk calculated in accordance with the simplified standardised approach shall be the sum of the following own funds requirements, as applicable:
 - (a) the own funds requirements for position risk referred to in Chapter 2, multiplied by:
 - (i) 1,3, for the general and specific risks of positions in debt instruments, excluding securitisation instruments as referred to in Article 337;
 - (ii) 3,5, for the general and specific risks of positions in equity instruments;

- (b) the own funds requirements for foreign exchange risk referred to in Chapter 3, multiplied by 1,2;
 - (c) the own funds requirements for commodity risk referred to in Chapter 4, multiplied by 1,9;
 - (d) the own funds requirements for securitisation instruments as referred to in Article 337.
3. An institution using the alternative internal model approach referred to in paragraph 1, point (b), of this Article to calculate the own funds requirements for market risk of trading book positions and non-trading book positions that are subject to foreign exchange risk or commodity risk shall report to its competent authority the monthly calculation of the own funds requirements for market risk using the alternative standardised approach referred to in paragraph 1, point (a), of this Article for each trading desk to which those positions have been assigned in accordance with Article 104b.

4. An institution may use a combination of the alternative standardised **approach** referred to in paragraph 1, point (a), of this Article and the alternative internal model approach referred to in paragraph 1, point (b), of this Article on a permanent basis **■**, *provided that the total own funds requirements for market risk calculated using the alternative internal model approach represent at least 10 % of the total own funds requirements for market risk. On an individual basis, an institution shall not use either of those approaches in combination with the simplified standardised approach referred to in paragraph 1, point (c), of this Article. At consolidated level, an institution may use a combination of those three approaches to calculate the own funds requirements for market risk in accordance with Article 325b(4), point (b), as long as the simplified standardised approach is not used in combination with the other two approaches within a single legal entity.*
5. An institution shall not use the alternative internal model approach referred to in paragraph 1, point (b), for instruments in its trading book that are securitisation positions or positions included in the alternative correlation trading portfolio (ACTP) set out in paragraphs 6, 7 and 8. **■**’;

(b) paragraph 9 is replaced by the following:

- ‘9. EBA shall develop draft regulatory technical standards to specify how institutions are to calculate the own funds requirements for market risk for non-trading book positions that are subject to foreign exchange risk or commodity risk in accordance with the approaches set out in paragraph 1, points (a) and (b), of this Article, taking into account the requirements set out in Article 104b(5) and (6), where applicable.

EBA shall submit those draft regulatory technical standards to the Commission by ... [**12** months from the date of entry into force of this amending Regulation].

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.’;

(157) Article 325a is amended as follows:

- (a) the title is replaced by the following:

‘Conditions for using the simplified standardised approach’;

- (b) in paragraph 1, the introductory wording is replaced by the following:

‘An institution may calculate the own funds requirements for market risk by using the simplified standardised approach referred to in Article 325(1), point (c), provided that the size of the institution’s on- and off-balance-sheet business that is subject to market risk is equal to or less than each of the following thresholds, on the basis of an assessment carried out on a monthly basis using data as of the last day of the month:’;

- (c) **■** paragraph 2 *is amended as follows*:

- (i) point (b) is replaced by the following:

‘(b) all non-trading book positions that are subject to foreign exchange risk or commodity risk shall be included, except those positions that are excluded from the calculation of the own funds requirements for foreign exchange risk in accordance with Article 104c or that are deducted from the institutions’ own funds;’;

- (ii) *point (f) is replaced by the following*:

‘(f) *the absolute value of the aggregated long position shall be summed with the absolute value of the aggregated short position.*’;

(iii) *the following subparagraphs are added:*

‘For the purposes of the first subparagraph, the meaning of long and short positions is the same as the meaning set out in Article 94(3).

For the purposes of the first subparagraph, the value of the aggregated long (short) position shall be equal to the sum of the values of the individual long (short) positions included in the calculation in accordance with points (a) and (b) of that subparagraph.’;

(d) in paragraph 5, the introductory wording is replaced by the following:

‘Institutions shall cease to calculate the own funds requirements for market risk in accordance with the approach referred to in Article 325(1), point (c), within three months of either of the following cases:’;

(e) paragraph 6 is replaced by the following:

‘6. An institution that has ceased to calculate the own funds requirements for market risk using the approach referred to in Article 325(1), point (c), shall only be permitted to start calculating the own funds requirements for market risk using that approach where it demonstrates to the competent authority that all of the conditions set out in paragraph 1 of this Article have been met for an uninterrupted period of one year.’;

(f) *paragraph 8 is deleted;*

(158) in Article 325b, the following paragraph is added:

- ‘4. Where a competent authority has not granted an institution the permission referred to in paragraph 2 for at least one institution or undertaking of the group, the following requirements shall apply for the calculation of the own funds requirements for market risk on a consolidated basis in accordance with this Title:
- (a) the institution shall calculate net positions and own funds requirements in accordance with this Title for all positions in institutions or undertakings of the group for which the institution has been granted the permission referred to in paragraph 2, using the treatment set out in paragraph 1;
 - (b) the institution shall calculate net positions and own funds requirements in accordance with this Title individually for all positions in each institution or undertaking of the group for which the institution has not been granted the permission referred to in paragraph 2;
 - (c) the institution shall calculate the total own funds requirements in accordance with this Title on a consolidated basis by adding the amounts calculated in points (a) and (b) of this paragraph.

For the purposes of the calculation referred to in the first subparagraph, points (a) and (b), institutions and undertakings referred to therein shall use the same reporting currency as the reporting currency used to calculate the own funds requirements for market risk in accordance with this Title on a consolidated basis for the group.’;

(159) Article 325c is amended as follows:

(a) the title is replaced by the following:

‘Scope, structure and qualitative requirements of the alternative standardised approach’;

(b) paragraph 1 is replaced by the following:

‘1. Institutions shall have in place, and make available to the competent authorities, a documented set of internal policies, procedures and controls for monitoring and ensuring compliance with the requirements of this Chapter. Any changes to those policies, procedures and controls shall be notified to the competent authorities in due course.’;

(c) the following paragraphs ■ are added:

- ‘3. *By way of derogation from paragraph 2, an institution shall calculate the own funds requirements for market risk in accordance with the alternative standardised approach for the institution’s holdings of its own debt instruments as the sum of the two components referred to in paragraph 2, points (a) and (c). When calculating the own funds requirements for market risk for own debt instruments under the sensitivities-based method referred to in paragraph 2, point (a), the institution shall exclude from that calculation the risks from the institution’s own credit spread.*
4. Institutions shall have a risk control unit that is independent from business trading units and that reports directly to senior management. That risk control unit shall be responsible for designing and implementing the alternative standardised approach. It shall produce and analyse monthly reports on the output of the alternative standardised approach, as well as the appropriateness of the institution’s trading limits.

5. Institutions shall independently review the alternative standardised approach they use for the purposes of this Chapter to the satisfaction of the competent authorities, either as part of their regular internal auditing process, or by mandating a third-party undertaking to conduct that review. *The outcome of such a review shall be reported to the appropriate management bodies.*

For the purposes of the first subparagraph, “third-party undertaking” means an undertaking that provides auditing or consulting services to institutions and that has staff with sufficient skills in the area of market risk.

6. The review of the alternative standardised approach referred to in paragraph 5 shall cover the activities of both the business trading units and of the independent risk control unit and shall assess *at least* the following:
- (a) the internal policies, procedures and controls for monitoring and ensuring compliance with the requirements referred to in paragraph 1 of this Article;
 - (b) the adequacy of the documentation of the risk management system and processes and the organisation of the risk control unit referred to in paragraph 4 of this Article;

- (c) the accuracy of sensitivity computations and of the process used to derive those computations from the institution's pricing models that serve as a basis for reporting profit and loss to senior management, as referred to in Article 325t;
- (d) the verification process that the institution employs to evaluate the consistency, timeliness and reliability of the data sources used in the calculation of the own funds requirements for market risk using the alternative standardised approach, including the independence of those data sources.

An institution shall conduct the review referred to in the first subparagraph at least once a year, or on a less frequent basis *of up to every two years where the institution can demonstrate to the satisfaction of the competent authority that the size, systemic importance, nature, scale and complexity of its trading book business justifies a less frequent review.*

7. *Competent authorities shall verify that the calculation referred to in paragraph 2 of this Article, including the implementation by an institution of the requirements set out in this Chapter and in Article 325a, is performed with integrity.*
8. *EBA shall develop draft regulatory technical standards to specify the assessment methodology under which competent authorities conduct the verification referred to in paragraph 7;*

EBA shall submit those draft regulatory technical standards to the Commission by ... [48 months from the date of entry into force of this amending Regulation].

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.’;

(160) Article 325j is amended as follows:

(a) paragraph 1 is replaced by the following:

‘1. An institution shall calculate the own funds requirements for market risk of a position in a CIU using one of the following approaches:

- (a) an institution that meets the condition set out in Article 104(8), point (a), shall calculate the own funds requirements for market risk of that position by looking through the underlying positions of the CIU, on a monthly basis, as if those positions were directly held by the institution;
- (b) an institution that meets the condition set out in Article 104(8), point (b), shall calculate the own funds requirements for market risk of that position by using either of the following approaches:
 - (i) it shall consider the position in the CIU as a single equity position allocated to the bucket “other sector” in Article 325ap(1), Table 8;

- (ii) it shall consider the limits set in the CIU's mandate and in the relevant law.

■

For the purposes of the calculation referred to in the first subparagraph, point (b)(ii), of this paragraph the institution may calculate the own funds requirements for counterparty credit risk and own funds requirements for credit valuation adjustment risk of derivative positions of the CIU using the simplified approach set out in Article 132a(3).’;

- (b) the following paragraph is inserted:

‘1a. For the purposes of the approaches referred to in paragraph 1, point (b), of this Article ■ the institution shall:

- (a) apply the own funds requirements for default risk set out in Section 5 and the residual risk add-on set out in Section 4 to a position in a CIU, where the mandate of that CIU allows it to invest in exposures that shall be subject to those own funds requirements; *when using the approach referred to in paragraph 1, point (b)(i), of this Article the institution shall consider the position in the CIU as a single unrated equity position allocated to the bucket “unrated” in Article 325y(1), Table 2; and*

- (b) for all positions in the same CIU, use the same approach among the approaches set out in paragraph 1, point (b), of this Article to calculate the own funds requirements on a stand-alone basis as a separate portfolio.’;

(c) paragraphs 3, 4 and 5 are replaced by the following:

- ‘3. An institution may use a combination of the approaches referred to in paragraph 1, points (a) and (b), for its positions in CIUs. However, an institution shall use only one of those approaches for all positions in the same CIU.
4. For the purposes of paragraph 1, point (b)(ii), of this Article an institution shall calculate the own funds requirements for market risk by determining the hypothetical portfolio *of the CIU* that would attract the highest own funds requirements in accordance with Article 325c(2), point (a), based on the CIU’s mandate or relevant law, taking into account the leverage to the maximum extent, where applicable.

The institution shall use the same hypothetical portfolio as the one referred to in the first subparagraph to calculate, where applicable, the own funds requirements for default risk set out in Section 5 and the residual risk add-on set out in Section 4 to a position in a CIU.

The methodology developed by the institution to determine the hypothetical portfolios of all positions in CIUs for which the calculations referred to in the first subparagraph are used shall be approved by its competent authority.

5. An institution may use the approaches referred to in paragraph 1 only where the CIU meets all of the conditions set out in Article 132(3). Where the CIU does not meet all of the conditions set out in Article 132(3), the institution shall assign its positions in that CIU to the non-trading book.
6. **To** calculate the own funds requirements for market risk of a CIU position in accordance with the approach set out in paragraph 1, point (a), ***institutions*** may rely on a third party to perform such calculation, provided that all of the following conditions are met:
 - (a) the third party is one of the following:
 - (i) the depository institution or the depository financial institution of the CIU, provided that the CIU exclusively invests in securities and deposits all securities at that depository institution or depository financial institution;
 - (ii) for CIUs not covered by point (i) of this point, the CIU management company, provided that the CIU management company meets the criteria set out in Article 132(3), point (a);

- (iii) *a third-party vendor on condition that the data, information or risk metrics are provided or calculated by the third parties referred to in point (i) or (ii) of this point or by another such third-party vendor;*
- (b) the third party provides the institution with the ■ data ■, information *or risk metrics* to calculate the own funds requirement for market risk of the CIU position in accordance with the approach referred to in paragraph 1, point (a), of this Article;
- (c) an external auditor of the institution has confirmed the adequacy of the third-party's data ■, information *or risk metrics* referred to in point (b) of this paragraph and the institution's competent authority has unrestricted access to those data ■, information *or risk metrics* upon request.

7. EBA shall develop draft regulatory technical standards to further specify the technical elements of the methodology to determine hypothetical portfolios for the purposes of the approach set out in paragraph 4, including the manner in which institutions are to take into account in the methodology, where applicable, leverage to the maximum extent.

EBA shall submit those draft regulatory technical standards to the Commission by ... [30 months from the date of entry into force of this amending Regulation].

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.';

(161) in Article 325q, paragraph 2 is replaced by the following:

- ‘2. The foreign exchange vega risk factors to be applied by institutions to options with underlyings that are sensitive to foreign exchange shall be the implied volatilities of exchange rates between currency pairs. Those implied volatilities shall be mapped to the following maturities in accordance with the maturities of the corresponding options subject to own funds requirements: 0,5 years, 1 year, 3 years, 5 years and 10 years.’;

(162) in Article 325s(1), the formula for s_k is replaced by the following:

1

$$s_k = \frac{V_i(1,01 \cdot vol_k, x, y) - V_i(vol_k, x, y)}{0,01}$$

’;

(163) Article 325t is amended as follows:

(a) in paragraph 1, the second subparagraph is replaced by the following:

‘By way of derogation from the first subparagraph of this paragraph, competent authorities may require an institution that has been granted permission to use the alternative internal model approach set out in Chapter 1b to use the pricing functions of the risk-measurement system of their internal model approach in the calculation of sensitivities under this Chapter for the purposes of the calculation and the reporting requirements set out in Article 325(3).’;

(b) in paragraph 5, point (a) is replaced by the following:

‘(a) those alternative definitions are used for internal risk management purposes or for the reporting of profits and losses to senior management by an independent risk control unit within the institution;’;

(c) in paragraph 6, points (a) and (b) are replaced by the following:

- ‘(a) those alternative definitions are used for internal risk management purposes or for the reporting of profits and losses to senior management by an independent risk control unit within the institution;
- (b) *the institution demonstrates that those alternative definitions are more appropriate for capturing the sensitivities for the position than are the formulae set out in this Subsection, that the linear transformation referred to in the first subparagraph reflects a vega risk sensitivity, and that the resulting sensitivities do not materially differ from the ones applying those formulae.*’;

(164) Article 325u is amended as follows:

(a) *the following paragraph is inserted:*

- ‘4a. *By way of derogation from paragraph 1, until 31 December 2032, an institution shall not apply the own funds requirement for residual risks to instruments that aim solely to hedge the market risk of positions in the trading book that generate an own funds requirement for residual risks and are subject to the same type of residual risks as the positions they hedge.*

The competent authority shall grant permission to apply the treatment referred to in the first subparagraph if the institution can demonstrate on an ongoing basis to the satisfaction of the competent authority that the instruments comply with the criteria to be treated as hedging positions.

The institution shall report to the competent authority the result of the calculation of the own funds requirements for the residual risks for all instruments for which the derogation referred to in the first subparagraph is applied.’;

(b) *the following paragraphs are added:*

- ‘6. *EBA shall develop draft regulatory technical standards to specify the criteria that the institutions are to use to identify the positions qualifying for the derogation referred to in paragraph 4a. Those criteria shall include, at least, the nature of the instruments referred to in that paragraph, the net profit and loss of the combined positions, the sensitivities of the combined positions and the risks remaining unhedged in the combined positions, taking into account in particular the possibility that the original position can be hedged by a partial amount.*

EBA shall submit those draft regulatory technical standards to the Commission by 30 June 2024.

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.

7. *By 31 December 2029, EBA shall submit a report to the Commission on the impact of the application of the treatment referred to in paragraph 4a. On the basis of the findings of that report, the Commission shall, where appropriate, submit to the European Parliament and to the Council a legislative proposal to prolong the treatment referred to in that paragraph.’;*

(165) in Article 325v, the following paragraph is added:

- ‘3. For traded non-securitisation credit and equity derivatives, JTD amounts by individual constituents shall be determined by applying a look-through approach.’;

(166) *in Article 325x, the following paragraph is added:*

‘5. Where the contractual or legal terms of a derivative position having a debt or equity cash instrument as an underlying, and hedged with that debt or equity cash instrument, allow an institution to close out both legs of that position at the time of the expiry of the first-to-mature of the two legs with no exposure to default risk of the underlying, the net jump-to-default amount of the combined position shall be set equal to zero.’;

(167) *in Article 325y, the following paragraph is added:*

‘6. For the purposes of this Article, an exposure shall be assigned the credit quality category corresponding to the credit quality category that it would be assigned under the standardised approach for credit risk set out in Title II, Chapter 2.’;

(168) *in Article 325ab, paragraph 2 is deleted;*

(169) *Article 325ad is amended as follows:*

(a) paragraph 1 is replaced by the following

‘1. Net JTD amounts shall be multiplied by:

(a) *for non-tranched products, the default risk weights corresponding to their credit quality as specified in Article 325y(1) and (2);*

(b) *for tranched products, the default risk weights referred to in Article 325aa(1).’;*

(b) *in paragraph 3, the formula for DRC_b is replaced by the following:*

$$DRC_b = \sum_{i \in long} RW_i \cdot netJTD_i - WtS_{ACTP} \cdot \left(\sum_{i \in short} RW_i \cdot |netJTD_i| \right);$$

(170) in Article 325ae, paragraph 3 is replaced by the following:

‘3. The risk weights of risk factors based on the currencies included in the most liquid currency sub-category as referred to in Article 325bd(7), point (b), and the domestic currency of the institution shall be the following:

- (a) for risk-free rate risk factors, the risk weights referred to in paragraph 1, Table 3, of this Article divided by $\sqrt{2}$;
- (b) for inflation risk factor and cross currency basis risk factors, the risk weights referred to in paragraph 2 of this Article divided by $\sqrt{2}$.’;

(171) Article 325ah is amended as follows:

(a) paragraph 1 is amended as follows:

(i) in Table 4, the sector of bucket 13 is replaced by the following:

‘Financial sector entities, including credit institutions incorporated or established by a central government, a regional government or a local authority, promotional lenders and covered bonds’;

(ii) the following subparagraph is added:

‘For the purposes of this Article, an exposure shall be assigned the credit quality category corresponding to the credit quality category that it would be assigned under the standardised approach for credit risk set out in Title II, Chapter 2.’;

(b) the following paragraph is added:

‘3. By way of derogation from paragraph 2, institutions may assign a risk exposure of an unrated covered bond to bucket 4 where the institution that issued the covered bond has credit quality step 1 to 3.’;

(172) in Article 325ai(1), the definition of $\rho_{kl}^{(name)}$ is replaced by the following:

‘ $\rho_{kl}^{(name)}$ shall be equal to 1 where the two names of sensitivities k and l are identical; it shall be equal to 35 % where the two names of sensitivities k and l are in buckets 1 to 18 in Article 325ah(1), Table 4, otherwise it shall be equal to 80 %’;

(173) in Article 325aj, the definition of $\gamma_{bc}^{(rating)}$ is replaced by the following:

‘ $\gamma_{bc}^{(rating)}$ shall be equal to:

- (a) 1, where buckets b and c are buckets 1 to 17 and both buckets have the same credit quality category (either credit quality step 1 to 3 or credit quality step 4 to 6); otherwise it shall be equal to 50 %; for the purposes of that calculation, bucket 1 shall be considered as belonging to the same credit quality category as buckets that have credit quality step 1 to 3;
- (b) 1, where either bucket b or c is bucket 18;
- (c) 1, where bucket b or c is bucket 19 and the other bucket has credit quality step 1 to 3; otherwise it shall be equal to 50 %;
- (d) 1, where bucket b or c is bucket 20 and the other bucket has credit quality step 4 to 6; otherwise it shall be equal to 50 %;’;

(174) Article 325ak is amended as follows:

(a) **Table 6** *is amended as follows:*

(i) *the column ‘credit quality’ is amended as follows:*

(1) *the second row is replaced by the following:*

‘Credit quality step 1 to 10’

(2) *the third row is replaced by the following:*

‘Credit quality step 11 to 17’;

(ii) the sector of bucket 13 is replaced by the following:

‘Financial sector entities, including credit institutions incorporated or established by a central government, a regional government or a local authority, promotional lenders and covered bonds’;

(b) the following paragraphs are added:

‘For the purposes of this Article, an exposure shall be assigned the credit quality category corresponding to the credit quality category that it would be assigned under the standardised approach for credit risk set out in Title II, Chapter 2.

By way of derogation from the second paragraph, institutions may assign a risk exposure of an unrated covered bond to bucket 4 where the institution that issues the covered bond has a credit quality step 1 to 3.’;

(175) ■ Article 325am *is amended as follows*;

(a) *in paragraph 1, Table 7, the column ‘credit quality’ is amended as follows*:

(i) *the first row is replaced by the following*:

‘Senior and credit quality step 1 to 10’

(ii) *the second row is replaced by the following*:

‘Non-senior and credit quality step 1 to 10’;

(iii) *the third row is replaced by the following*:

‘Credit quality step 11 to 17 and unrated’;

(b) the following paragraph is added:

- ‘3. For the purposes of this Article, an exposure shall be assigned the credit quality category corresponding to the credit quality category that it would be assigned under the *External Rating Based* Approach ■ set out in Title II, Chapter 5.’;

(176) in Article 325as, Table 9 is amended as follows:

(a) the bucket name of bucket 3 is replaced by the following:

‘Energy – electricity’;

(b) the following fields are inserted:

‘

3a	<i>Energy – EU ETS carbon trading</i>	40 %
3b	<i>Energy – non EU ETS carbon trading</i>	60 %

’;

(177) Article 325ax is amended as follows:

(a) paragraphs 1 and 2 are replaced by the following:

- ‘1. Buckets for vega risk factors shall be similar to the buckets established for delta risk factors in accordance with Section 3, Subsection 1.
2. Risk weights for sensitivities to vega risk factors shall be assigned in accordance with the risk class of the risk factors, as follows:

Table 1

Risk class	Risk weights
GIRR	100 %
CSR non-securitisations	100 %
CSR securitisations (ACTP)	100 %
CSR securitisations (non-ACTP)	100 %
Equity (large cap and indices)	77,78 %
Equity (small cap and other sector)	100 %
Commodity	100 %
Foreign exchange	100 %

;

(b) paragraph 3 is deleted.’;

(c) *paragraph 6 is replaced by the following:*

‘6. For general interest rate, credit spread and commodity curvature risk factors, the curvature risk weight shall be the parallel shift of all vertices for each curve on the basis of the highest prescribed delta risk weight referred to in Subsection 1 for the relevant risk bucket.’;

(178) Article 325az is amended as follows:

(a) paragraph 1 is replaced by the following:

‘1. The alternative internal model approach may be used by an institution to calculate its own funds requirements for market risk, provided that the institution meets all of the requirements laid down in this Chapter.’;

(b) in paragraph 2, the first subparagraph is amended as follows:

(i) points (c) and (d) are replaced by the following:

‘(c) the trading desks have met the back-testing requirements referred to in Article 325bf(3);

(d) the trading desks have met the profit and loss attribution (“P&L attribution”) requirements referred to in Article 325bg;’;

(ii) the following point is added:

‘(g) no positions in CIUs that meet the condition set out in Article 104(8), point (b), have been assigned to the trading desks.’;

(c) paragraph 3 is replaced by the following:

- ‘3. Institutions that have been granted permission to use the alternative internal model approach shall also meet the reporting requirement set out in Article 325(3).’;

(d) *in paragraph 8, point (b) is replaced by the following:*

- ‘(b) the assessment methodology under which competent authorities verify an institution’s compliance with the requirements set out in this Chapter.’;*

(e) paragraph 9 *is replaced by the following:*

- ‘9. EBA shall issue an opinion as to whether extraordinary circumstances as referred to in paragraph 5 of this Article and in Article 325bf(6), second subparagraph, have occurred.*

For the purpose of providing that opinion, EBA shall monitor the market conditions to assess whether extraordinary circumstances have occurred and, where that is the case, shall notify the Commission immediately.

10. EBA shall develop draft regulatory technical standards to specify the conditions and indicators that EBA is to use to determine whether extraordinary circumstances have occurred.

EBA shall submit those draft regulatory technical standards to the Commission by 30 June 2024.

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.’;

(179) *Article 325ba*, is amended as follows ■ :

(a) *in paragraph 1*, the following *subparagraph* is added:

■

‘Where calculating the own funds requirements for market risk using an internal model in accordance with the first subparagraph, an institution shall not include its own credit spreads in the calculation of the measures referred to in points (a) and (b) for positions in the institution’s own debt instruments.’;

(b) in paragraph 2, the following **■** *subparagraph* is added:

■

‘By way of derogation from the first subparagraph, an institution shall not be subject to the additional own funds requirement for the holdings of its own debt instruments.’;

■

(c) the following paragraph is added:

- ‘3. An institution using an alternative internal model shall calculate the total own funds requirements for market risk for all trading book positions and all non-trading book positions generating foreign exchange risk or commodity risk in accordance with the following formula:

$$AIMA_{total} = \min(AIMA + PLA_{addon} + ASA_{non-aima} ; ASA_{all portfolio}) + \max(AIMA - ASA_{aima} ; 0)$$

where:

$AIMA$ = the sum of the own funds requirements referred to in paragraphs 1 and 2;

PLA_{addon} = the additional own funds requirement referred to in Article 325bg(2);

$ASA_{\text{non-aima}}$ = the own funds requirements for market risk as calculated under the alternative standardised approach referred to in Article 325(1), point (a), for the portfolio of trading book positions and non-trading book positions generating foreign exchange risk or commodity risk for which the institution *uses* the ***alternative standardised*** approach to calculate the own funds requirements for market risk;

$ASA_{\text{all portfolio}}$ = the own funds requirements for market risk as calculated under the alternative standardised approach referred to in Article 325(1), point (a), for the portfolio of all trading book positions and all non-trading book positions generating foreign exchange risk or commodity risk;

ASA_{aima} = the own funds requirements for market risk as calculated under the alternative standardised approach referred to in Article 325(1), point (a), for the portfolio of trading book positions and non-trading book positions generating foreign exchange risk or commodity risk for which the institution *uses* the approach referred to in Article 325(1), point (b), to calculate the own funds requirements for market risk.’;

(180) in Article 325bc, the following paragraph is added:

- ‘6. EBA shall develop draft regulatory technical standards to specify the criteria for the use of data inputs in the risk-measurement model referred to in this Article, including criteria on data accuracy and criteria on the calibration of the data inputs where market data are insufficient.

EBA shall submit those draft regulatory technical standards to the Commission by ...
[18 months from the date of entry in force of this amending Regulation].

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.’;

(181) in Article 325bd, the following paragraph is inserted:

- ‘5a. Currencies of Member States participating in ERM II shall be included in the most liquid currencies and domestic currency sub-category within the broad category of interest rate risk factor of Table 2.’;***

(182) Article 325be is amended as follows:

(a) in paragraph 1, the following subparagraph is added:

‘For the purposes of the assessment referred to in first subparagraph, competent authorities may allow institutions to use market data provided by third-party vendors.’;

(b) the following paragraph is inserted:

‘1a. Competent authorities may require an institution to consider not modellable a risk factor that has been assessed as modellable by the institution in accordance with paragraph 1 of this Article, where the data inputs used to determine the scenarios of future shocks applied to the risk factor do not meet, to the satisfaction of the competent authorities, the requirements referred to in Article 325bc(6).’;

(c) the following paragraph is inserted:

‘2a. In extraordinary circumstances, occurring during periods of significant reduction in certain trading activities across financial markets, competent authorities may allow institutions using the approach set out in this Chapter to consider as modellable risk factors that have been assessed as not modellable by those institutions in accordance with paragraph 1, provided that the following conditions are met:

- (a) the risk factors subject to the treatment correspond to the trading activities which are significantly reduced across financial markets;
- (b) the treatment is applied temporarily, and for not more than six months within one financial year;

- (c) the treatment does not significantly reduce the total own funds requirements for market risk of the institutions applying it;
 - (d) competent authorities immediately notify EBA of any decision to allow institutions to apply the approach set out in this Chapter to consider as modellable risk factors that have been assessed as non-modellable, as well as of the trading activities concerned, and substantiate that decision.’;
- (d) paragraph 3 is replaced by the following:
- ‘3. EBA shall develop draft regulatory technical standards to specify the criteria to assess the modellability of risk factors in accordance with paragraph 1, including where market data *provided by third-party vendors* are used, and the frequency of that assessment.
- EBA shall submit those draft regulatory technical standards to the Commission by ... [12 months from the date of entry into force of this amending Regulation].
- Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.’;

(183) Article 325bf is amended as follows:

(a) paragraph 6 is amended as follows:

(i) in the first subparagraph, the introductory wording is replaced by the following:

“The multiplication factor (m_c) shall be equal to at least the sum of 1,5 and an add-on determined in accordance with Table 3. For the portfolio referred to in paragraph 5, that add-on shall be calculated on the basis of the number of overshootings that occurred over the most recent 250 business days as evidenced by the institution’s back-testing of the value-at-risk number calculated in accordance with point (a) of this subparagraph. The calculation of the add-on shall be subject to the following requirements:”;

- (ii) the second subparagraph is replaced by the following:

‘In extraordinary circumstances, competent authorities may permit an institution to do one or both of the following:

- (a) limit the calculation of the add-on to that resulting from overshootings under the back-testing of hypothetical changes where the number of overshootings under the back-testing of actual changes does not result from deficiencies in the institution’s alternative internal model;
- (b) exclude the overshootings evidenced by the back-testing of hypothetical or actual changes from the calculation of the add-on where those overshootings do not result from deficiencies in the institution’s alternative internal model.’;

(iii) the following subparagraph is added:

‘For the purposes of the first subparagraph, competent authorities may increase the value of m_c above the sum referred to in that subparagraph, where an institution’s alternative internal model shows deficiencies preventing the appropriate measurement of the own funds requirements for market risk.’;

(b) paragraph 8 is replaced by the following:

‘8. By way of derogation from paragraphs 2 and 6, competent authorities may permit an institution not to count an overshooting where a one-day change in the value of its portfolio that exceeds the related value-at-risk number calculated by that institution’s internal model is attributable to a non-modellable risk factor.’

(c) the following paragraph is added:

“10. EBA shall develop draft regulatory technical standards to specify the conditions and the criteria according to which an institution may be permitted not to count an overshooting where the one-day change in the value of its portfolio that exceeds the related value-at-risk number calculated by that institution’s internal model is attributable to a non-modellable risk factor.

EBA shall submit those draft regulatory technical standards to the Commission by ... [24 months from the date of entry into force of this amending Regulation].

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.

(184) Article 325bg is amended as follows:

(a) paragraphs 1, 2 and 3 are replaced by the following:

- “1. An institution’s trading desk meets the P&L attribution requirements where the theoretical changes in the value of that trading desk’s portfolio, based on the institution’s risk-measurement model, are either close or sufficiently close to the hypothetical changes in the value of that trading desk’s portfolio, based on the institution’s pricing model.
2. Notwithstanding paragraph 1 of this Article, where the theoretical changes in the value of a trading desk’s portfolio, based on the institution’s risk-measurement model, are sufficiently close to the hypothetical changes in the value of that trading desk’s portfolio, based on the institution’s pricing model, the institution shall calculate, for all positions assigned to that trading desk, an additional own funds requirement to the own funds requirements referred to in Article 325ba(1) and (2).

3. ***On the basis of the results of*** the P&L attribution requirement ■ referred ■ to ***in*** paragraph 1 of this Article, ***an institution*** shall ***determine and document*** a precise list of risk factors ***included in the institution’s risk-measurement model*** that are deemed appropriate for verifying the institution’s compliance with the back-testing requirement set out in Article 325bf. ***The institution shall track any change to the list of those risk factors.***”;

(b) paragraph 4 is amended as follows:

(i) points (a) and (b) are replaced by the following:

- “(a) the criteria specifying whether the theoretical changes in the value of a trading desk’s portfolio are either close or sufficiently close to the hypothetical changes in the value of a trading desk’s portfolio for the purposes of paragraph 1, taking into account international regulatory developments;

- (b) the additional own funds requirement referred to in paragraph 2;’;
- (ii) point (e) is deleted;
- (iii) the *second subparagraph* is replaced by the following:

’EBA shall submit those draft regulatory technical standards to the Commission by ... [**12** months from the date of entry in force of this *amending* Regulation].’;

(185) Article 325bh is amended as follows:

(a) *paragraph 1 is amended as follows:*

(i) *point (d) is replaced by the following:*

‘(d) the internal risk-measurement 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, provided that the correctness of that report is adequately ensured;’

(ii) the following point is added:

- ‘(i) for positions in CIUs, institutions shall look through the underlying positions of the CIUs at least on a weekly basis to calculate their own funds requirements in accordance with this Chapter **II**; *where the look-through approach is carried out weekly, institutions shall be able to monitor the risks resulting from significant changes in the composition of the CIU; institutions* that do not have adequate data inputs or information to calculate the own funds requirements for market risk of a CIU position in accordance with the look-through approach may rely on a third party to obtain those data inputs or information, provided that all of the following conditions are met:

- (i) the third party is one of the following:
- (1) the depository institution or the depository financial institution of the CIU, provided that the CIU exclusively invests in securities and deposits all securities at that depository institution or depository financial institution;
 - (2) the CIU management company, provided that it meets the criteria set out in Article 132(3), point (a);
 - (3) ***a third-party vendor on the condition that the data, information or risk metrics are provided or calculated by the third parties referred to in point (1) or (2) of this point or another such third-party vendor;***

- (ii) the third party provides the institution with the ■ data ■ , information *or risk metrics* to calculate the own funds requirements for market risk of the CIU position in accordance with the look-through approach referred to in the first subparagraph;
- (iii) an external auditor of the institution has confirmed the adequacy of the third party data ■ , information *or risk metrics* referred to in point (ii) and the competent authority has unrestricted access to those data ■ , information *or risk metrics* upon request.’;

(b) paragraph 2 is replaced by the following:

- ‘2. An institution may use empirical correlations within broad categories of risk factors and, for the purpose of calculating the unconstrained expected shortfall measure UES_t as referred to in Article 325bb(1) across broad categories of risk factors only where the institution’s approach for measuring those correlations is sound, consistent with either the applicable liquidity horizons or, to the satisfaction of the competent authority, with the base time horizon of 10 days set out in Article 325bc(1), and implemented with integrity.’;

(c) paragraph 3 is deleted;

(186) in Article 325bi, paragraph 1 is amended as follows:

(a) point (b) is replaced by the following:

- ‘(b) an institution shall have a risk control unit that is independent from business trading units and that reports directly to senior management; that unit shall:
 - (i) be responsible for designing and implementing any internal risk-measurement model used in the alternative internal model approach for the purposes of this Chapter;
 - (ii) be responsible for the overall risk management system;
 - (iii) produce and analyse daily reports on the output of any internal model used to calculate own funds requirements for market risk, and on the appropriateness of measures to be taken in terms of trading limits;’;

(b) the following subparagraph is inserted after the first subparagraph:

A validation unit, which is separate from the risk control unit referred to in the first subparagraph, point (b), shall conduct the initial and ongoing validation of any internal risk-measurement model used in the alternative internal model approach for the purposes of this Chapter.’;

(187) in Article 325bo, paragraph 3 is replaced by the following:

‘3. In their internal default risk models, institutions shall capture material basis risks in hedging strategies that arise from differences in the type of product, seniority in the capital structure, internal or external ratings, vintage and other differences.

Institutions shall ensure that maturity mismatches between a hedging instrument and the hedged instrument that could occur during the one-year time horizon, where those mismatches are not captured in their internal default risk model, do not lead to a material underestimation of risk.

Institutions shall recognise a hedging instrument only to the extent that it can be maintained even as the obligor approaches a credit event or other event.’;

(188) Article 325bp is amended as follows:

(a) paragraph 5 is amended as follows:

(i) point (a) is replaced by the following:

‘(a) the default probabilities shall be floored at 0,01 % for exposures to which a 0 % risk weight is applied in accordance with Articles 114 to 118 and at 0,01 % for covered bonds to which a 10 % risk weight is applied in accordance with Article 129; otherwise, the default probabilities shall be floored at 0,03 %;’;

(ii) points (d) and (e) are replaced by the following:

- ‘(d) an institution that has been granted permission to estimate default probabilities in accordance with Title II, Chapter 3, Section 1 for the exposure class and the rating system corresponding to a given issuer shall use the methodology set out therein to calculate the default probabilities of that issuer, provided that the data to make such an estimate are available;
- (e) an institution that has not been granted permission to estimate default probabilities referred to in point (d) shall develop an internal methodology or use external sources to estimate these default probabilities consistently with the requirements applicable to estimates of default probability under this Article.’;

(iii) the following subparagraph is added:

‘For the purposes of the first subparagraph, point (d), the data to estimate the default probabilities of a given issuer of a trading book position are available where, at the calculation date, the institution has a non-trading book position on the same obligor for which it estimates default probabilities in accordance with Title II, Chapter 3, Section 1 to calculate its own funds requirements set out in that Chapter.’;

(b) paragraph 6 is amended as follows:

(i) points (c) and (d) are replaced by the following:

- ‘(c) an institution that has been granted permission to estimate LGD in accordance with Title II, Chapter 3, Section 1, for the exposure class and the rating system corresponding to a given exposure shall use the methodology set out therein to calculate LGD estimates of that issuer, provided that the data to make such an estimate are available;
- (d) an institution that has not been granted permission to estimate LGD referred to in point (c) shall develop an internal methodology or use external sources to estimate LGD consistently with the requirements applying to estimates of LGD under this Article.’;
- (ii) the following subparagraph is added:

‘For the purposes of the first subparagraph, point (c), the data to estimate the LGD of a given issuer of a trading book position are available where, at the calculation date, the institution has a non-trading book position on the same exposure for which it estimates LGD in accordance with Title II, Chapter 3, Section 1 to calculate its own funds requirements set out in that Chapter.’;

(189) *in Article 332, paragraph 3 is replaced by the following:*

‘3. Credit derivatives in accordance with Article 325(6) or (8) shall be included only in the determination of the specific risk own funds requirement in accordance with Article 338(2).’;

(190) Article 337 is amended as follows:

(a) paragraph 2 is replaced by the following:

‘2. When determining risk weights for the purposes of paragraph 1, institutions shall use exclusively the approach set out in Title II, Chapter 5, Section 3.’;

(b) *paragraph 4 is replaced by the following:*

‘4. The institution shall sum its weighted positions resulting from the application of paragraphs 1, 2 and 3 of this Article regardless of whether they are long or short, in order to calculate its own funds requirement against specific risk, except for securitisation positions subject to Article 338(2).’;

(191) Article 338 is replaced by the following:

‘Article 338

Own funds requirement for the correlation trading portfolio

1. For the purposes of this Article, an institution shall determine its correlation trading portfolio in accordance with Article 325(6), (7) and (8).
2. 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.’;

(192) in Article 348, paragraph 1 is replaced by the following:

‘1. Without prejudice to other provisions in this Section, positions in CIUs shall be subject to an own funds requirement for position risk, comprising general and specific risk, of 32 %. Without prejudice to Article 353 taken together with the amended gold treatment set out in Article 352(4) positions in CIUs shall be subject to an own funds requirement for position risk, comprising general and specific risk, and foreign exchange risk of 40 %.’;

(193) Article 351 is replaced by the following:

‘Article 351

De minimis and weighting for foreign exchange risk

If the sum of an institution’s overall net foreign exchange position and its net gold position, calculated in accordance with the procedure set out in Article 352, 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 %.’;

(194) in Article 352, paragraph 2 is deleted;

(195) ■ Article 361 *is amended as follows*:

(a) point (c) *is deleted*;

(b) the second *paragraph is replaced by the following*:

‘Institutions shall notify the use they make of this Article to their competent authorities.’;

(196) in Part Three, Title IV, Chapter 5 is deleted;

(197) in Article 381, the following paragraph is added:

‘For the purposes of this Title, “CVA risk” means the risk of losses arising from changes in the value of CVA, calculated for the portfolio of transactions with a counterparty as set out in the first paragraph, due to movements in counterparty credit spread risk factors and in other risk factors embedded in the portfolio of transactions.’;

(198) Article 382 is amended as follows:

(a) paragraph 2 is replaced by the following:

‘2. An institution shall include in the calculation of own funds required by paragraph 1 securities financing transactions that are fair-valued under the accounting framework applicable to the institution where the institution’s CVA risk exposures arising from those transactions are material.’;

(b) the following paragraphs are inserted:

- ‘4a. By way of derogation from paragraph 4 of this Article, an institution may choose to calculate the own funds requirements for CVA risk, using any of the approaches referred to in Article 382a(1), for the transactions that are excluded pursuant to paragraph 4 of this Article, where the institution uses eligible hedges determined in accordance with Article 386 to mitigate the CVA risk of those transactions. Institutions shall establish policies to specify *the application and calculation of* the own funds requirements for CVA risk for such transactions.

4b. Institutions shall report to their competent authorities the results of the calculations of the own funds requirements for CVA risk for all transactions referred to in paragraph 4 of this Article. For the purposes of that reporting requirement, institutions shall calculate the own funds requirements for CVA risk using the relevant approaches set out in Article 382a(1) that they would have used to satisfy an own funds requirement for CVA risk if those transactions were not excluded from the scope pursuant to paragraph 4 of this Article. ■’;

(c) the following paragraph is added:

‘6. EBA shall develop draft regulatory technical standards to specify the conditions and the criteria that *institutions* are to use to assess whether the CVA risk exposures arising from fair-valued securities financing transactions are material, as well as the frequency of that assessment.

EBA shall submit those draft regulatory technical standards to the Commission by ... [■ 24 months from the date of entry into force of this amending Regulation].

Power is delegated to the Commission to *supplement this Regulation by adopting* the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.’;

(199) the following article is inserted:

‘Article 382a

Approaches for calculating the own funds requirements for CVA risk

1. An institution shall calculate the own funds requirements for CVA risk for all transactions referred to in Article 382 in accordance with the following approaches:

- (a) the standardised approach set out in Article 383, where the institution has been granted permission by the competent authority to use that approach ;
 - (b) the basic approach set out in Article 384;
 - (c) the simplified approach set out in Article 385, provided that the institution meets the conditions set out in paragraph 1 of that Article.
2. An institution shall not use the approach referred to in paragraph 1, point (c), in combination with the approach referred to in point (a) or (b) of that paragraph.

3. An institution may use a combination of the approaches referred to in paragraph 1, points (a) and (b), to calculate the own funds requirements for CVA risk on a permanent basis for:
- (a) different counterparties;
 - (b) different eligible netting sets with the same counterparty;
 - (c) different transactions of the same eligible netting set, provided that *any of* the conditions *referred to in paragraph 5* are *satisfied*.
4. *For the purposes of paragraph 3, point (c), institutions shall split the eligible netting set into a hypothetical netting set containing the transactions subject to the approach referred to in paragraph 1, point (a), and a hypothetical netting set containing the transactions subject to the approach referred to in paragraph 1, point (b).*

5. *For the purposes of paragraph 3, point (c), the conditions referred to therein shall comprise the following:*

- (a) the split *is* consistent with the *treatment of* the legal netting *set when calculating* the CVA ■ for accounting purposes;
- (b) the permission granted by competent authorities to use the approach referred to in paragraph 1, point (a), *is* limited to the *corresponding* hypothetical netting set *and does not cover all transactions within the eligible netting set*.

Institutions shall *document* how they use a combination of the approaches referred to in paragraph 1, points (a) and (b), and as set out in this paragraph, to calculate the own funds requirements for CVA risk on a permanent basis.’;

(200) Article 383 is replaced by the following:

‘Article 383

Standardised approach

1. The competent authority shall grant an institution permission to calculate its own funds requirements for CVA risk for a portfolio of transactions with one or more counterparties by using the standardised approach in accordance with paragraph 3 of this Article, after having assessed whether the institution complies with the following requirements:
 - (a) the institution has established a distinct unit which is responsible for the institution’s overall risk management and hedging of CVA risk;
 - (b) for each counterparty concerned, the institution has developed a regulatory CVA model to calculate the CVA of that counterparty in accordance with Article 383a;

- (c) for each counterparty concerned, the institution is able to calculate, at least on a monthly basis, the sensitivities of its CVA to the risk factors concerned as determined in accordance with Article 383b;
- (d) for all positions in eligible hedges recognised in accordance with Article 386 for the purpose of calculating the own funds requirements for CVA risk using the standardised approach, the institution is able to calculate, and at least on a monthly basis, the sensitivities of those positions to the relevant risk factors determined in accordance with Article 383b;

- (e) *the institution has established a risk control unit that is independent from business trading units and the unit referred to in point (a) and that reports directly to the management body; that risk control unit shall be responsible for designing and implementing the standardised approach and shall produce and analyse monthly reports on the output of that approach and, moreover, the risk control unit shall assess the appropriateness of the institution's trading limits and include the results of that assessment in its monthly reports; the risk control unit shall have a sufficient number of staff with a level of skills that is appropriate to fulfil its purpose.*

For the purposes of the first subparagraph, point (c), of this paragraph the sensitivity of a counterparty's CVA to a risk factor means the relative change in the value of that CVA, as a result of a change in the value of one of the relevant risk factors of that CVA, calculated using the institution's regulatory CVA model in accordance with Articles 383i and 383j.

For the purposes of the first subparagraph, point (d), of this paragraph the sensitivity of a **position** in an eligible hedge to a risk factor means the relative change in the value of that position, as a result of a change in the value of one of the relevant risk factors of that position, calculated using the institution's pricing model in accordance with Articles 383i and 383j.

2. For the purpose of calculating the own funds requirements for CVA risk, the following definitions apply:

(1) “risk class” means any of the following categories:

- (a) interest rate risk;
- (b) counterparty credit spread risk;
- (c) reference credit spread risk;
- (d) equity risk;
- (e) commodity risk;
- (f) foreign exchange risk;

- (2) “CVA portfolio” means the portfolio composed of the aggregate CVA and the eligible hedges referred to in paragraph 1, point (d);
 - (3) “aggregate CVA” means the sum of the CVAs calculated using the regulatory CVA model for the counterparties referred to in paragraph 1, first subparagraph.
3. Institutions shall determine the own funds requirements for CVA risk using the standardised approach as the sum of the following own funds requirements calculated in accordance with Article 383b:
- (a) the own funds requirements for delta risk which capture the risk of changes in the institution’s CVA portfolio due to movements in the relevant non-volatility related risk factors;
 - (b) the own funds requirements for vega risk which capture the risk of changes in the institution’s CVA portfolio due to movements in the relevant volatility related risk factors.’;

(201) the following articles are inserted:

‘Article 383a

Regulatory CVA model

1. A regulatory CVA model used for calculating the own funds requirements for CVA risk in accordance with Article **383** shall be conceptually sound, implemented with integrity, and comply with all of the following requirements:
 - (a) the regulatory CVA model is capable of modelling the CVA of a given counterparty, recognising netting and margin *agreements* at netting set level, where relevant, in accordance with this Article;
 - (b) the institution estimates the counterparty’s probabilities of default from the counterparty credit spreads and market-*consensus expected* loss given default for that counterparty;

- (c) the expected loss given default referred to in point (a) shall be the same as the market-*consensus expected* loss given default referred to in point (b), unless the institution can demonstrate that the seniority of the portfolio of transactions with that counterparty differs from the seniority of senior unsecured bonds issued by that counterparty;
- (d) at each future time point, the simulated discounted future exposure of the portfolio of transactions with a counterparty is calculated with an exposure model by repricing all transactions in that portfolio, based on the simulated joint changes of the market risk factors that are material to those transactions using an appropriate number of scenarios, and discounting the prices to the date of calculation using risk-free interest rates;

- (e) the regulatory CVA model is capable of modelling significant dependency between the simulated discounted future exposure of the portfolio of transactions *and* the counterparty credit spreads;
- (f) where the transactions of the portfolio are included in a netting set subject to a margin agreement and daily mark-to-market valuation, the collateral posted and received as part of that agreement is recognised as a risk mitigant in the simulated discounted future exposure, where all of the following conditions are met:
 - (i) the institution determines the ■ margin period of risk relevant for that netting set in accordance with the requirements set out in Article 285(2) and (5), and reflects that margin period in the calculation of the simulated discounted future exposure;

- (ii) all applicable features of the margin agreement, including the frequency of margin calls, the type of contractually eligible collateral, the threshold amounts, the minimum transfer amounts, the independent amounts and the initial margins for both the institution and the counterparty are appropriately reflected in the calculation of the simulated discounted future exposure;
- (iii) the institution has established a collateral management unit that complies with Article 287 for all collateral recognised for calculating the own funds requirements for CVA risk using the standardised approach.

For the purposes of the first subparagraph, point (a), CVA shall have a positive sign and shall be calculated as a function of the counterparty's expected loss given default, an appropriate set of the counterparty's probabilities of default at future time points and an appropriate set of simulated discounted future exposures of the portfolio of transactions with that counterparty at future time points until the maturity of the longest transaction in that portfolio.

For the purposes of the demonstration referred to in the first subparagraph, point (c), collateral received from the counterparty shall not change the seniority of the exposure.

For the purposes of the first subparagraph, point (f)(iii), of this paragraph where the institution has already established a collateral management unit for using the internal model method referred to in Article 283, the institution shall not be required to establish an additional collateral management unit where that institution demonstrates to its competent authority that such a unit complies with the requirements set out in Article 287 for the collateral recognised for calculating the own funds requirements for CVA risk using the standardised approach.

2. For the purposes of paragraph 1, point (b), where the credit default swap spreads of the counterparty are observable in the market, an institution shall use those spreads. Where such credit default swap spreads are not available, an institution shall use one of the following:

- (a) credit spreads from other instruments issued by the counterparty reflecting current market conditions;
- (b) proxy spreads that are appropriate considering the rating, industry and region of the counterparty.

3. An institution using a regulatory CVA model shall comply with all of the following qualitative requirements:
- (a) the exposure model referred to in paragraph 1 is part of the institution's internal CVA risk management system that includes the identification, measurement, management, approval and internal reporting of CVA and CVA risk for accounting purposes;
 - (b) the institution has in place a process for ensuring compliance with a documented set of internal policies, controls, assessment of model performance and procedures concerning the exposure model referred to in paragraph 1;

- (c) the institution shall have an independent **validation** unit that is responsible for the effective initial and ongoing validation of the exposure model referred to in paragraph 1 of this Article; that unit shall be independent from business credit and trading units, including the unit referred to in Article 383(1), point (a), and report directly to senior management; it shall have a sufficient number of staff with a level of skills that is appropriate to fulfil that purpose;
- (d) the senior management shall be actively involved in the risk control process and shall regard CVA risk control as an essential aspect of the business, to which appropriate resources need to be devoted;
- (e) the institution shall document the process for initial and ongoing validation of the exposure model referred to in paragraph 1 to a level of detail that would enable a third party to understand how the models operate, their limitations, and their key assumptions, and recreate the analysis; that documentation shall set out the minimum frequency with which ongoing validation will be conducted, as well as other circumstances, such as a sudden change in market behaviour, under which additional validation shall be conducted; it shall describe how the validation is conducted with respect to data flows and portfolios, what analyses are used and how representative counterparty portfolios are constructed;

- (f) the pricing models used in the exposure model referred to in paragraph 1 for a given scenario of simulated market risk factors shall be tested against appropriate independent benchmarks for a wide range of market states as part of the initial and ongoing model validation process; pricing models for options shall account for the non-linearity of option value with respect to market risk factors;
- (g) an independent review of the institution's internal CVA risk management system referred to in point (a) of this paragraph shall be carried out by the institution's internal auditing process on a regular basis; that review shall include the activities both of the unit referred to in Article 383(1), point (a), and of the independent validation unit referred to in point (c) of this paragraph;

- (h) the regulatory CVA model used by the institution for calculating the simulated discounted future exposure referred to in paragraph 1, shall reflect transaction terms and specifications and margin agreements in a timely, complete, and conservative manner; the terms and specifications shall reside in a secure database subject to formal and periodic audit; the transmission of transaction terms and specifications data and margin agreements to the exposure model shall also be subject to internal audit, and formal reconciliation processes shall be in place between the internal model and source data systems to verify on an ongoing basis that transaction terms, specifications and margin agreements are being reflected in the exposure system correctly or, at least, conservatively;

- (i) the current and historical market data inputs used in the model by the institution for calculating the simulated discounted future exposure referred to in paragraph 1 shall be acquired independently of the **■** business *lines* and fed into that model in a timely and complete manner and maintained in a secure database subject to formal and periodic audit; an institution shall have a well-developed data integrity process to handle inappropriate data observations; where the model relies on proxy market data, an institution shall design internal policies to identify suitable proxies and shall demonstrate empirically on an ongoing basis that the proxies provide a conservative representation of the underlying risk;

- (j) the exposure model referred to in paragraph 1 shall capture the transaction specific and contractual information necessary in order to aggregate exposures at the level of the netting set; an institution shall verify that transactions are assigned to the appropriate netting set within the model.

For the purpose of calculating the own funds requirements for CVA risk, the exposure model referred to in paragraph 1 of this Article may have different specifications and assumptions in order to meet all requirements laid down in Article 383a, except that its market data inputs and netting recognition shall remain the same as the ones used for accounting purposes.

4. EBA shall develop draft regulatory technical standards to specify:

(a) how proxy spreads referred to in paragraph 2, point (b), are to be determined by the institution for the purposes of calculating default probabilities;

■

(b) further technical elements that institutions are to take into account when calculating the counterparty's expected loss given default, the counterparty's probabilities of default and the simulated discounted future exposure of the portfolio of transactions with that counterparty and CVA, as referred to in paragraph 1 ■ ;

- (c) which other instruments referred to in paragraph 2, point (a), are appropriate to estimate the counterparty's probabilities of default and how institutions are to make that estimate.

EBA shall submit those draft regulatory technical standards to the Commission by ... [36 months from the date of entry into force of this amending Regulation].

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.

■

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

- (a) the conditions for assessing the materiality of extensions and changes to the use of the standardised approach as referred to in Article 383(3);
- (b) the assessment methodology under which competent authorities are to verify an institution's compliance with the requirements set out in Articles 383 and 383a.

EBA shall submit *those* draft regulatory technical standards to the Commission *by ...* [48 months ■ from the date of entry into force of *this amending* Regulation].

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.

Article 383b

Own funds requirements for delta and vega risks

1. Institutions shall apply the delta and vega risk factors described in Articles 383c to 383h, and the process set out in paragraphs 2 to 8 of this Article, to calculate the own funds requirements for delta and vega risks.

2. For each risk class referred to in Article 383(2), the sensitivity of the aggregate CVAs and the sensitivity of all positions in eligible hedges falling within the scope of the own funds requirements for delta or vega risk to each of the applicable delta or vega risk factors included in that risk class shall be calculated by using the corresponding formulae set out in Articles 383i and 383j. Where the value of an instrument depends on several risk factors, the sensitivity shall be determined separately for each risk factor.

For the calculation of the vega risk sensitivities of the aggregate CVAs, sensitivities both to volatilities used in the exposure model to simulate risk factors and to volatilities used to reprice option transactions in the portfolio with the counterparty shall be included.

By way of derogation from paragraph 1 of this Article, subject to the permission of the competent authority, an institution may use alternative definitions of delta and vega risk sensitivities in the calculation of the own funds requirements of a trading book position under this Chapter, provided that the institution meets all of the following conditions:

- (a) those alternative definitions are used for internal risk management purposes *or* for the reporting of profits and losses to senior management by an independent risk control unit within the institution;
- (b) the institution demonstrates that those alternative definitions are more appropriate for capturing the sensitivities of the position than the formulae set out in Articles 383i and 383j, ■ and that the resulting *delta and vega risk* sensitivities do not materially differ from *the ones obtained applying the formulae set out in Articles 383i and 383j, respectively*.

3. Where an eligible hedge is an index instrument, institutions shall calculate the sensitivities of that eligible hedge to all relevant risk factors by applying the shift of one of the relevant risk factors to each of the index constituents.
4. An institution may introduce additional risk *factors* that correspond to qualified index instruments *for the following risk classes:*
 - (a) *counterparty credit spread risk;*
 - (b) *reference credit spread risk; and*
 - (c) *equity risk.*

For the purposes of delta risks, an index instrument shall be considered qualified where it meets the conditions set out in Article 325i ■ . For vega risks, all index instruments shall be considered qualified.

An institution shall calculate sensitivities of CVA and eligible hedges to qualified index risk factors in addition to sensitivities to the non-index risk factors.

An institution shall calculate delta and vega risk sensitivities to a qualified index risk factor as a single sensitivity to the underlying qualified index. Where 75 % of the constituents of a qualified index are mapped to the same sector as set out in Articles 383p, 383s and 383v, the institution shall map the qualified index to that same sector. Otherwise, the institution shall map the sensitivity to the applicable qualified index bucket.

5. The weighted sensitivities of the aggregate CVA and of the market value of all eligible hedges to each risk factor shall be calculated by multiplying the respective net sensitivities by the corresponding risk weight, in accordance with the following formulae:

$$WS_k^{CVA} = RW_k \cdot S_k^{CVA}$$

$$WS_k^{hedges} = RW_k \cdot S_k^{hedges}$$

where:

k = the index that denotes the risk factor k ;

WS_k^{CVA} = the weighted sensitivity of the aggregate CVA to risk factor k ;

RW_k = the risk weight applicable to the risk factor k ;

S_k^{CVA} = the net sensitivity of the aggregate CVA to risk factor k ;

WS_k^{hedges} = the weighted sensitivity of the market value of all eligible hedges in the CVA portfolio to risk factor k ;

S_k^{hedges} = the net sensitivity of the market value of all eligible hedges in the CVA portfolio to risk factor k .

6. Institutions shall calculate the net-weighted sensitivity WS_k of the CVA portfolio to risk factor k in accordance with the following formula:

$$WS_k = WS_k^{CVA} - WS_k^{hedges}$$

7. The net-weighted sensitivities within the same bucket shall be aggregated in accordance with the following formula, using the corresponding correlations ρ_{kl} to weighted sensitivities within the same bucket set out in Articles 383l, 383t and 383q giving rise to the bucket-specific sensitivity K_b :

$$K_b = \sqrt{\sum_{k \in b} WS_k^2 + \sum_{k \in b} \sum_{l \in b, k \neq l} \rho_{kl} WS_k WS_l + R \cdot \sum_{k \in b} (WS_k^{hedges})^2}$$

where:

K_b = the bucket-specific sensitivity of bucket b ;

WS_k = the net-weighted sensitivities;

ρ_{kl} = the corresponding intra-bucket correlation parameters;

R = the hedging disallowance parameter equal to 0,01.

8. The bucket-specific sensitivity shall be calculated in accordance with paragraphs 5, 6 and 7 of this Article for each bucket within a risk class. Once the bucket-specific sensitivity has been calculated for all buckets, weighted sensitivities to all risk factors across buckets shall be aggregated in accordance with the following formula, using the corresponding correlations γ_{bc} for weighted sensitivities in different buckets set out in Articles 383l, 383o, **383r**, **383u**, **383w** and 383z giving rise to the risk-class specific own funds requirements for delta or vega risk:

risk – class specific own funds requirement for delta or vega risk

$$= m_{CVA} \sqrt{\sum_b K_b^2 + \sum_b \sum_{b \neq c} \gamma_{bc} S_b S_c}$$

where:

m_{CVA} = a multiplier factor which is equal to 1; the competent authority may increase the value of m_{CVA} where the institution's regulatory CVA model shows deficiencies preventing the appropriate measurement of the own funds requirements for CVA risk;

K_b = the bucket-specific sensitivity of bucket b;

γ_{bc} = the correlation parameter between buckets b and c;

$S_b = \max\{-K_b; \min(\sum_{k \in b} WS_k; K_b)\}$ for all risk factors in bucket b;

$S_c = \max\{-K_c; \min(\sum_{k \in c} WS_k; K_c)\}$ for all risk factors in bucket c.

Article 383c

Interest rate risk factors

1. For the interest rate delta risk factors, including inflation rate risk, there shall be one bucket per currency, with each bucket containing different types of risk factors.

The interest rate delta risk factors that are applicable to interest-rate sensitive instruments in the CVA portfolio shall be the risk-free rates per currency concerned and per each of the following maturities: 1 year, 2 years, 5 years, 10 years and 30 years.

The interest rate delta risk factors applicable to inflation-rate sensitive instruments in the CVA portfolio shall be the inflation rates per currency concerned and per each of the following maturities: 1 year, 2 years, 5 years, 10 years and 30 years.

2. The currencies for which an institution shall apply the interest rate delta risk factors in accordance with paragraph 1 shall be euro, Swedish krona, Australian dollar, Canadian dollar, British pound sterling, Japanese yen and US dollar, the institution's reporting currency *and the currency of a Member State participating in ERM II*.
3. For currencies not specified in paragraph 2, the interest rate delta risk factors shall be the absolute change of the inflation rate and the parallel shift of the entire risk-free curve for a given currency.
4. Institutions shall obtain the risk-free rates per currency from money market instruments held in their trading book that have the lowest credit risk, including overnight index swaps.

5. Where institutions cannot apply the approach referred to in paragraph 4, the risk-free rates shall be based on one or more market-implied swap curves used by the institutions to mark positions to market, such as the interbank offered rate swap curves.

Where the data on market-implied swap curves described in the first subparagraph are insufficient, the risk-free rates may be derived from the most appropriate sovereign bond curve for a given currency.

6. The interest rate vega risk factor applicable to instruments in the CVA portfolio sensitive to interest rate volatility shall be all the volatilities of the interest rate of all tenors for a given currency. The inflation rate vega risk factor applicable to instruments in the CVA portfolio sensitive to inflation rate volatility shall be all the volatilities of the inflation rate of all tenors for a given currency. There shall be one net interest rate sensitivity and one net inflation rate sensitivity computed for each currency.

Article 383d

Foreign exchange risk factors

1. The foreign exchange delta risk factors to be applied by institutions to instruments in the CVA portfolio sensitive to foreign exchange spot rates shall be the spot foreign exchange rates between the currency in which an instrument is denominated and the institution's reporting currency *or the institution's base currency where the institution is using a base currency in accordance with Article 325q(7)*. There shall be one bucket per currency pair, containing a single risk factor and a single net sensitivity.

2. The foreign exchange vega risk factors to be applied by institutions to instruments in the CVA portfolio sensitive to foreign exchange volatility shall be the implied volatilities of foreign exchange rates between the currency pairs referred to in paragraph 1. There shall be one bucket for all currencies and maturities, containing all foreign exchange vega risk factors and a single net sensitivity.
3. Institutions shall not be required to distinguish between onshore and offshore variants of a currency for foreign exchange delta and vega risk factors.

Article 383e

Counterparty credit spread risk factors

1. The counterparty credit spread delta risk factors applicable to counterparty credit spread sensitive instruments in the CVA portfolio shall be the credit spreads of individual counterparties and reference names and qualified indices for the following maturities: 0,5 years, 1 year, 3 years, 5 years and 10 years.

■

2. *The counterparty credit spread risk class shall not be subject to vega risk own funds requirements.*

Article 383f

Reference credit spread risk factors

1. The reference credit spread delta risk factors applicable to reference credit spread sensitive instruments in the CVA portfolio shall be the credit spreads of all maturities for all reference names within a bucket. There shall be one net sensitivity computed for each bucket.
2. The reference credit spread vega risk factors applicable to instruments in the CVA portfolio sensitive to reference credit spread volatility shall be the volatilities of the credit spreads of all tenors for all reference names within a bucket. There shall be one net sensitivity computed for each bucket.

Article 383g

Equity risk factors

1. The buckets for all equity risk factors shall be the buckets referred to in Article 383t.
2. The equity delta risk factors to be applied by institutions to instruments in the CVA portfolio sensitive to equity spot prices shall be the spot prices of all equities mapped to the same bucket referred to in paragraph 1. There shall be one net sensitivity computed for each bucket.
3. The equity vega risk factors to be applied by institutions to instruments in the CVA portfolio sensitive to equity volatility shall be the implied volatilities of all equities mapped to the same bucket referred to in paragraph 1. There shall be one net sensitivity computed for each bucket.

Article 383h

Commodity risk factors

1. The buckets for all commodity risk factors shall be the sector buckets referred to in Article 383x.
2. The commodity delta risk factors to be applied by institutions to instruments in the CVA portfolio sensitive to commodity spot prices shall be the spot prices of all commodities mapped to the same sector bucket referred to in paragraph 1. There shall be one net sensitivity computed for each sector bucket.
3. The commodity vega risk factors to be applied by institutions to instruments in the CVA portfolio sensitive to commodity price volatility shall be the implied volatilities of all commodities mapped to the same sector bucket referred to in paragraph 1. There shall be one net sensitivity computed for each sector bucket.

Article 383i

Delta risk sensitivities

1. Institutions shall calculate delta sensitivities consisting of interest rate risk factors as follows:

- (a) the delta sensitivities of the aggregate CVA to risk factors consisting of risk-free rates, as well as of an eligible hedge to those risk factors, shall be calculated as follows:

$$S_{r_{kt}}^{CVA} = \frac{V_{CVA}(r_{kt} + 0,0001, x, y \dots) - V_{CVA}(r_{kt}, x, y \dots)}{0,0001}$$

$$S_{r_{kt}}^{hedge_i} = \frac{V_i(r_{kt} + 0,0001, w, z \dots) - V_i(r_{kt}, w, z \dots)}{0,0001}$$

where:

$S_{r_{kt}}^{CVA}$ = the sensitivities of the aggregate CVA to a risk-free rate risk factor;

r_{kt} = the value of the risk-free rate risk factor k with maturity t;

V_{CVA} = the aggregate CVA calculated by the regulatory CVA model;

x, y = risk factors other than r_{kt} in V_{CVA} ;

$S_{r_{kt}}^{hedge_i}$ = the sensitivities of the eligible hedge i to a risk-free rate risk factor;

V_i = the pricing function of the eligible hedge i;

w, z = risk factors other than r_{kt} in the pricing function V_i ;

- (b) the delta sensitivities to risk factors consisting of inflation rates as well as of an eligible hedge to those risk factors, shall be calculated as follows:

$$S_{infl_{kt}}^{CVA} = \frac{V_{CVA}(infl_{kt} + 0,0001, x, y \dots) - V_{CVA}(infl_{kt}, x, y \dots)}{0,0001}$$

$$S_{infl_{kt}}^{hedge_i} = \frac{V_i(infl_{kt} + 0,0001, w, z \dots) - V_i(infl_{kt}, w, z \dots)}{0,0001}$$

where:

$S_{infl_{kt}}^{CVA}$ = the sensitivities of the aggregate CVA to an inflation rate risk factor;

$infl_{kt}$ = the value of an inflation rate risk factor k with maturity t;

V_{CVA} = the aggregate CVA calculated by the regulatory CVA model;

x, y = risk factors other than $infl_{kt}$ in V_{CVA} ;

$S_{infl_{kt}}^{hedge_i}$ = the sensitivities of the eligible hedge i to an inflation rate risk factor;

V_i = the pricing function of the eligible hedge i;

w, z = risk factors other than $infl_{kt}$ in the pricing function V_i .

2. Institutions shall calculate the delta sensitivities of the aggregate CVA to risk factors consisting of foreign exchange spot rates, as well as of an eligible hedge instrument to those risk factors, as follows:

$$S_{FX_k}^{CVA} = \frac{V_{CVA}(FX_k \cdot 1,01, x, y \dots) - V_{CVA}(FX_k, x, y \dots)}{0,01}$$

$$S_{FX_k}^{hedge_i} = \frac{V_i(FX_k \cdot 1,01, w, z \dots) - V_i(FX_k, w, z \dots)}{0,01}$$

where:

$S_{FX_k}^{CVA}$ = the sensitivities of the aggregate CVA to a foreign exchange spot rate risk factor;

FX_k = the value of the foreign exchange spot rate risk factor k;

V_{CVA} = the aggregate CVA calculated by the regulatory CVA model;

x, y = risk factors other than FX_k in V_{CVA} ;

$S_{FX_k}^{hedge_i}$ = the sensitivities of the eligible hedge i to a foreign exchange spot rate risk factor;

V_i = the pricing function of the eligible hedge i;

w, z = risk factors other than FX_k in the pricing function V_i .

3. Institutions shall calculate the delta sensitivities of the aggregate CVA to risk factors consisting of counterparty credit spread rates, as well as of an eligible hedge instrument to those risk factors, as follows:

$$S_{ccs_{kt}}^{CVA} = \frac{V_{CVA}(ccs_{kt} + 0,0001, x, y \dots) - V_{CVA}(ccs_{kt}, x, y \dots)}{0,0001}$$

$$S_{ccs_{kt}}^{hedge_i} = \frac{V_i(ccs_{kt} + 0,0001, w, z \dots) - V_i(ccs_{kt}, w, z \dots)}{0,0001}$$

where:

$S_{ccs_{kt}}^{CVA}$ = the sensitivities of the aggregate CVA to a counterparty credit spread rate risk factor;

ccs_{kt} = the value of the counterparty credit spread rate risk factor k at maturity t;

V_{CVA} = the aggregate CVA calculated by the regulatory CVA model;

x, y = risk factors other than ccs_{kt} in V_{CVA} ;

$S_{ccs_{kt}}^{hedge_i}$ = the sensitivities of the eligible hedge i to a counterparty credit spread rate risk factor;

V_i = the pricing function of the eligible hedge i;

w, z = risk factors other than ccs_{kt} in the pricing function V_i .

4. Institutions shall calculate the delta sensitivities of the aggregate CVA to risk factors consisting of reference credit spread rates, as well as of an eligible hedge instrument to those risk factors, as follows:

$$S_{rcs_{kt}}^{CVA} = \frac{V_{CVA}(rcs_{kt} + 0,0001, x, y \dots) - V_{CVA}(rcs_{kt}, x, y \dots)}{0,0001}$$

$$S_{rcs_{kt}}^{hedge_i} = \frac{V_i(rcs_{kt} + 0,0001, w, z \dots) - V_i(rcs_{kt}, w, z \dots)}{0,0001}$$

where:

$S_{rcs_{kt}}^{CVA}$ = the sensitivities of the aggregate CVA to a reference credit spread rate risk factor;

rcs_{kt} = the value of the reference credit spread rate risk factor k at maturity t;

V_{CVA} = the aggregate CVA calculated by the regulatory CVA model;

x, y = risk factors other than ccs_{kt} in V_{CVA} ;

$S_{rcs_{kt}}^{hedge_i}$ = the sensitivities of the eligible hedge i to a reference credit spread rate risk factor;

V_i = the pricing function of the eligible hedge i;

w, z = risk factors other than ccs_{kt} in the pricing function V_i .

5. Institutions shall calculate the delta sensitivities of the aggregate CVA to risk factors consisting of equity spot prices, as well as of an eligible hedge instrument to those risk factors, as follows:

$$S_{EQ}^{CVA} = \frac{V_{CVA}(EQ \cdot 1,01, x, y \dots) - V_{CVA}(EQ, x, y \dots)}{0,01}$$

$$S_{EQ}^{hedge_i} = \frac{V_i(EQ \cdot 1,01, w, z \dots) - V_i(EQ, w, z \dots)}{0,01}$$

where:

S_{EQ}^{CVA} = the sensitivities of the aggregate CVA to an equity spot price risk factor;

EQ = the value of the equity spot price;

V_{CVA} = the aggregate CVA calculated by the regulatory CVA model;

x, y = risk factors other than EQ in V_{CVA} ;

$S_{EQ}^{hedge_i}$ = the sensitivities of the eligible hedge i to an equity spot price risk factor;

V_i = the pricing function of the eligible hedge i ;

w, z = risk factors other than EQ in the pricing function V_i .

6. Institutions shall calculate the delta sensitivities of the aggregate CVA to risk factors consisting of commodity spot prices, as well as of an eligible hedge instrument to those risk factors, as follows:

$$S_{CTY}^{CVA} = \frac{V_{CVA}(1,01 \cdot CTY, x, y \dots) - V_{CVA}(CTY, x, y \dots)}{0,01}$$

$$S_{CTY}^{hedge_i} = \frac{V_i(1,01 \cdot CTY, w, z \dots) - V_i(CTY, w, z \dots)}{0,01}$$

where:

S_{CTY}^{CVA} = the sensitivities of the aggregate CVA to a commodity spot price risk factor;

CTY = the value of the commodity spot price;

V_{CVA} = the aggregate CVA calculated by the regulatory CVA model;

x, y = risk factors other than CTY in V_{CVA} ;

$S_{CTY}^{hedge_i}$ = the sensitivities of the eligible hedge i to a commodity spot price risk factor;

V_i = the pricing function of the eligible hedge i ;

w, z = risk factors other than CTY in the pricing function V_i .

Article 383j

Vega risk sensitivities

Institutions shall calculate the vega risk sensitivities of the aggregate CVA to risk factors consisting of implied volatility, as well as of an eligible hedge instrument to those risk factors, as follows:

$$S_{vol_k}^{CVA} = \frac{V_{CVA}(vol_k \cdot 1,01, x, y \dots) - V_{CVA}(vol_k, x, y \dots)}{0,01}$$

$$S_{vol_k}^{hedge_i} = \frac{V_i(vol_k \cdot 1,01, w, z \dots) - V_i(vol_k, w, z \dots)}{0,01}$$

where:

$S_{vol_k}^{CVA}$ = the sensitivities of the aggregate CVA to an implied volatility risk factor;

vol_k = the value of the implied volatility risk factor \mathbf{V} ;

V_{CVA} = the aggregate CVA calculated by the regulatory CVA model;

x, y = risk factors other than vol_k in the pricing function V_{CVA} ;

$S_{vol_k}^{hedge_i}$ = the sensitivities of the eligible hedge instrument i to an implied volatility risk factor;

V_i = the pricing function of the eligible hedge i ;

w, z = risk factors other than vol_k in the pricing function V_i .

Article 383k

Risk weights for interest rate risk

1. For the currencies referred to in Article 383c(2), the risk weights of risk-free rate delta sensitivities for each bucket in Table 1 shall be the following:

Table 1

Bucket	Maturity	Risk weight
1	1 year	1,11 %
2	2 years	0,93 %
3	5 years	0,74 %
4	10 years	0,74 %
5	30 years	0,74 %

2. For currencies other than the currencies referred to in Article 383c(2), the risk weight of risk-free rate delta sensitivities shall be 1,58 %.

3. For inflation rate risk denominated in one of the currencies referred to in Article 383c(2), the risk weight of the *delta* sensitivity to the inflation rate risk shall be 1,11 %.
4. For inflation rate risk denominated in a currency other than the currencies referred to in Article 383c(2), the risk weight of the *delta* sensitivity to the inflation rate risk shall be 1,58%.
5. The risk weights to be applied to sensitivities to interest rate vega risk factors and to inflation rate *vega* risk factors for all currencies shall be 100 %.

Article 383l

Intra-bucket correlations for interest rate risk

1. For the currencies referred to in Article 383c(2), the correlation parameters that institutions shall apply to the aggregation of the risk-free rate delta sensitivities between the different buckets set out in Article 383k, Table 1, shall be the following:

Table 1

Bucket	1	2	3	4	5
1	100 %	91 %	72 %	55 %	31 %
2		100 %	87 %	72 %	45 %
3			100 %	91 %	68 %
4				100 %	83 %
5					100 %

2. Institutions shall apply a correlation parameter of 40 % for the aggregation of inflation rate delta risk sensitivity and risk-free rate delta sensitivity denominated in the same currency.
3. Institutions shall apply a correlation parameter of 40 % for the aggregation of inflation rate vega risk factor sensitivity and interest rate vega risk factor sensitivity denominated in the same currency.

Article 383m

Correlation across buckets for interest rate risk

The cross-bucket correlation parameter for interest rate delta and vega risks shall be set at 0,5 for all currency pairs.

Article 383n

Risk weights for foreign exchange risk

1. The risk weights for all delta sensitivities to foreign exchange risk factor between an institution's reporting currency and another currency shall be 11 %.

2. *The risk weight of the foreign exchange risk factors concerning currency pairs which are composed of the euro and the currency of a Member State participating in ERM II shall be one of the following:*
- (a) *the risk weight referred to in paragraph 1, divided by 3;*
 - (b) *the maximum fluctuation within the fluctuation band formally agreed by the Member State and the ECB, if that fluctuation band is narrower than the fluctuation band defined under ERM II.*

3. *Notwithstanding paragraph 2, the risk weight of the foreign exchange risk factors concerning currencies referred to in that paragraph which participate in ERM II with a formally agreed fluctuation band narrower than the standard band of plus or minus 15 % shall equal the maximum percentage fluctuation within that narrower band.*
4. The risk weights for all vega sensitivities to foreign exchange risk factor shall be 100 %.

Article 383o

Correlations for foreign exchange risk

1. A uniform correlation parameter equal to 60 % shall apply *to* the aggregation of sensitivities to delta *foreign exchange risk factor across buckets*.
2. *A uniform correlation parameter equal to 60 % shall apply to the aggregation of sensitivities to* vega foreign exchange risk *factor across buckets*.

Article 383p

Risk weights for counterparty credit spread risk

1. The risk weights for the delta sensitivities to *counterparty* credit spread risk factors shall be the same for all maturities (0,5 years, 1 year, 3 years, 5 years, 10 years) within each bucket in Table 1 and shall be the following:

Table 1

Bucket Number	Credit Quality	Sector	Risk weight
1	All	Central government, including central banks, of Member States	0,5 %
2	Credit quality step 1 to 3	Central government, including central banks, of third countries, multilateral development banks and international organisations referred to in Article 117(2) and Article 118	0,5 %
3		Regional government or local authority and public sector entities	1,0 %
4		Financial sector entities, including credit institutions incorporated or established by a central government, a regional government or a local authority, and promotional lenders	5,0 %
5		Basic materials, energy, industrials, agriculture, manufacturing, mining and quarrying	3,0 %

6		Consumer goods and services, transportation and storage, administrative and support service activities	3,0 %
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7		Technology, telecommunications	2,0 %
8		Health care, utilities, professional and technical activities	1,5 %
9		Covered bonds issued by credit institutions established in Member States	1,0 %
10	Credit quality step 1	Covered bonds issued by credit institutions in third countries	1,5 %
	Credit quality steps 2 to 3		2,5 %
11	Credit quality steps 1 to 3	Other sector	5,0 %
12		Qualified indices	1,5 %
13	Credit quality step 4 to 6 and unrated	Central government, including central banks, of third countries, multilateral development banks and international organisations referred to in Article 117(2) and Article 118	2,0 %
14		Regional government or local authority and public sector entities	4,0 %
15		Financial sector entities, including credit institutions incorporated or established by a central government, a regional government or a local authority, and promotional lenders	12,0 %
16		Basic materials, energy, industrials, agriculture, manufacturing, mining and	7,0 %

		quarrying	
17		Consumer goods and services, transportation and storage, administrative and support service activities	8,5 %

18		Technology, telecommunications	5,5 %
19		Health care, utilities, professional and technical activities	5,0 %
20		Other sector	12,0 %
21		Qualified indices	5,0 %

Where there are no external ratings for a specific counterparty, institutions may, subject to approval by the competent authorities, map the internal rating to a corresponding external rating and assign a risk weight corresponding to either credit quality step 1 to 3 or credit quality step 4 to 6. Otherwise, the risk weights for unrated exposures shall be applied.

2. To assign a risk exposure to a sector, institutions shall rely on a classification that is commonly used in the market for grouping issuers by sector. Institutions shall assign each issuer to only one of the sector buckets set out in Table 1. Risk exposures from any issuer that an institution cannot assign to a sector in such a manner shall be assigned to either bucket 11 or bucket 20 in Table 1, depending on the credit quality of the issuer.

3. Institutions shall assign to buckets 12 and 21 in Table 1 only exposures that reference qualified indices as referred to in Article 383b(4).
4. Institutions shall use a look-through approach to determine the sensitivities of an exposure referencing a non-qualified index.

Article 383q

Intra-bucket correlations for counterparty credit spread risk

1. Between two sensitivities WS_k and WS_l , resulting from risk exposures assigned to sector buckets 1 to 11 and 13 to 20, as set out in Article 383p(1), Table 1, the correlation parameter ρ_{kl} shall be set as follows:

$$\rho_{kl} = \rho_{kl}^{(tenor)} \cdot \rho_{kl}^{(name)} \cdot \rho_{kl}^{(quality)}$$

where:

$\rho_{kl}^{(tenor)}$ shall be equal to 1 where the two vertices of the sensitivities k and l are identical, otherwise it shall be equal to 90 %;

$\rho_{kl}^{(name)}$ shall be equal to 1 where the two names of sensitivities k and l are identical, **90 % if the two names are distinct but legally related**, otherwise it shall be equal to 50 %;

$\rho_{kl}^{(quality)}$ shall be equal to 1 where the two names are both in buckets 1 to 11 or are both in buckets 13 to 20, otherwise it shall be equal to 80 %.

2. Between two sensitivities WS_k and WS_l resulting from risk exposures assigned to sector buckets 12 and 21, the correlation parameter ρ_{kl} shall be set as follows:

$$\rho_{kl} = \rho_{kl}^{(tenor)} \cdot \rho_{kl}^{(name)} \cdot \rho_{kl}^{(quality)}$$

where:

$\rho_{kl}^{(tenor)}$ shall be equal to 1 where the two vertices of the sensitivities k and l are identical, otherwise it shall be equal to 90 %;

$\rho_{kl}^{(name)}$ shall be equal to 1 where the two names of sensitivities k and l are identical and the two indices are of the same series, **90 % if the two indices are the same but of distinct series**, otherwise it shall be equal to 80 %;

$\rho_{kl}^{(quality)}$ shall be equal to 1 where the two names are both in bucket 12 or both in bucket 21, otherwise it shall be equal to 80 %.

Article 383r

Correlations across buckets for counterparty credit spread risk

The cross-bucket correlations for *counterparty* credit spread delta risk shall be the following:

Table 1

Bucket	1, 2, 3, 13 and 14	4 and 15	5 and 16	6 and 17	7 and 18	8 and 19	9 and 10	11 and 20	12 and 21
1, 2, 3, 13 and 14	100 %	10 %	20 %	25 %	20 %	15 %	10 %	0 %	45 %
4 and 15		100 %	5 %	15 %	20 %	5 %	20 %	0 %	45 %
5 and 16			100 %	20 %	25 %	5 %	5 %	0 %	45 %
6 and 17				100 %	25 %	5 %	15 %	0 %	45 %
7 and 18					100 %	5 %	20 %	0 %	45 %
8 and 19						100 %	5 %	0 %	45 %
9 and 10							100 %	0 %	45 %
11 and 20								100 %	0 %
12 and 21									100 %

Article 383s

Risk weights for reference credit spread risk

1. The risk weights for the delta sensitivities to reference credit spread risk factors shall be the same for all maturities (0,5 years, 1 year, 3 years, 5 years, 10 years) and all reference credit spread exposures within each bucket in Table 1 and shall be the following:

Table 1

Bucket number	Credit quality	Sector	Risk weight
1	All	Central government, including central banks, of Member States	0,5 %
2	Credit quality step 1 to 3	Central government, including central banks, of third countries, multilateral development banks and international organisations referred to in Article 117(2) and Article 118	0,5 %
3		Regional government or local authority and public sector entities	1,0 %
4		Financial sector entities, including credit institutions incorporated or established by a central government, a regional government or a local authority, and promotional lenders	5,0 %
5		Basic materials, energy, industrials, agriculture, manufacturing, mining and quarrying	3,0 %
6		Consumer goods and services, transportation and storage, administrative and support service activities	3,0 %

Bucket number	Credit quality	Sector	Risk weight
7		Technology, telecommunications	2,0 %

Bucket number	Credit quality	Sector	Risk weight
8		Health care, utilities, professional and technical activities	1,5 %
9		<i>Covered bonds issued by credit institutions established in Member States</i>	<i>1,0 %</i>
10	<i>Credit quality step 1</i>	<i>Covered bonds issued by credit institutions in third countries</i>	<i>1,5 %</i>
	<i>Credit quality steps 2 to 3</i>		<i>2,5 %</i>
11	Credit Quality Step 1 to 3	Qualified indices	1,5 %
12	Credit quality step 4 to 6 and unrated	Central government, including central banks, of third countries, multilateral development banks and international organisations referred to in Article 117(2) and Article 118	2,0 %
13		Regional government or local authority and public sector entities	4,0 %
14		Financial sector entities, including credit institutions incorporated or established by a central government, a regional government or a local authority, and promotional lenders	12,0 %

Bucket number	Credit quality	Sector	Risk weight
15		Basic materials, energy, industrials, agriculture, manufacturing, mining and quarrying	7,0 %
16		Consumer goods and services, transportation and storage, administrative and support service activities	8,5 %
17		Technology, telecommunications	5,5 %
18		Health care, utilities, professional and technical activities	5,0 %
19		Qualified indices	5,0 %
20	Other sector		12,0 %

Where there are no external ratings for a specific counterparty, institutions may, subject to approval by the competent authorities, map the internal rating to a corresponding external rating and assign a risk weight corresponding to either credit quality step 1 to 3 or credit quality step 4 to 6. Otherwise, the risk weights for unrated exposures shall be applied.

2. Risk weights for reference credit spread volatilities shall be set at 100 %.

3. To assign a risk exposure to a sector, institutions shall rely on a classification that is commonly used in the market for grouping issuers by sector. Institutions shall assign each issuer to only one of the sector buckets in Table 1. Risk exposures from any issuer that an institution cannot assign to a sector in such a manner shall be assigned to bucket 20 in Table 1.

4. Institutions shall assign to buckets 11 and 19 only exposures that reference qualified indices as referred to in Article 383b(4).
5. Institutions shall use a look-through approach to determine the sensitivities of an exposure referencing a non-qualified index.

Article 383t

Intra-bucket correlations for reference credit spread risk

1. Between two sensitivities WS_k and WS_l , resulting from risk exposures assigned to sector buckets 1 to 10, 12 to 18 and 20 of Article 383s(1), Table 1, the correlation parameter ρ_{kl} shall be set as follows:

$$\rho_{kl} = \rho_{kl}^{(tenor)} \cdot \rho_{kl}^{(name)} \cdot \rho_{kl}^{(quality)}$$

where:

$\rho_{kl}^{(tenor)}$ shall be equal to 1 where the two vertices of the sensitivities k and l are identical, otherwise it shall be equal to 90 %;

$\rho_{kl}^{(name)}$ shall be equal to 1 where the two names of sensitivities k and l are identical, **90 % if the two names are distinct but legally related**, otherwise it shall be equal to 50 %;

$\rho_{kl}^{(quality)}$ shall be equal to 1 where the two names are both in buckets 1 to 10, are both in buckets 12 to 18, or are both in bucket 20, otherwise it shall be equal to 80 %.

2. Between two sensitivities WS_k and WS_l , resulting from risk exposures assigned to sector buckets 11 and 19, the correlation parameter ρ_{kl} shall be set as follows:

$$\rho_{kl} = \rho_{kl}^{(tenor)} \cdot \rho_{kl}^{(name)} \cdot \rho_{kl}^{(quality)}$$

where:

$\rho_{kl}^{(tenor)}$ shall be equal to 1 where the two vertices of the sensitivities k and l are identical, otherwise it shall be equal to 90 %;

$\rho_{kl}^{(name)}$ shall be equal to 1 where the two names of sensitivities k and l are identical and the two indices are of the same series, **90 % if the two indices are the same but of distinct series**, otherwise it shall be equal to 80 %;

$\rho_{kl}^{(quality)}$ shall be equal to 1 where the two names are both in bucket 11 or both in bucket 19, otherwise it shall be equal to 80 %.

Article 383u

Correlations across buckets for reference credit spread risk

- 1. The cross-bucket correlations for reference credit spread delta risk and reference credit spread vega risk shall be the following:**

Table 1

Bucket	1, 2 and 12	3 and 14	4 and 15	5 and 16	6 and 17	7 and 18	8 and 19	9 and 10	20	11	19
1, 2, and 12	100 %	75 %	10 %	20 %	25 %	20 %	15 %	10 %	0 %	45 %	45 %
3 and 14		100 %	5 %	15 %	20 %	15 %	10 %	10 %	0 %	45 %	45 %
4 and 15			100 %	5 %	15 %	20 %	5 %	20 %	0 %	45 %	45 %
5 and 16				100 %	20 %	25 %	5 %	5 %	0 %	45 %	45 %
6 and 17					100 %	25 %	5 %	15 %	0 %	45 %	45 %
7 and 18						100 %	5 %	20 %	0 %	45 %	45 %
8 and 19							100 %	5 %	0 %	45 %	45 %
9 and 10								100 %	0 %	45 %	45 %
20									100 %	0 %	0 %

11										100 %	75 %
19											100 %

2. *By way of derogation from paragraph 1, the cross-bucket correlation values calculated in that paragraph shall be divided by 2 for correlations between a bucket from the group of buckets 1 to 10 and a bucket from the group of buckets 12 to 18.*

Article 383v

Risk weight buckets for equity risk

1. The risk weights for the delta sensitivities to equity spot price risk factors shall be the same for all equity risk exposures within each bucket in Table 1 and shall be the following:

Table 1

Bucket number	Market capitalisation	Economy	Sector	Risk weight for equity spot price ■
1	Large	Emerging market economy	Consumer goods and services, transportation and storage, administrative and support service activities, healthcare, utilities	55 %
2			Telecommunications, industrials	60 %
3			Basic materials, energy, agriculture, manufacturing, mining and quarrying	45 %
4			Financials, including government-backed financials, immovable property activities, technology	55 %
5		Advanced economy	Consumer goods and services, transportation and storage, administrative and support service activities, healthcare, utilities	30 %
6			Telecommunications, industrials	35 %
7			Basic materials, energy, agriculture, manufacturing, mining and quarrying	40 %

Bucket number	Market capitalisation	Economy	Sector	Risk weight for equity spot price ■
8			Financials, including government-backed financials, immovable property activities, technology	50 %
9	Small	Emerging market economy	All sectors described under bucket numbers 1, 2, 3 and 4	70 %
10		Advanced economy	All sectors described under bucket numbers 5, 6, 7 and 8	50 %
11	Other sector			70 %
12	Large	Advanced economy	Qualified indices	15 %
13	Other		Qualified indices	25 %

2. For the purposes of paragraph 1 of this Article, what constitutes a small and a large capitalisation shall be specified in the regulatory technical standards referred to in Article 325bd(7).
3. For the purposes of paragraph 1 of this Article, what constitutes an emerging market and an advanced economy shall be specified in the regulatory technical standards referred to in Article 325ap(3).
4. When assigning a risk exposure to a sector, institutions shall rely on a classification that is commonly used in the market for grouping issuers by industry sector. Institutions shall assign each issuer to one of the sector buckets in paragraph 1, Table 1, and shall assign all issuers from the same industry to the same sector. Risk exposures from any issuer that an institution cannot assign to a sector in that manner shall be assigned to bucket 11. Multinational or multi-sector equity issuers shall be allocated to a particular bucket on the basis of the most material region and sector in which the equity issuer operates.
5. The risk weights for equity vega risk shall be set at 78 % for buckets 1 to 8 and bucket 12, and at 100 % for all other buckets.

Article 383w

Correlations across buckets for equity risk

The cross-bucket correlation parameter for equity delta and vega risk shall be set at:

- (a) 15 %, where the two buckets fall within buckets 1 to 10 in Article 383v(1), Table 1;
- (b) 75 %, where the two buckets are buckets 12 and 13 in Article 383v(1), Table 1;
- (c) 45 %, where one of the buckets is bucket 12 *or* 13 in Article 383v(1), Table 1, and the other bucket falls within buckets 1 *to* 10 in Article 383v(1), Table 1;

(d) 0 %, where one of the two buckets is bucket 11 in Article 383v(1), Table 1.

Article 383x

Risk weight buckets for commodity risk

1. The risk weights for the delta sensitivities to commodity spot price risk factors shall be the same for all commodity risk exposures within each bucket in Table 1 and shall be the following:

Table 1

Bucket number	Bucket name	Risk weight for commodity spot price ■
1	Energy – solid combustibles	30 %
2	Energy – liquid combustibles	35 %
3	Energy – electricity	60 %
4	<i>Energy – EU ETS carbon trading</i>	40 %
5	<i>Energy – non-EU ETS carbon trading</i>	60 %
6	Freight	80 %

Bucket number	Bucket name	Risk weight for commodity spot price ■
7	Metals – non-precious	40 %
8	Gaseous combustibles	45 %
9	Precious metals, including gold	20 %
10	Grains and oilseed	35 %
11	Livestock and dairy	25 %
12	Softs and other agricultural commodities	35 %
13	Other commodity	50 %

2. The risk weights for commodity vega risk shall be set at 100 %.

Article 383z

Correlations across buckets for commodity risk

1. The cross-bucket correlation parameter for commodity delta risk shall be set at:
 - (a) 20 %, where the two buckets fall within buckets 1 to 12 in Article 383x(1), Table 1;
 - (b) 0 %, where one of the two buckets is bucket 13 in Article 383x(1), Table 1.
2. The cross-bucket correlation parameter for commodity vega risk shall be set at:
 - (a) 20 %, where the two buckets fall within buckets 1 to 12 in Article 383x(1), Table 1;
 - (b) 0 %, where one of the two buckets is bucket 13 in Article 383x(1), Table 1.';

(202) Articles 384, 385 and 386 are replaced by the following:

‘Article 384

Basic approach

1. An institution shall calculate the own funds requirements for CVA risk in accordance with paragraph 2 or 3 of this Article, as applicable, for a portfolio of transactions with one or more counterparties by using one of the following formulae, as appropriate:
 - (a) the formula set out in paragraph 2 of this Article, where the institution includes in the calculation one or more eligible hedges recognised in accordance with Article 386;
 - (b) the formula set out in paragraph 3 of this Article, where the institution does not include in the calculation any eligible hedges recognised in accordance with Article 386.

The approaches set out in the first subparagraph, points (a) and (b), shall not be used in combination.

2. An institution that meets the condition referred to in paragraph 1, point (a), shall calculate the own funds requirements for CVA risk as follows:

$$BACVA^{total} = \beta \cdot BACVA^{csr-unhedged} + DS_{CVA} \cdot (1 - \beta) \cdot BACVA^{csr-hedged}$$

where:

$BACVA^{total}$ = the own funds requirements for CVA risk under the basic approach;

$BACVA^{csr-unhedged}$ = the own funds requirements for CVA risk under the basic approach as calculated in accordance with paragraph 3 for an institution that meets the condition set out in paragraph 1, point (b);

$DS_{CVA} = 0,65$;

$\beta = 0,25$;

$$BACVA^{csr-hedged} = \sqrt{\left(\rho \cdot \sum_c (SCVA_c - SNH_c) - IH\right)^2 + (1 - \rho^2) \cdot \sum_c (SCVA_c - SNH_c)^2 + \sum_c HMA_c}$$

where:

$$SCVA_c = \frac{1}{a} \cdot RW_c \cdot \sum_{NS \in c} M_{NS}^c \cdot EAD_{NS}^c \cdot DF_{NS}^c$$

$$SNH_c = \sum_{h \in c} r_{hc} \cdot RW_h^{SN} \cdot M_h^{SN} \cdot B_h^{SN} \cdot DF_h^{SN}$$

$$IH = \sum_i RW_i^{ind} \cdot M_i^{ind} \cdot B_i^{ind} \cdot DF_i^{ind}$$

$$HMA_c = \sum_h (1 - r_{hc}^2) \cdot (RW_h \cdot M_h^{SN} \cdot B_h^{SN} \cdot DF_h^{SN})^2$$

$a = 1,4;$

$\rho = 0,5;$

c = the index that denotes all counterparties for which the institution calculates the own funds requirements for CVA risk using the approach laid down in this Article;

NS = the index that denotes all netting sets with a given counterparty for which the institution calculates the own funds requirements for CVA risk using the approach laid down in this Article;

h = the index that denotes all single-name instruments recognised as eligible hedges in accordance with Article 386 for a given counterparty for which the institution calculates the own funds requirements for CVA risk using the approach laid down in this Article;

i = the index that denotes all index instruments recognised as eligible hedges in accordance with Article 386 for all counterparties for which the institution calculates the own funds requirements for CVA risk using the approach laid down in this Article;

RW_c = the risk weight applicable to counterparty c; counterparty c shall be mapped to one of the risk weights based on a combination of sector and credit quality and determined in accordance with Table 1.

Where there are no external ratings for a specific counterparty, institutions may, subject to approval by the competent authorities, map the internal rating to a corresponding external rating and assign a risk weight corresponding to either credit quality step 1 to 3 or credit quality step 4 to 6; otherwise, the risk weights for unrated exposures shall be applied.

M_{NS}^c = the effective maturity for the netting set NS with counterparty c;

■ M_{NS}^c shall be calculated in accordance with Article **162**; however, for that calculation, M_{NS}^c shall not be capped at five years, but at the longest contractual remaining maturity in the netting set;

■

EAD_{NS}^c = the counterparty credit risk exposure value of the netting set NS with counterparty c, including the effect of collateral in accordance with the methods set out in Title II, Chapter 6, Sections 3 to 6, as applicable to the calculation of the own funds requirements for counterparty credit risk referred to in Article 92(4), points (a) and (g);

DF_{NS}^c = the supervisory discount factor for the netting set NS with counterparty c.

For an institution, using the methods set out in Title II, Chapter 6, Section 6, the supervisory discount factor shall be set at 1; in all other cases, the supervisory discount factor shall be calculated as follows:

$$\frac{1 - e^{-0,05 \cdot M_{NS}^c}}{0,05 \cdot M_{NS}^c}$$

r_{hc} = the supervisory correlation *factor* between the credit spread risk of counterparty c and the credit spread risk of a single-name instrument recognised as an eligible hedge h for counterparty c, determined in accordance with Table 2;

M_h^{SN} = the *residual* maturity of a single-name instrument recognised as an eligible hedge;

B_h^{SN} = the notional of a single name instrument recognised as an eligible hedge;

DF_h^{SN} = the supervisory discount factor for a single name instrument recognised as an eligible hedge, calculated as follows:

$$\frac{1 - e^{-0,05 \cdot M_h^{SN}}}{0,05 \cdot M_h^{SN}}$$

RW_h^{SN} = the supervisory risk weight of a single-name instrument recognised as an eligible hedge; those risk weights shall be based on a combination of sector and credit quality of the reference credit spread of the hedging instrument and determined in accordance with Table 1;

M_i^{ind} = the **residual** maturity of one or more positions in the same index instrument recognised as an eligible hedge; in the case of more than one position in the same index instrument, M_i^{ind} shall be the notional-weighted maturity of all those positions;

B_i^{ind} = the full notional of one or more positions in the same index instrument recognised as an eligible hedge ■ ;

DF_i^{ind} = the supervisory discount factor for one or more positions in the same index instrument recognised as an eligible hedge, calculated as follows:

$$\frac{1 - e^{-0,05 \cdot M_i^{ind}}}{0,05 \cdot M_i^{ind}}$$

RW_i^{ind} = the supervisory risk weight of an index instrument recognised as an eligible hedge; RW_i^{ind} shall be based on a combination of sector and credit quality of all index constituents, calculated as follows:

- (a) where all index constituents belong to the same sector and have the same credit quality, as determined in accordance with Table 1, RW_i^{ind} shall be calculated as the relevant risk weight of Table 1 for that sector and credit quality multiplied by 0,7;
- (b) where all index constituents do not belong to the same sector or do not have the same credit quality, RW_i^{ind} shall be calculated as a weighted average of the risk weights of all index constituents, as determined in accordance with Table 1, multiplied by 0,7;

Table 1

Sector of counterparty	Credit quality	
	Credit quality step 1 to 3	Credit quality step 4 to 6 and not rated
Central government, including central banks, ■ multilateral development banks and international organisations referred to in Article 117(2) or Article 118	0,5 %	2,0 %
Regional <i>government</i> or local authority and public sector entities	1,0 %	4,0 %
Financial sector entities, including credit institutions incorporated or established by a central government, a regional government or a local authority, and promotional lenders	5,0 %	12,0 %

Sector of counterparty	Credit quality	
	Credit quality step 1 to 3	Credit quality step 4 to 6 and not rated
Basic materials, energy, industrials, agriculture, manufacturing, mining and quarrying	3,0 %	7,0 %

Sector of counterparty	Credit quality	
	Credit quality step 1 to 3	Credit quality step 4 to 6 and not rated
Consumer goods and services, transportation and storage, administrative and support service activities	3,0 %	8,5 %
Technology, telecommunications	2,0 %	5,5 %
Health care, utilities, professional and technical activities	1,5 %	5,0 %
Other sector	5,0 %	12,0 %

Table 2

Correlations between credit spread of counterparty and single-name hedge	
Single-name hedge h of counterparty i	Value of r_{hc}
Counterparties referred to in Article 386(3), point (a)(i)	100 %
Counterparties referred to in Article 386(3), point (a)(ii)	80 %
Counterparties referred to in Article 386(3), point (a)(iii)	50 %

3. An institution that meets the condition referred to in paragraph 1, point (b), shall calculate the own funds requirements for CVA risk as follows:

$$BACVA^{csr-unhedged} = DS_{CVA} \cdot \sqrt{\left(\rho \cdot \sum_c SCVA_c\right)^2 + (1 - \rho^2) \cdot \sum_c SCVA_c^2}$$

where all of the terms are the ones set out in paragraph 2.

Article 385

Simplified approach

1. An institution that meets all of the conditions set out in Article 273a(2) *or has been permitted by its competent authority in accordance with Article 273a(4) to apply the approach set out in Article 282*, may calculate the own funds requirements for CVA risk as the risk-weighted exposure amounts for counterparty risk for non-trading book and trading book positions, respectively, referred to in Article 92(4), points (a) and (g), divided by 12,5.

2. For the purposes of the calculation referred to in paragraph 1, the following requirements shall apply:
 - (a) only transactions subject to the own funds requirements for CVA risk laid down in Article 382 are subject to that calculation;
 - (b) credit derivatives that are recognised as internal hedges against counterparty risk exposures are not included in that calculation.
3. An institution that no longer meets one or more of the conditions set out in Article 273a(2) *or* (4), *as applicable*, shall comply with the requirements set out in Article 273b.

Article 386

Eligible hedges

1. Positions in hedging instruments shall be recognised as eligible hedges for the calculation of the own funds requirements for CVA risk in accordance with Articles 383 and 384 where those positions meet all of the following requirements:
 - (a) they are used for the purpose of mitigating CVA risk and are managed as such;

- (b) they can be entered into with third parties or with the institution's trading book as an internal hedge, in which case they are to comply with Article 106(7);
- (c) only positions in hedging instruments as referred to in paragraphs 2 and 3 of this Article can be recognised as eligible hedges for the calculation of the own funds requirements for CVA risk in accordance with Articles 383 and 384, respectively.

*For the purpose of calculating the own funds requirements for CVA risk in accordance with Article 383, positions in hedging instruments shall be recognised as eligible hedges where, in addition to the conditions set out in points (a) to (c) of this paragraph, such hedging instruments form a single position in an eligible hedge and **are not** split into more than one position in more than one eligible hedge.*

- 2. For the calculation of the own funds requirements for CVA risk in accordance with Article 383, only positions in the following hedging instruments shall be recognised as eligible hedges:
 - (a) instruments that hedge variability of the counterparty credit spread, with the exception of instruments referred to in Article 325(5);
 - (b) instruments that hedge variability of the exposure component of CVA risk, with the exception of the instruments referred to in Article 325(5).

3. For the calculation of the own funds requirements for CVA risk in accordance with Article 384, only positions in the following hedging instruments shall be recognised as eligible hedges:
- (a) single-name credit default swaps and single-name contingent-credit default swaps, referencing:
 - (i) the counterparty directly;
 - (ii) an entity legally related to the counterparty, where legally related refers to cases where the reference name and the counterparty are either a parent undertaking and its subsidiary or two subsidiaries of a common parent;
 - (iii) an entity that belongs to the same sector and region as the counterparty;
 - (b) index credit default swaps.
4. Positions in hedging instruments entered into with third parties that are recognised as eligible hedges in accordance with paragraphs 1, 2 and 3 and included in the calculation of the own funds requirements for CVA risk shall not be subject to the own funds requirements for market risk set out in Title IV **■** .
5. Positions in hedging instruments that are not recognised as eligible hedges in accordance with this Article shall *be* subject to the own funds requirements for market risk set out in Title IV.?’;

(203) in Article 394, *paragraph 2* is amended as follows:

(a) *in* the first subparagraph, *the introductory wording* is replaced by the following:

‘In addition to the information referred to in paragraph 1 of this Article, institutions shall report the following information to their competent authorities in relation to their 10 largest exposures to institutions on a consolidated basis, as well as their 10 largest exposures to shadow banking entities on a consolidated basis, including large exposures exempted from the application of Article 395(1):’;

(b) *the following subparagraph is added:*

‘In addition to the information referred to in the first subparagraph, institutions shall report to their competent authorities their aggregate exposure to shadow banking entities.’;

(204) *in Article 395, the following paragraph is inserted:*

‘2a. By ... [30 months from the date of entry into force of this amending Regulation] EBA, after consulting ESMA, shall issue guidelines, in accordance with Article 16 of Regulation (EU) No 1093/2010, to update the guidelines referred to in paragraph 2 of this Article.

In updating those guidelines, EBA shall take due account, among other considerations, of the contribution of shadow banking entities to the capital markets union, the potential adverse impact that any changes of those guidelines, including additional limits, could have on the business model and risk profile of the institutions and on the stability and the orderly functioning of financial markets.

In addition, by 31 December 2027, EBA, after consulting ESMA, shall submit a report to the Commission on the contribution of shadow banking entities to the capital markets union and on institutions’ exposures to such entities, including on the appropriateness of aggregate limits or tighter individual limits to those exposures, while taking due account of the regulatory framework and business models of such entities.

By 31 December 2028, the Commission shall, where appropriate, on the basis of that report, submit to the European Parliament and to the Council a legislative proposal on exposure limits to shadow banking entities.’;

(205) *Article 400 is amended as follows:*

(a) *in paragraph 1, point (i) is replaced by the following:*

‘(i) exposures arising from undrawn credit facilities that are classified as bucket 5 off-balance-sheet items in Annex I or contractual arrangements that meet the conditions for not being treated as commitments 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 395(1) to be exceeded;’;

(b) *paragraph 2 is amended as follows:*

(i) point (a) is replaced by the following:

‘(a) covered bonds as referred to in Article 129;’;

(ii) point (i) is replaced by the following:

‘(i) 50 % of bucket 4 off-balance-sheet documentary credits and of bucket 3 off-balance-sheet undrawn credit facilities referred to in Annex I with an original maturity of up to and including one year 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;’;

(206) Article 402 is amended as follows:

(a) paragraph 1 is amended as follows:

(i) the introductory wording is replaced by the following:

‘For the calculation of exposure values for the purposes of Article 395, institutions may, except where prohibited by applicable national law, reduce the value of an exposure or any part of an exposure that is secured by residential property in accordance with Article 125(1) by the pledged amount of the property value, but by not more than 55 % of the property value, provided that all of the following conditions are met:’;

(ii) point (a) is replaced by the following:

‘(a) the competent authorities have not set a risk weight higher than 20 % for exposures or parts of exposures secured by residential property in accordance with Article 124(9);’ ■ ;

(b) paragraph 2 is amended as follows:

(i) the introductory wording is replaced by the following:

‘For the calculation of exposure values for the purposes of Article 395, institutions may, except where prohibited by applicable national law, reduce the value of an exposure or any part of an exposure that is secured by commercial ***immovable*** property in accordance with Article 126(1) by the pledged amount of the property value, but by not more than 55 % of the property value, provided that all of the following conditions are met:’;

(ii) point (a) is replaced by the following:

‘(a) the competent authorities have not set a risk weight higher than 60 % for exposures or parts of exposures secured by ***commercial immovable*** property in accordance with Article 124(9);’;

(iii) point (c) is replaced by the following:

‘(c) the requirements in Article 124(3), point (c), and in Article 208 and Article 229(1) are met;’;

(207) in Article 425(4), point (b) is replaced by the following:

‘(b) the counterparty 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 22(7) of Directive 2013/34/EU or a member of the same institutional protection scheme referred to in Article 113(7) of this Regulation or the central institution or a member of a network that is subject to the waiver referred to in Article 10 of this Regulation;’;

(208) in Article 428(1), point (k) is replaced by the following:

‘(k) undrawn credit facilities that qualify as bucket 4, bucket 3 or bucket 2 items under Annex I.’;

(209) ■ Article 429, *is amended as follows*:

(a) *in paragraph 5, the third subparagraph is replaced by the following:*

‘For the purposes of the first subparagraph, point (b), and of the second subparagraph of this paragraph, institutions may consider an affiliated entity as a client only where that entity is outside the regulatory scope of consolidation at the level at which the requirement set out in Article 92(4), point (e), is applied.’;

(b) *paragraph 6 is replaced by the following:*

‘6. For the purposes of paragraph 4, point (e), of this Article and Article 429g, “regular-way purchase or sale” means a purchase or a sale of a financial asset under contracts for which the terms require delivery of the financial asset within the period established generally by law or convention in the marketplace concerned.’;

(210) in Article 429a, paragraph 1 is amended as follows:

(a) the following point is inserted:

‘(ca) where the institution is a member of the network referred to in Article 113(7), the exposures that are assigned a risk weight of 0 % in accordance with Article 114 and arising from assets being an equivalent of deposits in the same currency of other members of that network stemming from legal or statutory minimum deposit in accordance with Article 422(3), point (b); in such a case exposures of other members of that network being legal or statutory minimum deposit are not subject to point (c) of this paragraph.’;

(b) the following point is inserted:

‘(da) the institution’s exposures to its shareholders, provided that such exposures are collateralised to the level of at least 125 % by assets referred to in Article 129(1), points (d) and (e), and those assets are accounted for in the shareholders’ leverage ratio requirement, where the institution is not a public development credit institution but it meets the following conditions:

(i) its shareholders are credit institutions and do not exercise control over the institution;

(ii) it complies with paragraph 2, points (a), (b), (c) and (e), of this Article;

- (iii) its exposures are located in the same Member State;*
- (iv) it is subject to some form of oversight by a Member State's central government on an ongoing basis;*
- (v) its business model is limited to the pass-through of the amount corresponding to the proceeds raised through the issuance of covered bonds to its shareholders, in the form of debt instruments;;*

(211) Article 429c is amended as follows:

(a) in paragraph 3, ***point*** (a) is replaced by the following:

- ‘(a) for trades not cleared through a QCCP, the cash received by the recipient counterparty is not segregated from the assets of the institution;;’

(b) paragraph 4 is replaced by the following:

- ‘4. For the purposes of paragraph 1 of this Article, institutions shall not include collateral received in the calculation of NICA as defined in Article 272, point (12a).’;

(c) the following paragraph is inserted:

‘4a. By way of derogation from paragraphs 3 and 4, an institution may recognise any collateral received in accordance with Part Three, Title II, Chapter 6, Section 3 where all of the following conditions are met:

- (a) the collateral is received from a client for a derivative contract cleared by the institution on behalf of that client;
- (b) the contract referred to in point (a) is cleared through a QCCP;
- (c) where the collateral has been received in the form of initial margin, that collateral is segregated from the assets of the institution.’;

(d) in paragraph 6, the first subparagraph is replaced by the following:

‘By way of derogation from paragraph 1 of this Article, institutions may use the method set out in Part Three, Title II, Chapter 6, Section 4 or 5 to determine the exposure value of *the following*:

(a) derivative contracts listed in Annex *II and credit derivatives*, where they also use that method for determining the exposure value of those contracts for the purposes of meeting the own funds requirements set out in Article 92(1), points (a), (b) and (c);

(b) *credit derivatives to which they apply the treatment set out in Article 273(3) or (5), where the conditions to use that method are met.*’;

(212) Article 429f is amended as follows:

(a) paragraph 1 is replaced by the following:

- ‘1. Institutions shall calculate, in accordance with Article 111(2), the exposure value of off-balance-sheet items, excluding the derivative contracts listed in Annex II, credit derivatives, securities financing transactions and the positions referred to in Article 429d.

Where a commitment refers to the extension of another *off-balance-sheet item*, Article *111(3)* shall apply.’;

(b) paragraph 3 ■ is replaced by the following:

‘3. By way of derogation from Article 495d, institutions shall apply a conversion factor of 10 % to off-balance-sheet items in the form of unconditionally cancellable commitments.’;

(213) in Article 429g, paragraph 1 is replaced by the following:

- ‘1. Institutions shall treat cash related to regular-way purchases and financial assets related to regular-way sales which remain on the balance sheet until the settlement date as assets in accordance with Article 429(4), point (a).’;

(214) ■ Article 430 *is amended as follows:*

(a) *in paragraph 1, the following points are added:*

‘(h) their exposures to ESG risks, *including:*

(i) their existing and new exposures to fossil fuel sector entities;

(ii) their exposures to physical risks and transition risks;

(i) their crypto-asset exposures;’;

(b) *the following paragraphs are inserted:*

- ‘2a. When reporting their own funds requirements for market risk referred to in paragraph 1, point (a), of this Article, institutions shall report separately the calculations set out in Article 325c(2), points (a), (b) and (c), for the portfolio of all trading book positions or non-trading book positions that are subject to foreign exchange risk and commodity risk.*
- 2b. When reporting their own funds requirements for market risk referred to in paragraph 1, point (a), of this Article, institutions shall report separately the calculations set out in Article 325ba(1), points (a)(i) and (ii) and (b)(i) and (ii), and for the portfolio of all trading book positions or non-trading book positions that are subject to foreign exchange risk and commodity risk assigned to the trading desks for which they have been granted permission by the competent authorities to use the alternative internal model approach in accordance with Article 325az(2).’;*

(c) paragraph 7 is amended as follows:

(i) the first subparagraph is replaced by the following:

‘EBA shall develop draft implementing technical standards to specify the uniform reporting formats, the frequency and dates of reporting, as well as the definitions, and shall develop IT solutions, including reporting templates and instructions for the reporting referred to in paragraphs 1 to 4.’;

(ii) in the fourth subparagraph, the following point is added:

‘(c) exposures to ESG risks, which shall be submitted by ... [12 months from the date of entry into force of this amending Regulation].’;

(215) ■ Article 430a *is amended as follows*:

(a) paragraph 1 is replaced by the following:

‘1. Institutions shall report to their competent authorities on an annual basis the following aggregate data for each national immovable property market to which they are exposed:

- (a) losses stemming from exposures for which an institution has recognised residential property as collateral, *in each case* up to the lower of the pledged amount and 55 % of the property value of the residential property, unless otherwise decided under Article 124(9), *where applicable*;
- (b) overall losses stemming from exposures for which an institution has recognised residential property as collateral, *in each case* up to the *lower* of the *pledged amount and 100 % of the property value of the* residential property ■ ;
- (c) the exposure value of all outstanding exposures for which an institution has recognised residential property as collateral, *in each case up* to the *lower of the pledged amount and 100 % of the property value of the* residential property ■ ;

- (d) losses stemming from exposures for which an institution has recognised █ commercial *immovable* property as collateral, *in each case* up to the lower of the pledged amount and 55 % of the property value of the commercial immovable property, unless otherwise decided under Article 124(9), *where applicable*;
- (e) overall losses stemming from exposures for which an institution has recognised █ commercial *immovable* property as collateral *in each case* up to the *lower* of the *pledged amount and 100 % of the property value of the* commercial *immovable* property █ ;
- (f) the exposure value of all outstanding exposures for which an institution has recognised █ commercial *immovable* property as collateral, *in each case up* to the █ *lower of the pledged amount and 100 % of the property value of the* commercial *immovable* property █ .’;

(b) *paragraph 3 is replaced by the following:*

- ‘3. The competent authorities shall publish annually on an aggregated basis the data specified in paragraph 1, points (a) to (f), together with historical data, where available, for each national immovable property market for which such data have been collected. A competent authority shall, upon the request of another competent authority in a Member State or EBA, provide to that competent authority or EBA more detailed information on the condition of the residential property or commercial immovable property markets in that Member State.’;*

(216) Article 430b is deleted;

(217) Article 433 is replaced by the following:

‘Article 433

Frequency and scope of disclosures

Institutions shall disclose the information required under Titles II and III in the manner set out in this Article, Articles 433a, 433b, 433c and 434.

EBA shall publish annual disclosures on its website on the same day as the institutions publish their financial statements or as soon as possible thereafter.

EBA shall publish semi-annual and quarterly disclosures on its website on the same day as the institutions publish their financial reports for the corresponding period, where applicable, or as soon as possible thereafter.

Any delay between the date of publication of the disclosures required under this Part and the relevant financial statements shall be reasonable and, in any event, shall not exceed the timeframe set by competent authorities pursuant to Article 106 of Directive 2013/36/EU.’;

(218) in Article 433a, *paragraph 1 is amended as follows:*

(a) **■** point (b) *is amended as follows:*

(i) point (xiv) is replaced by the following:

‘(xiv) Article 455(2), *points (a), (b) and (c);*’;

■

(ii) **■** the following *points are added:*

‘(xv) **■** Article 449a;

(xvi) *Article 449b;*’;

(b) *in point (c), point (i) is replaced by the following:*

‘(i) *Article 438, points (d), (da) and (h);*’;

(219) Article 433b is replaced by the following:

‘Article 433b

Disclosures by small and non-complex institutions

1. Small and non-complex institutions shall disclose the information referred to in the following provisions on an annual basis:

(a) Article 435(1), points (a), (e) and (f);

(b) Article 438, points (c), (d) and (da);

(c) Article 442, points (c) and (d);

(d) the key metrics referred to in Article 447;

(e) Article 449a ;

(f) Article 449b;

(g) Article 450(1), points (a) to (d), (h), (i) and (j).’;

I

2. By way of derogation from paragraph 1 of this Article, small and non-complex institutions that are non-listed institutions shall disclose the key metrics referred to in Article 447 and ESG risks referred to in Article 449a on an annual basis.’;

(220) in Article 433c, paragraph 2 is amended as follows:

(a) point (d) is replaced by the following:

‘(d) Article 438, points (c), (d) and (da):’;

(b) the following *point is inserted*:

‘(da) Article 442, points (c) and (d);’;

(c) *the following points are inserted*:

‘(ea) *the information referred to in Article 449a*;

(eb) *the information referred to in Article 449b*;’;

(221) Article 434 is replaced by the following:

‘Article 434

Means of disclosures

1. Institutions other than small and non-complex institutions shall submit all information required under Titles II and III in electronic format to EBA no later than the date on which they publish their financial statements or financial reports for the corresponding period, where applicable, or as soon as possible thereafter. EBA shall publish that information, together with its submission date, on its website.

EBA shall ensure that disclosures made on its website contain information identical to that which institutions submitted to EBA. Institutions shall have the right to resubmit to EBA the information in accordance with the technical standards referred to in Article 434a. EBA shall make available on its website the date when the resubmission took place.

EBA shall prepare and keep up-to-date a tool that specifies the mapping of the templates and tables for disclosures with those on supervisory reporting. The mapping tool shall be accessible to the public on the EBA website.

Institutions may continue to publish a standalone document that provides a readily accessible source of prudential information for users of that information or a distinctive section included in or appended to the institutions' financial statements or financial reports containing the required disclosures and being easily identifiable to those users. Institutions may include in their website a link to the EBA website where the prudential information is published in a centralised manner.

2. ***Institutions*** other ***than*** small and non-complex institutions shall submit the disclosures required under Articles 433a and 433c ***in electronic format*** to EBA no later than the date on which they publish their financial statements or financial reports for the corresponding period ***or as soon as possible thereafter. If the financial reports are published before the submission of information in accordance with Article 430 for the same period, disclosures can be submitted on the same date as supervisory reporting*** or as soon as possible thereafter. If disclosure is required to be made for a period when an institution does not prepare any financial report, the institution shall submit to EBA the information on disclosures as soon as ***possible following the end of that period.***
3. ***By way of derogation from paragraphs 1 and 2 of this Article, institutions may submit to EBA the information required under Article 450 separately from the other information required under Titles II and III no later than two months after the date on which institutions publish their financial statements for the corresponding year.***

4. EBA shall publish on its website the disclosures of small and non-complex institutions on the basis of the information reported by those institutions to competent authorities in accordance with Article 430.
5. Ownership of the data and the responsibility for their accuracy shall remain with the institutions that produce them. EBA shall provide for a single access point for institutions' disclosures and shall make available on its website an archive of the information required to be disclosed in accordance with this Part. That archive shall be kept accessible for a period that shall be no less than the storage period set by national law for information included in the institutions' financial reports.
6. EBA shall monitor the number of visits to its single access point for institutions' disclosures and include the related statistics in its annual reports.';

(222) Article 434a is amended as follows:

(a) ■ the first paragraph is replaced by the following:

‘EBA shall develop draft implementing technical standards to specify uniform disclosure formats, **and** information on the resubmission policy, and **shall develop** IT solutions, **including instructions**, for disclosures required under Titles II and III.’;

(b) the fourth ■ paragraph is replaced by the following:

‘EBA shall submit those draft implementing technical standards to the Commission by ... [■ 12 months from the date of entry into force of this **amending** Regulation].’;

(223) *the following article is inserted:*

‘Article 434c

Report on the feasibility of the use of information reported by institutions other than small and non-complex institutions to publish an extended set of disclosures on the EBA website

EBA shall prepare a report on the feasibility of using information reported by institutions other than small and non-complex institutions to competent authorities in accordance with Article 430 in order to publish that information on its website thereby reducing the disclosure burden for such institutions.

That report shall consider the previous work of EBA regarding integrated data collections, shall be based on an overall cost and benefit analysis, including costs incurred by competent authorities, institutions and EBA, and shall consider any potential technical, operational and legal challenges.

EBA shall submit that report to the European Parliament, to the Council, and to the Commission by ... [36 months from the date of entry into force of this amending Regulation].

On the basis of that report, the Commission shall, where appropriate, submit to the European Parliament and to the Council a legislative proposal by 31 December 2031.’;

(224) Article 438 is amended as follows:

(a) point (b) is replaced by the following:

‘(b) the amount of the additional own funds requirements based on the supervisory review process as referred to in Article 104(1), point (a), of Directive 2013/36/EU to address risks other than the risk of excessive leverage and its composition;’;

(b) point (d) is replaced by the following:

‘(d) the total risk exposure **amount** as calculated in accordance with Article 92(3) and the corresponding own funds requirements as determined in accordance with Article 92(2), to be broken down by the different risk **categories** or **risk exposure classes**, as applicable, set out in Part Three and, where applicable, an explanation of the effect on the calculation of the own funds and risk-weighted exposure amounts that results from applying capital floors and not deducting items from own funds;’;

(c) the following point is inserted:

‘(da) where required to calculate the un-floored total risk exposure amount as calculated in accordance with Article 92(4), and the standardised total risk exposure amount as calculated in accordance with Article 92(5), to be broken down by the different risk categories **or risk exposure classes**, as applicable, set out in Part Three and, where applicable, an explanation of the effect on the calculation of own funds and risk-weighted exposure amounts that results from applying capital floors and not deducting items from own funds;’;

(d) point (e) is replaced by the following:

‘(e) the on- and off-balance-sheet exposures, the risk-weighted exposure amounts and associated expected losses for each category of specialised lending referred to in Article 153(5), Table 1, and the on- and off-balance-sheet exposures and risk-weighted exposure amounts for the categories of equity exposures set out in Article 133(3) to (6), and Article 495a(3).’;

(225) Article 445 is replaced by the following:

‘Article 445

Disclosure of exposures to market risk under the standardised approach

1. Institutions that have not been granted permission by competent authorities to use the alternative internal model approach as set out in Article 325az, and that use the simplified standardised approach in accordance with Article 325a or ***the alternative standardised approach in accordance with*** Part Three, Title IV, Chapter 1a, shall disclose an overview of their trading book positions.

2. Institutions calculating their own funds requirements in accordance with Part Three, Title IV, Chapter 1a, shall disclose their total own funds requirements, own funds requirements for the sensitivities-based *method*, default risk charge and own funds requirements for residual risks. The disclosure of own funds requirements for the measures of the sensitivities-based *method* and for default risk shall be broken down into the following instruments:
- (a) financial instruments other than securitisation instruments held in the trading book, with a breakdown by risk class, and a separate identification of the own funds requirements for default risk;
 - (b) securitisation instruments not held in the ACP, with a separate identification of the own funds requirements for credit spread risk and of the own funds requirements for default risk;
 - (c) securitisation instruments held in the ACP, with a separate identification of the own funds requirements for credit spread risk and of the own funds requirements for default risk.’;

(226) the following article is inserted:

‘Article 445a

Disclosure of CVA risk


1. Institutions subject to the own funds requirements for CVA risk shall disclose the following information:
 - (a) an overview of their processes to identify, measure, hedge and monitor their CVA risk;
 - (b) whether institutions meet all of the conditions set out in Article 273a(2); where those conditions are met, whether institutions have chosen to calculate the own funds requirements for CVA risk using the simplified approach set out in Article 385; where institutions have chosen to calculate the own funds requirements for CVA risk using the simplified approach, the own funds requirements for CVA risk in accordance with that approach;
 - (c) the total number of counterparties for which the standardised approach is used, with a breakdown by counterparty types.

2. Institutions using the standardised approach set out in Article 383 for calculating the own funds requirements for CVA risk shall disclose, in addition to the information referred to in paragraph 1 of this Article, the following information:
 - (a) the structure and the organisation of their internal CVA risk management function and governance;
 - (b) their total own funds requirements for CVA risk under the standardised approach with a breakdown by risk class;
 - (c) an overview of the eligible hedges used in that calculation, with a breakdown by type of instruments set out in Article 386(2).
3. Institutions using the basic approach set out in Article 384 for calculating the own funds requirements for CVA risk shall disclose, in addition to the information referred to in paragraph 1 of this Article, the following information:
 - (a) their total own funds requirements for CVA risk under the basic approach, and the components $BACVA^{total}$ and $BACVA^{csr-hedged}$;
 - (b) an overview of the eligible hedges used in that calculation, with a breakdown by type of instruments set out in Article 386(3).’;

(227) Article 446 is replaced by the following:

‘Article 446

Disclosure of operational risk

1. Institutions shall disclose the following information:
 - (a) the main characteristics and elements of their operational risk management framework;
 - (b) their own funds requirement for operational risk *equal to* the business indicator component calculated in accordance with Article 313;
 - (c) the business indicator, calculated in accordance with Article 314(1), and the amounts of each of the business indicator *components and their* sub-*components* for each of the three years relevant for the calculation of the business indicator;
 - (d) the *amount of the reduction of the* business indicator *for each exclusion* from the  business indicator in accordance with Article 315(2), as well as the corresponding justifications for *such* exclusions.

2. Institutions that calculate their annual operational risk losses in accordance with Article 316(1) shall disclose the following information in addition to the information referred to in paragraph 1 of this Article:
- (a) their annual operational risk losses for each of the last 10 financial years, calculated in accordance with Article 316(1);
 - (b) the number *of exceptional operational risk events* and the amounts of *the corresponding aggregated net* operational risk losses that were excluded from the calculation of the annual operational risk loss in accordance with Article 320(1), *for each of the last 10 financial years*, and the corresponding justifications for *those exclusions*.³;

(228) Article 447 is amended as follows:

(a) point (a) is replaced by the following:

‘(a) the composition of their own funds and their risk-based capital ratios as calculated in accordance with Article 92(2);’; ■

(b) the following point is *inserted*:

‘(aa) where applicable, the risk-based capital ratios as calculated in accordance with Article 92(2), by using the un-floored total risk exposure amount instead of the total risk exposure *amount*;’;

(c) point (b) is replaced by the following:

‘(b) the total risk exposure *amount* as calculated in accordance with Article 92(3) and, where applicable, the un-floored total risk exposure amount as calculated in accordance with Article 92(4);’;

(d) point (d) is replaced by the following:

‘(d) the combined buffer requirement which the institutions are required to hold in accordance with Chapter 4 of Title VII of Directive 2013/36/EU;’; ■

(229) Article 449a is replaced by the following:

‘Article 449a

Disclosure of environmental, social and governance risks (ESG risks)

1. Institutions shall disclose information on ESG risks, *distinguishing environmental, social and governance risks, and* physical risks and transition risks *for environmental risks*.

2. *For the purposes of paragraph 1, institutions shall disclose information on ESG risks, including:*

- (a) the total amount of exposures to fossil fuel sector entities;*
- (b) how institutions integrate the identified ESG risks in their business strategy and processes, and governance and risk management.*

3. EBA shall develop draft implementing technical standards to specify uniform disclosure formats, as laid down in Article 434a, for ESG risks ensuring that they are consistent with and uphold the principle of proportionality *while avoiding duplication of disclosure requirements already established in other applicable Union law. Those* formats shall not require disclosure of information beyond the information ■ to be reported to competent authorities in accordance with Article 430(1), point (h), *and shall in particular take into account the size and complexity of the institution and the relative exposure of small and non-complex institutions subject to Article 433b to ESG risks.*

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

(230) the following article is inserted:

‘Article 449b

Disclosure of aggregate exposure to shadow banking entities

Institutions shall disclose the information concerning their aggregate exposure to shadow banking entities, as referred to in Article 394(2), second subparagraph.’;

(231) in Article 451(1), the following point is added:

- ‘(f) the amount of the additional own funds requirements based on the supervisory review process as referred to in Article 104(1), point (a), of Directive 2013/36/EU to address the risk of excessive leverage and its composition. ■’;

(232) the following article is inserted:

‘Article 451b

Disclosure of crypto-asset exposures and related activities

- 1. Institutions shall disclose the following information on crypto-assets and crypto-asset services as well as any other activities related to crypto-assets:***

- (a) *the direct and indirect exposure amounts in relation to crypto-assets, including the gross long and short components of net exposures;*
- (b) *the total risk exposure amount for operational risk;*
- (c) *the accounting classification for crypto-asset exposures;*
- (d) *a description of the business activities related to crypto-assets and their impact on the risk profile of the institution;*
- (e) *a specific description of their risk management policies related to crypto-asset exposures and crypto-asset services.*

For the purposes of the first subparagraph, point (d), of this paragraph, institutions shall provide more detailed information on material business activities, including on the issuance of significant asset-referenced tokens and of significant e-money tokens and on the provision of crypto-asset services under Articles 60 and 61 of Regulation (EU) 2023/1114.

2. *Institutions shall not apply the exception laid down in Article 432 for the purposes of the disclosure requirements laid down in paragraph 1 of this Article.’;*

(233) Article 455 is replaced by the following:

‘Article 455

Use of internal models for market risk

1. An institution using the internal models referred to in Article 325az for the calculation of the own funds requirements for market risk shall disclose:
 - (a) its objectives in undertaking trading activities and the processes implemented to identify, measure, monitor and control the market risk;
 - (b) the policies referred to in Article 104(1) for determining which position is to be included in the trading book;
 - (c) a general description of the structure of the trading desks covered by the internal models, including for each desk a broad description of the desk’s business strategy, the instruments permitted therein and the main risk types in relation to that desk;

- (d) an overview of the trading book positions not covered by the internal models, including a general description of the desk structure and of types of instruments included in the desks or in the desk categories in accordance with Article 104b;
- (e) the structure and organisation of the market risk management function and governance;
- (f) the scope, the main characteristics and the key modelling choices of the different internal models used to calculate the risk exposure amounts for the main models used at the consolidated level, and a description of the extent to which those internal models represent the models used at the consolidated level, including, where applicable, a broad description of the following:
 - (i) the modelling approach used to calculate the expected shortfall referred to in Article 325ba(1), point (a), including the frequency of data update;

- (ii) the methodology used to calculate the stress scenario risk measure referred to in Article 325ba(1), point (b), other than the specifications provided for in Article 325bk(3);
- (iii) the modelling approach used to calculate the default risk charge referred to in Article 325ba(2), including the frequency of data update.

2. Institutions shall disclose on an aggregate basis for all trading desks covered by the internal models referred to in Article 325az the following components, where applicable:

- (a) the most recent value as well as the highest, lowest and mean value for the previous 60 business days of:
 - (i) the unconstrained expected shortfall measure referred to in Article 325bb(1);
 - (ii) the unconstrained expected shortfall measure referred to in Article 325bb(1) for each regulatory broad risk factor category;

- (b) the most recent value as well as the mean value for the previous 60 business days of:
 - (i) the expected shortfall risk measure referred to in Article 325bb(1);
 - (ii) the stress scenario risk measure referred to in Article 325ba(1), point (b);
 - (iii) the own funds requirement for default risk referred to in Article 325ba(2);
 - (iv) the sum of the own funds requirements referred to *in Article 325ba(3)* ,
including *all components of the formula and* the applicable multiplier factor;
 - (c) the number of back-testing overshootings over the most recent 250 business days at the 99th percentile as referred to in Article 325bf(6) .
3. Institutions shall disclose on an aggregate basis for all trading desks the own funds requirements for market risk that would be calculated in accordance with *Part Three* Title *IV*, Chapter 1a, had the institutions not been granted permission to use their internal models for those trading desks. ;

(234) *in Article 456(1), point (d) is replaced by the following:*

‘(d) the amount specified in Article 123(1), point (b), Article 147(5), point (a), Article 153(4) and Article 162(4), to take into account the effects of inflation;’

(235) Article 458 is amended as follows:

(a) paragraph 6 is replaced by the following:

‘6. Where Member States recognise the measures set in accordance with this Article, they shall notify the ESRB. The ESRB shall forward such notifications without delay to the Council, the Commission, EBA ■ and the Member State authorised to apply the measures. ■ ’;

(b) paragraph 9 is replaced by the following:

‘9. Before the expiry of the authorisation issued in accordance with paragraphs 2 and 4, the Member State concerned shall, in consultation with the ESRB, ■ EBA and the Commission, review the situation and may adopt, in accordance with the procedure referred to in paragraphs 2 and 4, a new decision for the extension of the period of application of national measures for up to two additional years each time. ■ ’;

(236) Article 461a is replaced by the following:

‘Article 461a

Own funds requirements for market risk

1. The Commission shall monitor *the differences between* the implementation of international standards on own funds requirements for market risk in ■ the Union ■ and *in third countries*, including as regards the impact of the rules in terms of own funds requirements and as regards their *date of* application.

2. *Where significant differences in such implementation are observed*, the Commission shall be empowered to adopt delegated acts in accordance with Article 462 to amend this Regulation by:

- (a) applying, *until the date of application of the legislative act referred to in paragraph 3 of this Article or for up to three years in the absence of such an act, and* where necessary to *preserve* a level playing field *and to offset those observed differences, targeted operational relief measures or targeted multipliers* equal to or greater than 0 and lower than 1 *in the calculation of* the institutions’ own funds requirements for market risk, ■ for specific risk classes and specific risk factors, using one of the approaches referred to in Article 325(1), and laid out in:

- (i) Articles 325c to 325ay, specifying the alternative standardised approach;
 - (ii) Articles 325az to 325bp, specifying the alternative internal model approach;
 - (iii) Articles 326 to 361, specifying the simplified standardised approach ■ ;
- (b) postponing for *up to* two years the date from which institutions shall apply the own funds requirements for market risk set out in Part Three, Title IV, or any of the approaches to calculate the own funds requirements for market risk referred to in Article 325(1).

Where the Commission adopts the delegated act referred to in the first subparagraph, the Commission shall, where appropriate, submit a ■ legislative proposal to the European Parliament and to the Council to adjust the implementation in the Union of international standards on own funds requirements for market risk to preserve in a more permanent manner a level playing field with third countries, in terms of own funds requirements and the impact of those requirements.

3. By ... [24 months from the date of entry into force of this amending Regulation], EBA shall submit a report to the European Parliament, to the Council and to the Commission on the implementation of international standards on own funds requirements for market risk in third countries.

On the basis of that report, the Commission shall, where appropriate, submit to the European Parliament and to the Council a legislative proposal, in order to ensure a global level playing field.’;

(237) Article 465 is replaced by the following:

■ ‘Article 465

Transitional arrangements for the output floor

1. By way of derogation from Article **92(3), first subparagraph**, and **without prejudice to the derogation set out in Article 92(3), second subparagraph**, institutions ■ may apply the following factor x where calculating TREA:
 - (a) 50 % during the period from 1 January 2025 to 31 December 2025;
 - (b) 55 % during the period from 1 January 2026 to 31 December 2026;
 - (c) 60 % during the period from 1 January 2027 to 31 December 2027;

(d) 65 % during the period from 1 January 2028 to 31 December 2028;

(e) 70 % during the period from 1 January 2029 to 31 December 2029.

2. By way of derogation from Article 92(3), first subparagraph, *and without prejudice to the derogation set out in Article 92(3), second subparagraph*, institutions may, until 31 December 2029, apply the following formula where calculating TREA:

$$\text{TREA} = \min\{\max\{\text{U-TREA}; x \cdot \text{S-TREA}\}; 125 \% \cdot \text{U-TREA}\}$$

For the purposes of that calculation, institutions shall take into account the applicable factor x referred to in paragraph 1.

3. By way of derogation from Article 92(5), *point (a)(ii), and without prejudice to the derogation set out in Article 92(3), second subparagraph*, institutions may, until 31 December 2032, assign a risk weight of 65 % to exposures to corporates for which no credit assessment by a nominated ECAI is available *and* provided that those *institutions'* estimates of the PD of those *obligors*, calculated in accordance with Part Three, Title II, Chapter 3, are no greater than 0,5 %.

EBA *and ESMA, in cooperation with EIOPA*, shall monitor the use of the transitional treatment laid down in the first subparagraph and *assess, in particular*:

- (a) the availability of credit assessments by nominated ECAs for *corporates and the extent to which that affects institutions' lending towards corporates*;
- (b) *the development of credit rating agencies, barriers to entry to the market for new credit rating agencies, the rate of uptake by corporates choosing to be rated by one or more of those agencies, and impediments to the availability of credit assessments for corporates by ECAs*;
- (c) *possible measures to address the impediments, taking into account differences across economic sectors and geographical areas and the development of private or publicly led solutions such as credit scoring, private ratings mandated by institutions, as well as central bank ratings*;
- (d) *the appropriateness of the risk-weighted exposure amounts of unrated corporate exposures and their implications for financial stability*;

- (e) *the approaches of third countries concerning the application of the output floor to corporate exposures and long-term level playing field considerations that could arise as a result;*
- (f) *compliance with related internationally agreed standards developed by the BCBS.*

EBA and ESMA, in cooperation with EIOPA, shall submit a report with *their* findings to the Commission by ... *[60 months from the date of entry into force of this amending Regulation]*.

On the basis of that report and taking due account of the related internationally agreed standards developed by the BCBS, the Commission shall, where appropriate, submit to the European Parliament and to the Council a legislative proposal by 31 December 2031.

4. By way of derogation from Article 92(5), *point* (a)(iv), *and without prejudice to the derogation set out in Article 92(3), second subparagraph*, institutions ■ shall, until 31 December 2029, replace alpha by 1 in the calculation of the exposure value for the contracts listed in Annex II in accordance with the approaches set out in Part Three, Title II, Chapter 6, *Section 3* ■ where the same exposure values are calculated in accordance with the approach set out in Part Three, Title II, Chapter 6, Section 6 for the purposes of the total un-floored risk exposure amount. ■

5. By way of derogation from Article 92(5), *point (a)(ii)*, and without prejudice to the *derogation set out in Article 92(3), second subparagraph*, and provided that all conditions set out in paragraph 8 of this Article are met, Member States may allow *institutions* to assign :

(a) until 31 December 2032, a risk weight of 10 % to the part of the exposures secured by mortgages on residential property up to 55 % of the property value *determined in accordance with Article 125(1), first subparagraph*; and

(b) until 31 December 2029, a risk weight of 45 % to any remaining part of the exposures secured by mortgages on residential property up to 80 % of the property value *-determined in accordance with Article 125(1), first subparagraph*, provided that the adjustment to own funds requirements for credit risk referred to in Article 501 is not applied.

6. *For the purposes of paragraph 5, point (a), where an institution holds a junior lien and there are more senior liens not held by that institution, to determine the part of the institution's exposure that is eligible for the 10 % risk weight, the amount of 55 % of the property value shall be reduced by the amount of the more senior liens not held by the institution.*

Where liens not held by the institution rank pari passu with the lien held by the institution, to determine the part of the institution's exposure that is eligible for the 10 % risk weight, the amount of 55 % of the property value, reduced by the amount of any more senior liens not held by the institution, shall be reduced by the product of:

- (a) 55 % of the property value, reduced by the amount of more senior liens, if any, both held by the institution and held by other institutions; and*
- (b) the amount of liens not held by the institution that rank pari passu with the lien held by the institution divided by the sum of all pari passu liens.*

7. *For the purposes of paragraph 5, point (b), where an institution holds a junior lien and there are more senior liens not held by that institution, to determine the part of the institution's exposure that is eligible for the 45% risk weight, the amount of 80 % of the property value shall be reduced by the amount of the more senior liens not held by the institution.*

Where liens not held by the institution rank pari passu with the lien held by the institution, to determine the part of the institution's exposure that is eligible for the 45 % risk weight, the amount of 80 % of the property value, reduced by the amount of any more senior liens not held by the institution, shall be reduced by the product of:

- (a) 80 % of the property value, reduced by the amount of more senior liens, if any, both held by the institution and held by other institutions; and*
- (b) the amount of liens not held by the institution that rank pari passu with the lien held by the institution divided by the sum of all pari passu liens.*

8. For the purposes of paragraph 5 of this Article, all of the following conditions shall be met:

- (a) *the exposures qualify for the treatment pursuant to Article 125(1);*
- (b) *the qualifying exposures are risk weighted in accordance with Part Three, Title II, Chapter 3;*
- (c) *the residential property securing the qualifying exposures is located in the Member State that has exercised the discretion;*
- (d) *over the last eight years the institution's losses in any given year, as reported by the institution pursuant to Article 430a(1), points (a) and (c), or pursuant to Article 101(1), points (a) and (c), in the version of those points applicable on 27 June 2021, on the part of the exposures secured by mortgages on residential property up to the lower of the pledged amount and 55 % of the property value, unless otherwise determined under Article 124(9), do not exceed on average 0,25 % of the sum of the exposure values of all outstanding exposures secured by mortgages on residential property;*

- (e) for the *qualifying* exposures the institution has the following *enforceable rights* in the event of the default or non-payment of the obligor:
- (i) a *right* on the residential ■ property securing the exposure *or the right to take a mortgage on the residential property in accordance with Article 108(5), point (g)*;
 - (ii) a *right* on other assets and income of the obligor *either contractually or by applicable national law*;
- (f) the competent authority has verified that the conditions set out in points (a) *to* (■ e) are met.

9. Where the discretion referred to in paragraph 5 has been exercised and provided that all conditions set out in paragraph 8 are met, institutions may assign the following risk weights to *any* remaining part of the exposures *secured by mortgages on residential property* referred to in paragraph 5, point (b), until 31 December 2032:
- (a) 52,5 % during the period from 1 January 2030 to 31 December 2030;
 - (b) 60 % during the period from 1 January 2031 to 31 December 2031;
 - (c) 67,5 % during the period from 1 January 2032 to 31 December 2032.
10. Where Member States exercise *the* discretion *referred to in paragraph 5*, they shall notify EBA and substantiate their decision. Competent authorities shall notify the details of all verifications referred to in paragraph 8, point (**f**), to EBA.

11. EBA shall monitor the use of the transitional treatment ***laid down*** in paragraph 5 and ***shall submit a*** report with ***its findings*** on the appropriateness of the associated risk weights to the Commission by 31 December 2028.

On the basis of that report and taking due account of the related internationally agreed standards developed by the BCBS, the Commission shall, where appropriate, submit to the European Parliament and to the Council a legislative proposal by 31 December 2031.

12. *Any extension of any of the transitional arrangements referred to in paragraphs 3, 5 and 9 of this Article, and in Articles 495b(1), 495c(1) and 495d(1), shall be limited to four years, and shall be substantiated with an evaluation equivalent to those referred to in those Articles.*
13. *By way of derogation from Article 92(5), point (a)(iii) or (b)(ii), and without prejudice to the derogation set out in Article 92(3), second subparagraph, for exposures that are risk weighted using the SEC-IRBA or the Internal Assessment Approach in accordance with Article 92(4), where the part of the standardised total risk-weighted exposure amount for credit risk, dilution risk, counterparty credit risk or for market risk arising from the trading book business is calculated using the SEC-SA in accordance with Article 261 or 262, institutions shall, until 31 December 2032, apply the following factor p :*
- (a) *$p = 0,25$ for a position in a securitisation to which Article 262 applies;*
- (b) *$p = 0,5$ for a position in a securitisation to which Article 261 applies.’;*

(238) *Article 468 is amended as follows:*

(a) *the title is replaced by the following:*

‘Temporary treatment of unrealised gains and losses measured at fair value through other comprehensive income’;

(b) *paragraphs 1 and 2 are replaced by the following:*

‘1. By way of derogation from Article 35, until 31 December 2025 (the “period of temporary treatment”), institutions may remove from the calculation of their Common Equity Tier 1 items the amount A, determined in accordance with the following formula:

$$A = a \cdot f$$

where:

a = the amount of unrealised gains and losses accumulated since 31 December 2019 accounted for as “fair value changes of debt instruments measured at fair value through other comprehensive income” in the balance sheet, corresponding to exposures to central governments, to regional governments or to local authorities referred to in Article 115(2) of this Regulation and to public sector entities referred to in Article 116(4) of this Regulation, excluding those financial assets that are credit-impaired as defined in Appendix A to the Annex to Commission Regulation (EC) No 1126/2008 (“Annex relating to IFRS 9”); and

f = the factor applicable for each reporting year during the period of temporary treatment in accordance with paragraph 2.

2. *Institutions shall apply the factor f with a value equal to 1 until 31 December 2025 to calculate the amount A referred in paragraph 1.’;*

(239) *in Article 493, paragraph 3 is amended as follows:*

(a) *point (a) is replaced by the following:*

‘(a) covered bonds as referred to in Article 129;’;

(b) *point (i) is replaced by the following:*

‘(i) 50 % of bucket 4 off-balance-sheet documentary credits and of bucket 3 off-balance-sheet undrawn credit facilities referred to in Annex I with an original maturity of up to and including one year 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;’;

(240) the following article is inserted:

‘Article 494d

Reversion *to less sophisticated approaches*

By way of derogation from Article 149, an institution may from ... *[the date of entry into force of this amending Regulation] until ... [36 months from the date of entry into force of this amending Regulation]*, revert to *less sophisticated approaches* for one or more of the exposure classes referred to in Article 147(2), where all of the following conditions are met:

- (a) the institution already existed on ... [one day before the date of entry into force of this amending Regulation] and was authorised by its competent authority to treat those exposure classes under the IRB Approach;
- (b) the institution requests a reversion to *a less sophisticated approach* only once during that three-year period;
- (c) the request to revert to *a less sophisticated approach* is not made with a view to engaging in regulatory arbitrage;

- (d) the institution has formally notified the competent authority that it wishes to revert to *a less sophisticated approach* for those exposure classes at least six months before it effectively does revert to that approach;
- (e) the competent authority has not objected to the institution's request to such reversion within three months of the receipt of the notification referred to in point (d).';

(241) Article 495 is replaced by the following:

‘Article 495

Treatment of equity exposures under the IRB Approach

1. By way of derogation from Article 107(1), ■ institutions that have been granted permission to apply the **IRB** Approach to calculate the risk-weighted exposure amount for equity exposures shall, until 31 December 2029 *and without prejudice to Article 495a(3)*, calculate the risk-weighted exposure amount for each equity exposure for which they have been granted permission to apply the **IRB** Approach as the higher of the following:
 - (a) the risk-weighted exposure amount calculated in accordance with Article 495a(1) and (2);
 - (b) the risk-weighted exposure amount calculated under this Regulation in the version applicable on ... [one day before the date of entry into force of this amending Regulation].

2. Instead of applying the treatment laid down in paragraph 1, institutions that have been granted permission to apply the **IRB** Approach to calculate the risk-weighted exposure amount for equity exposures may ■ apply the treatment set out in Article 133 ■ to all their equity exposures at any time until 31 December 2029.

Where institutions apply the first subparagraph of this paragraph, Article 495a(1) and (2) shall not apply.

For the purposes of this paragraph, the conditions to revert to the use of less sophisticated approaches set out in Article 149 shall not apply.

3. Institutions applying the treatment laid down in paragraph 1 of this Article shall calculate *the expected loss amount* in accordance with Article 158(7), (8) or (9), as applicable, in the version of those paragraphs applicable on ... *[one day before the date of entry into force of this amending Regulation]* and apply Article 36(1), point (d), and Article 62, point (d), as applicable, in the version of those points applicable on ... *[one day before the date of entry into force of this amending Regulation]* where the risk-weighted exposure amount calculated pursuant to paragraph 1, point (b), of this Article is higher than the risk-weighted exposure amount calculated pursuant to paragraph 1, point (a), of this Article.

4. Where institutions request permission to apply the IRB Approach to calculate the risk-weighted exposure amount for equity exposures, competent authorities shall not grant such permission after 31 December 2024. ■ ’;

(242) the following articles ■ are inserted:

‘Article 495a

Transitional arrangements for equity exposures

1. By way of derogation from the treatment laid down in Article 133(3), equity exposures shall be assigned ***the higher of the risk weight applicable on ... [one day before the date of entry into force of this amending Regulation], capped at 250 %, and*** the following risk-weights:
- (a) 100 % during the period from 1 January 2025 to 31 December 2025;
 - (b) 130 % during the period from 1 January 2026 to 31 December 2026;
 - (c) 160 % during the period from 1 January 2027 to 31 December 2027;
 - (d) 190 % during the period from 1 January 2028 to 31 December 2028;
 - (e) 220 % during the period from 1 January 2029 to 31 December 2029.

2. By way of derogation from the treatment laid down in Article 133(4), equity exposures shall be assigned *the higher of the risk weight applicable on ... [one day before the date of entry into force of this amending Regulation]* and the following risk weights:
- (a) 100 % during the period from 1 January 2025 to 31 December 2025;
 - (b) 160 % during the period from 1 January 2026 to 31 December 2026;
 - (c) 220 % during the period from 1 January 2027 to 31 December 2027;
 - (d) 280 % during the period from 1 January 2028 to 31 December 2028;
 - (e) 340 % during the period from 1 January 2029 to 31 December 2029.

3. By way of derogation from Article 133, institutions may continue to assign the same risk weight that was applicable *on ...* [one day before the date of entry into force of this amending Regulation] to equity exposures, *including the part of the exposures not deducted from the own funds in accordance with Article 471 in the version of that Article applicable on 27 October 2021*, to entities in which they have been a shareholder *on 27 October 2021* for six consecutive years and over which they, *or together with the network the institutions belong to*, exercise significant influence *or control* within the meaning of Directive 2013/34/EU, or of the accounting standards to which an institution is subject under Regulation (EC) No 1606/2002, or as a result of a similar relationship between any natural or legal person *or network of institutions* and an undertaking, *or where an institution has the capacity to appoint at least one member of the management body of the entity*.

Article 495b

Transitional arrangements for specialised lending exposures

1. By way of derogation from Article 161(4), the LGD input floors applicable to specialised lending exposures treated under the IRB Approach where own estimates of LGD are used, shall be the applicable LGD input floors provided for in Article 161(4), multiplied by the following factors:
 - (a) 50 % during the period from 1 January 2025 to 31 December 2027;
 - (b) 80 % during the period from 1 January 2028 to 31 December 2028;
 - (c) 100 % during the period from 1 January 2029 to 31 December 2029. ■

2. EBA shall prepare a report on the appropriate calibration of risk parameters, *including the haircut parameter*, applicable to specialised lending exposures under the IRB Approach, and in particular on own estimates of LGD and LGD input floors *for each specific category of specialised lending exposures as referred to in Article 147(8)*. EBA shall in particular include in its report data on average numbers of defaults and realised losses observed in the Union for different samples of institutions with different business and risk profiles. *EBA shall recommend specific calibrations of risk parameters, including the haircut parameter, that would reflect the specific and different risk profile for each specific category of specialised lending exposures.*

EBA shall submit that report to the European Parliament to the Council and to the Commission by ... *[24 months from the date of entry into force of* ■ *this amending Regulation]* ■ . ■

On the basis of that report and taking due account of the related internationally agreed standards developed by the BCBS, the Commission shall, where appropriate, submit to the European Parliament and to the Council a legislative proposal by 31 December 2027.

3. *By way of derogation from Article 122a(3), point (a), specialised lending exposures as referred to in that point for which a directly applicable credit assessment by a nominated ECAI is not available may, until 31 December 2032, be assigned a risk weight of 80 %, where the adjustment to own funds requirements for credit risk referred to in Article 501a is not applied and the exposure is deemed to be of high quality when taking into account all of the following criteria:*

(a) the obligor can meet its financial obligations even under severely stressed conditions due to the presence of all of the following features:

- (i) adequate exposure-to-value of the exposure;*
- (ii) conservative repayment profile of the exposure;*

- (iii) *commensurate remaining lifetime of the assets upon full pay-out of the exposure or alternatively recourse to a protection provider with high creditworthiness;*
- (iv) *low refinancing risk of the exposure by the obligor or that risk is adequately mitigated by a commensurate residual asset value or recourse to a protection provider with high creditworthiness;*
- (v) *the obligor has contractual restrictions over its activity and funding structure;*
- (vi) *the obligor uses derivatives only for risk-mitigation purposes;*
- (vii) *material operating risks are properly managed;*
- (b) *the contractual arrangements on the assets provide lenders with a high degree of protection, including the following features:*
 - (i) *the lenders have a legally enforceable first-ranking right over the assets financed and, where applicable, over the income that they generate;*

- (ii) *there are contractual restrictions on the ability of the obligor to make changes to the asset which would have a negative impact on its value;*
 - (iii) *where the asset is under construction, the lenders have a legally enforceable first-ranking right over the assets and the underlying construction contracts;*
- (c) *the assets being financed meet all of the following standards to operate in a sound and effective manner:*
 - (i) *the technology and design of the asset are tested;*
 - (ii) *all necessary permits and authorisations for the operation of the assets have been obtained;*
 - (iii) *where the asset is under construction, the obligor has adequate safeguards on the agreed specifications, budget and completion date of the asset, including strong completion guarantees or the involvement of an experienced constructor and adequate contract provisions for liquidated damages.*

4. EBA shall prepare a report, analysing the following:

- (a) the evolution of the trends and conditions in markets for object finance in the Union;***
- (b) the effective riskiness of the object finance exposures over a full economic cycle;***
- (c) the impact on own funds requirements of the treatment set out in Article 122a(3), point (a), for object finance exposures, without taking into account Article 465(1);***
- (d) the appropriateness of the definition of the sub-class of “high quality object finance” and to assign to that sub-class of exposures a different prudential treatment.***

EBA shall submit that report to the European Parliament, to the Council and to the Commission by 31 December 2030.

On the basis of that report and taking due account of the related internationally agreed standards developed by the BCBS, the Commission shall, where appropriate, submit to the European Parliament and to the Council a legislative proposal by 31 December 2031.

Article 495c

Transitional arrangements for leasing exposures as a credit risk mitigation technique

1. By way of derogation from Article 230, the applicable value of H_c corresponding to “other physical collateral” for exposures referred to in Article 199(7) where the *asset* leased corresponds to the “other physical collateral” type of funded credit protection, shall be the value of H_c for “other physical collateral provided for in Article 230(2), Table 1, multiplied by the following factors:
 - (a) 50 % during the period from 1 January 2025 to 31 December 2027;
 - (b) 80 % during the period from 1 January 2028 to 31 December 2028;
 - (c) 100 % during the period from 1 January 2029 to 31 December 2029.

2. EBA shall prepare a report on the appropriate calibrations of risk parameters associated with leasing exposures under the IRB Approach, *and of risk weights under the Standardised Approach*, and in particular on the LGD_s and H_c provided for in Article 230. EBA shall in particular include in its report data on average numbers of defaults and realised losses observed in the Union for exposures associated with different types of ■ properties *leased* and different types of institutions practicing leasing activities.

EBA shall submit that report to the European Parliament, to the Council and to the Commission by ... *[36 months from the date of entry into force of this amending Regulation]*.

On the basis of that report, *and taking into account the internationally agreed standards developed by the BCBS*, the Commission shall ■ , where appropriate, *submit* to ■ the *European Parliament and to the Council a legislative proposal by 31 December 2028*.

Article 495d

Transitional arrangements for unconditional cancellable commitments

1. By way of derogation from Article 111(2), institutions shall calculate the exposure value of an off-balance-sheet item in the form of unconditionally cancellable commitment by multiplying the percentage provided for in that Article by the following factors:
 - (a) 0 % during the period from 1 January 2025 to 31 December 2029;
 - (b) 25 % during the period from 1 January 2030 to 31 December 2030;
 - (c) 50 % during the period from 1 January 2031 to 31 December 2031;
 - (d) 75 % during the period from 1 January 2032 to 31 December 2032.
2. EBA shall prepare a report assessing whether the derogation referred to in paragraph 1, point (a), should be extended beyond 31 December 2032 and *specifying*, where necessary, the conditions under which that derogation should be maintained.

EBA shall submit that report to the European Parliament, to the Council and to the Commission by 31 December 2028.

On the basis of that report and taking due account of the related internationally agreed standards developed by the BCBS *and the impact of those standards on financial stability*, the Commission shall, where appropriate, submit to the European Parliament and to the Council a legislative proposal by 31 December 2031.

Article 495e

Transitional arrangements for ECAI credit assessments of institutions

By way of derogation from Article 138, point (g), competent authorities may allow institutions to continue using an ECAI credit assessment in relation to an institution which incorporates assumptions of implicit government support until 31 December 2029.

Article 495f

Transitional arrangements for property revaluation requirements

By way of derogation from Article 229(1), points (a) to (d), for exposures secured by residential property or commercial immovable property granted before 1 January 2025, institutions may continue to value residential property or commercial immovable property at or less than the market value, or in those Member States that have provided for rigorous criteria for the assessment of the mortgage lending value in statutory or regulatory provisions, the mortgage lending value of that property, until a review of the property value is required in accordance with Article 208(3), or 31 December 2027, whichever is earlier.

Article 495g

Transitional arrangements for certain public guarantees schemes

By way of derogation from Articles 183(1) and 213(1), a guarantee that can be cancelled in the event of fraud by the obligor or the extent of credit protection of which can be diminished in such event, shall be considered to meet the requirements referred to in Article 183(1), point (d), and in Article 213(1), point (c), where the guarantee was provided by an entity referred to in Article 214(2), point (a), no later than 31 December 2024.

Article 495h

Transitional arrangements for the use of the alternative internal model approach for market risk

By way of derogation from Article 325az(2), point (d), institutions may use, until 1 January 2026, the alternative internal model approach to calculate their own funds requirements for market risk for trading desks that do not meet the requirements laid down in Article 325bg.’;

(243) *Article 500 is amended as follows:*

(a) *paragraph 1 is amended as follows:*

(i) *in the first subparagraph, point (b) is replaced by the following:*

‘(b) the dates of the disposals of defaulted exposures are after 23 November 2016 but not later than 31 December 2024;’;

(ii) *the second subparagraph is replaced by the following:*

‘The adjustment referred to in the first subparagraph may only be carried out until 31 December 2024 and its effects may last for as long as the corresponding exposures are included in the institution’s own LGD estimates.’;

(b) *the following paragraph is added:*

‘3. The Commission shall, by 31 December 2026, and every two years thereafter, assess whether the level of defaulted exposures in the balance sheets of the institutions has increased significantly, whether it expects a significant deterioration in the institutions’ asset quality, and whether the degree of development of secondary markets for defaulted exposures is not adequate to ensure efficient disposals of defaulted exposures by institutions, also taking into consideration the regulatory developments on securitisation.

The Commission shall review the appropriateness of the derogation set out in paragraph 1 and shall, where appropriate, submit a legislative proposal to the European Parliament and to the Council to extend, reintroduce or amend, as needed, the adjustment provided for in this Article.’;

(244) *Article 500a is amended as follows:*

(a) *paragraph 1 is replaced by the following:*

‘1. By way of derogation from Article 114(2), until 31 December 2026, for exposures to the central governments and central banks of Member States, where those exposures are denominated and funded in the domestic currency of another Member State, the following apply:

- (a) until 31 December 2024, the risk weight applied to the exposure values shall be 0 % of the risk weight assigned to those exposures in accordance with Article 114(2);**
- (b) in 2025, the risk weight applied to the exposure values shall be 20 % of the risk weight assigned to those exposures in accordance with Article 114(2);**
- (c) in 2026, the risk weight applied to the exposure values shall be 50 % of the risk weight assigned to those exposures in accordance with Article 114(2).’;**

(b) *in paragraph 2, points (a), (b) and (c) are replaced by the following:*

‘(a) 100 % of the institution’s Tier 1 capital until 31 December 2025;

(b) 75 % of the institution’s Tier 1 capital between 1 January and 31 December 2026;

(c) 50 % of the institution’s Tier 1 capital between 1 January and 31 December 2027.’;

(245) *Article 500c is replaced by the following:*

‘Article 500c

Exclusion of overshootings from the calculation of the back-testing addend in view of the COVID-19 pandemic

By way of derogation from Article 325bf, competent authorities may, in exceptional circumstances and in individual cases, permit institutions to exclude the overshootings evidenced by the institution’s back-testing on hypothetical or actual changes from the calculation of the addend set out in Article 325bf, provided that those overshootings do not result from deficiencies in the internal model and provided that they occurred between 1 January 2020 and 31 December 2021.’;

(246) in Article 501(2), *points (a) and (b) are* replaced by the following:

‘(a) *the exposure to an SME shall be included either in the retail or in the corporates or secured by mortgages on immovable property exposure classes but excluding ADC exposures;*

(b) an *SME* shall have the meaning laid down in Article 5, point (9);’; ■

(247) in Article 501a, paragraph 1 is amended as follows:

(a) point (a) is replaced by the following:

‘■ (a) the exposure is assigned to the ■ exposure class referred to in Article 112, point (g), or *to any of the exposure classes referred to* in Article 147(2), point (c)(i), (ii) or (iii), with the exclusion of exposures in default; ■ ’;

(b) point (f) is replaced by the following:

‘(f) the *obligor’s* refinancing risk ■ is low or adequately mitigated, taking into account any subsidies, grants or funding provided by one or more of the entities listed in paragraph 2, points (b)(i) and (ii);’;

(c) *point (o) is replaced by the following:*

‘(o) for exposures originated after 1 January 2025 the obligor has carried out an assessment that the assets being financed contribute positively to one or more of the environmental objectives set out in Article 9 of Regulation (EU) 2020/852 and do not significantly harm the other objectives set out in that Article, or that the assets being financed do not significantly harm any of the environmental objectives set out in that Article.’;

(248) Article 501c is replaced by the following:

‘**■** Article 501c

Prudential treatment of exposures to environmental **■** or social factors

*‘1. EBA, after consulting the ESRB, shall, on the basis of available data **■**, assess whether **the** dedicated prudential treatment of exposures related to assets **or liabilities**, subject to the impact of environmental **■** or social factors **is to be adjusted**. In particular, EBA shall assess:*

(a) *the availability and accessibility of reliable and consistent ESG data for each exposure class determined in accordance with Part Three, Title II;*

- (b) *in consultation with EIOPA, the feasibility of introducing a standardised methodology to identify and qualify the exposures, for each exposure class determined in accordance with Part Three, Title II, based on a common set of principles to ESG risk classification, using the information on transition risk and physical risk indicators made available by sustainability disclosure reporting frameworks adopted in the Union and where available internationally, the guidance and conclusions coming from the supervisory stress-testing or scenario analysis of climate-related financial risks conducted by EBA or the competent authorities and if appropriately reflecting the ESG risks, the relevant ESG score of the credit risk rating by a nominated ECAI;*
- (c) the effective riskiness of exposures related to assets and activities subject to the impact of environmental or social factors compared to the riskiness of other *exposures and the possible additional and more comprehensive revisions to the framework that should be considered, taking into consideration the developments agreed at international level by the BCBS;*
- (d) the potential short, medium and long-term effects of *an adjusted* dedicated prudential treatment of exposures related to assets and activities subject to the impact of environmental or social factors on financial stability and bank lending in the Union ;

(e) *the targeted enhancements that could be considered within the current prudential framework.*

2. EBA shall submit *successive reports* on its findings to the European Parliament, to the Council and to the Commission by *the following dates*:

(a) *... [date of entry into force of this amending Regulation] for the assessments required under paragraph 1, point (e);*

(b) *31 December 2024 for the assessments required under paragraph 1, points (a) and (b);*

(c) *31 December 2025 for the assessments required under paragraph 1, points (c) and (d).*

On the basis of those EBA reports, the Commission shall, where appropriate, submit to the European Parliament and to the Council a legislative proposal by 31 December 2026.’;

(249) the following article is inserted:

‘Article 501d

Transitional provisions on the prudential treatment of crypto-assets

1. ***By 30 June 2025, the Commission shall, where appropriate, submit a legislative proposal to the European Parliament and to the Council to introduce a dedicated prudential treatment for crypto-asset exposures, taking into account the international standards and Regulation (EU) 2023/1114. That legislative proposal shall include the following:***
 - (a) ***criteria for assigning crypto-assets to different crypto-asset categories based on their risk characteristics and compliance with specific conditions;***
 - (b) ***specific own funds requirements for all risks entailed by different crypto-assets;***
 - (c) ***an aggregate limit for exposures to specific types of crypto-assets;***
 - (d) ***specific leverage ratio requirements for crypto-asset exposures;***
 - (e) ***specific supervisory powers as regards crypto-asset exposure assignment, monitoring and calculation of the own funds requirements;***
 - (f) ***specific liquidity requirements for crypto-asset exposures;***
 - (g) ***disclosure and reporting requirements.***

2. *Until the date of application of the legislative act referred to in paragraph 1, institutions shall calculate their own funds requirements for crypto-asset exposures as follows:*

- (a) crypto-asset exposures to tokenised traditional assets shall be treated as exposures to the traditional assets that they represent;*
- (b) exposures to asset-referenced tokens whose issuers comply with Regulation (EU) 2023/1114 and that reference one or more traditional assets shall be assigned a risk weight of 250 %;*
- (c) crypto-asset exposures other than those referred to in points (a) and (b) shall be assigned a risk weight of 1 250 %.*

By way of derogation from the first subparagraph, point (a), crypto-asset exposures to tokenised traditional assets whose values depend on any other crypto-assets shall be assigned to point (c).

3. *The value of an institution's total exposure to crypto-assets other than those referred to in paragraph 1, points (a) and (b), shall not exceed 1 % of the institution's Tier 1 capital.*
4. *An institution that exceeds the limit set out in paragraph 3 shall immediately notify the competent authority of the breach and shall demonstrate to the satisfaction of the competent authority a timely return to compliance.*
5. *EBA shall develop draft regulatory technical standards to specify the technical elements necessary for institutions to calculate their own funds requirements in accordance with the approaches set out in paragraph 2, points (b) and (c), including how to calculate the value of the exposures and how to aggregate short and long exposures for the purposes of paragraphs 2 and 3.*

In developing those draft regulatory technical standards, EBA shall take into consideration the related internationally agreed standards developed by the BCBS as well as existing authorisations in the Union under Regulation (EU) 2023/1114.

EBA shall submit those draft regulatory technical standards to the Commission by ... [12 months from the date of entry into force of this amending Regulation].

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.

6. *For the calculation of their own funds requirements for crypto-asset exposures, institutions shall not apply the deduction referred to in Article 36(1), point (b).’;*

(250) Articles 505 and 506 are replaced by the following:

■ Article 505

Review of agricultural financing

1. By 31 December 2030, EBA shall *prepare a report on the impact of the requirements of this Regulation on agricultural financing, including on:*

- (a) *the appropriateness of a dedicated risk weight for own funds requirements for credit risk calculated in accordance with Part Three, Title II, for exposures to an agricultural enterprise;*
- (b) *where applicable, prudentially justified criteria for the application of such a dedicated risk weight, including farming practices, as well as the inclusion of exposures in the corporates, retail or secured by mortgages on immovable property exposure classes;*
- (c) *the alignment with the “farm to fork” strategy set out in the communication of the Commission of 20 May 2020 entitled “A Farm to Fork Strategy for a fair, healthy and environmentally-friendly food system” and the respective environmental impact within the meaning of Regulation (EU) 2020/852, in particular with the indicators as collected in the Union’s Farm Accountancy Data Network, showing contribution scores with regard to:*

- (i) *net greenhouse gas emissions per hectare;*
- (ii) *pesticides and fertilisers usage per hectare;*
- (iii) *soil's minerals efficiency ratios, including carbon, ammonia, phosphate and nitrogen per hectare;*
- (iv) *water use efficiency;*
- (v) *a confirmation of positive impact on the indicators referred to in points (i) to (iv) of this point with an organic production logo of the European Union referred to in Regulation of the European Parliament and of the Council (EU) 2018/848*.*

2. Taking into account the EBA report referred to in paragraph 1, the Commission shall submit the report to the European Parliament and to the Council. Where appropriate, that report shall be accompanied by a legislative proposal to amend this Regulation in order to mitigate its negative effects on agricultural financing.

3. EBA shall also prepare an intermediate report on the impact of the requirements of this Regulation on agricultural financing by 31 December 2027.

Article 506

Credit risk ■ – credit insurance

By **30 June 2024**, EBA shall, *in close cooperation with EIOPA*, report to the Commission on the eligibility and use of credit insurance policy as a credit risk mitigation technique, *including* on:

- (a) the appropriateness of the associated risk parameters referred to in Part Three, Title II, Chapters 3 and 4;
- (b) *an analysis of the effective and observed riskiness of credit risk exposures where a credit insurance was recognised as a credit risk mitigation technique;*
- (c) *the consistency of own funds requirements laid down in this Regulation with the outcomes of the analysis under points (a) and (b).*

On the *basis of that* report ■, the Commission shall ■, where appropriate, *submit to the European Parliament and to the Council a legislative proposal* to amend the treatment applicable to credit insurance referred to in Part Three, Title II, *by 31 December 2024*. ■

* *Regulation (EU) 2018/848 of the European Parliament and of the Council of 30 May 2018 on organic production and labelling of organic products and repealing Council Regulation (EC) No 834/2007 (OJ L 150, 14.6.2018, p. 1).*’;

(251) the following *articles are* inserted:

‘Article 506c

Credit risk ■ – interaction between Common Equity Tier 1 capital reductions and credit risk parameters

By 31 December 2026, EBA shall report to the Commission on the consistency between the current measurement of credit risk and the individual credit risk parameters and on the treatment of any adjustments for the purpose of the computation of the IRB shortfall or IRB excess as referred to in Article 159, and on its consistency with the determination of the exposure value in accordance with Article 166 and with the estimation of LGD.

That report shall consider the maximum possible economic loss arising from a default event along with its achieved coverage in terms of Common Equity Tier 1 capital reductions, taking into account any accounting-based Common Equity Tier 1 capital reductions, including from expected credit losses or fair value adjustments, and any discounts on received exposures, and their implications for regulatory deductions. ■

Article 506d

Prudential treatment of securitisation

1. By 31 December 2026, EBA, in close collaboration with ESMA, shall report to the Commission on the prudential treatment of securitisation transactions, differentiating between different types of securitisations, including synthetic securitisations, between originators and investors, and between STS and non-STS transactions.

2. In particular, EBA shall monitor the use of the transitional arrangement referred to in Article 465(13) and assess the extent to which the application of the output floor to securitisation exposures would affect the capital reduction obtained by originator institutions in transactions for which a significant risk transfer has been recognised, would excessively reduce the risk sensitivity and would affect the economic viability of new securitisation transactions. In such cases of a reduction of risk sensitivities, EBA may consider proposing a downward recalibration of the non-neutrality factors for transactions for which a significant risk transfer has been recognised. EBA shall also assess the appropriateness of the non-neutrality factors under both the SEC-SA and the SEC-IRBA, taking into account the historic credit performance of securitisation transactions in the Union and the reduced model and agency risks of the securitisation framework.

3. On the basis of the report referred to in paragraph 1 and taking into account related internationally agreed standards developed by the BCBS the Commission shall, where appropriate, submit to the European Parliament and to the Council a legislative proposal by 31 December 2027.

Article 506e

Recognition of capped or floored unfunded credit protection

1. *By ... [24 months from the date of entry into force of this amending Regulation], EBA shall submit a report to the Commission on the following:*
 - (a) *the conditions that guarantees featuring caps or floors determined at the level of a portfolio of exposures (“portfolio guarantees”) need to meet to qualify as a securitisation;*
 - (b) *the regulatory treatment applicable under Part Three, Title II, Chapter 4, to portfolio guarantees where those do not qualify as a securitisation;*
 - (c) *the application of the requirements set out in Part Three, Title II, Chapter 5, of this Regulation and in Chapter 2 of Regulation (EU) 2017/2402 for portfolio guarantees where those guarantees qualify as a securitisation;*
 - (d) *the application of Article 234 for single guarantees that lead to tranching.*

2. *In the report referred to in paragraph 1, EBA shall assess in particular the following:*
- (a) in relation to paragraph 1, point (a), the conditions under which portfolio guarantees give rise to a tranching transfer of risk;*
 - (b) in relation to paragraph 1, point (b):*
 - (i) the relevant eligibility criteria of portfolio guarantees under Part Three, Title II, Chapter 4;*
 - (ii) the application of the requirements set out in Part Three, Title II, Chapter 4;*
 - (c) in relation to paragraph 1, point (d), the application of the requirements set out in Chapter 2 of Regulation (EU) 2017/2402 and in Part Three, Title II, Chapter 5, of this Regulation.*

On the basis of that report, the Commission shall, where appropriate, submit to the European Parliament and to the Council a legislative proposal by 31 December 2027.

Article 506f

Prudential treatment of securities financing transactions

By ... [24 months from the date of entry into force of this amending Regulation], EBA shall report to the Commission on the impact of the new framework for securities financing transactions in terms of own funds requirements attributed to the corresponding securities financing transactions which are by nature very short-term activities, with a particular focus on its possible impact on sovereign debt markets in terms of market making capacity and cost.

EBA shall assess whether a recalibration of the associated risk weights in the standardised approach is appropriate, given the associated risks with respect to short-term maturities, specifically for residual maturities below one year.

On the basis of that report, the Commission shall, where appropriate, submit to the European Parliament and to the Council a legislative proposal by 31 December 2027.’;

(252) in Article 514, the following paragraph is added:

‘2. On the basis of the EBA report referred to in paragraph 1 and taking due account of the implementation in third countries of the internationally agreed standards developed by the BCBS, the Commission shall, where appropriate, submit a legislative proposal to the European Parliament and to the Council to amend the approaches set out in Part Three, Title II, Chapter 6, Sections 3, 4 and 5.’;

(253) the following article is inserted:

‘Article 518c

Review of the framework for prudential requirements

By 31 December 2028, the Commission shall assess the overall situation of the banking system in the single market, in close cooperation with EBA and the ECB, and report to the European Parliament and to the Council on the appropriateness of the Union regulatory and supervisory frameworks for banking.

That report shall take stock of the reforms to the banking sector which took place after the great financial crisis and assess whether these ensure an adequate level of depositor protection and safeguard financial stability at Member State, banking union and Union level.

That report shall also consider all banking union dimensions, as well as the implementation of the output floor as part of capital and liquidity requirements more generally. In that regard, the Commission shall duly consider the corresponding statements and conclusions on the banking union of both the European Parliament and the European Council.’;

(254) the following *articles* are inserted:

‘Article 519*d*

Minimum haircut floor framework for *securities financing transactions*

1. EBA, in close cooperation with ESMA, shall, by ... [**■** 30 months from the date of entry into force of this *amending* Regulation], report to the Commission on the appropriateness of implementing in Union law the minimum haircut floor framework for *securities financing transactions* to address the potential build-up of leverage outside the banking sector.

2. The report referred to in paragraph 1 shall consider all of the following:

- (a) the degree of leverage outside the banking system in the Union and the extent to which the minimum haircut floor framework could reduce that leverage if it became excessive;
- (b) the materiality of the *securities financing transactions* held by **■** institutions *in the Union* that are subject to the minimum haircut floor framework, including the breakdown of those *securities financing transactions* which do not comply with the minimum haircut floors;

- (c) the estimated impact of the minimum haircut floor framework for ■ institutions *in the Union* under the two implementation approaches recommended by the Financial Stability Board, namely a market regulation or more punitive own funds requirement under this Regulation, under a scenario in which ■ institutions *in the Union* would not adjust haircuts to their *securities financing transactions* to comply with minimum haircut floors, and the estimated impact of the minimum haircut floor framework under an alternative scenario in which institutions in the Union would adjust those haircuts to comply with minimum haircut floors;
- (d) the main drivers behind those estimated impacts, as well as the potential unintended consequences of introducing a minimum haircut floor framework on the functioning of the *securities financing transaction* markets *in the Union*;

- (e) the implementation approach that would be most effective in meeting the regulatory objectives of the minimum haircut floor framework in light of the considerations referred to in points (a) to (d) and taking into account the level playing field across the financial sector in the Union.

3. On the basis of the report referred to in paragraph 1 and taking due account of the Financial Stability Board recommendation to implement the minimum haircut floor framework for *securities financing transactions*, as well as the related internationally agreed standards developed by the BCBS, the Commission shall, where appropriate, submit to the European Parliament and to the Council a legislative proposal by ... [■ 42 months from the date of entry into force of this amending Regulation].

Article 519 **■** *e*

Operational risk

By ... [**42** months from the date of entry into force of this amending Regulation], EBA shall report to the Commission on the following:

- (a) the use of insurance in the context of the calculation of the own funds requirement for operational risk;
- (b) whether the recognition of insurance recoveries might lead to regulatory arbitrage by reducing the annual operational risk loss without a commensurate reduction in the actual operational loss exposure;
- (c) whether the recognition of insurance recoveries has a different impact on the appropriate coverage of recurring losses and of potential tail losses;
- (d) *the availability and quality of data used by institutions when calculating their own funds requirement for operational risk.*

On the basis of that report, the Commission shall, where appropriate, submit to the European Parliament and to the Council a legislative proposal by ... [**54** months from the date of entry into force of this amending Regulation]. **■** ;

Article 519f

Proportionality

EBA shall prepare a report assessing the overall prudential framework for small and non-complex institutions, in particular:

- (a) assessing those requirements also in relation to banking groups and specific business models;*
- (b) taking into account the relevance of small and non-complex institutions at institution level and by region for maintaining financial stability and credit provision in local communities.*

In considering options for changes in the prudential framework, EBA shall base itself on the overarching principle that any simplified requirements are to be more conservative.

EBA shall submit that report to the Commission by 31 December 2027.’;

(255) Annex I is replaced by the text set out in the Annex to this Regulation.

Article 2

Entry into force and application

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2025.

However, the following points of *Article 1* of this Regulation shall apply from ... [date of entry into force of this *amending* Regulation]:

point (1)(a)(iv); point (1)(b); *points (2), (3) and (4); point (6)(f); point (8)(c); point (11) concerning Article 34(4) of Regulation (EU) No 575/2013; point (30)(d); point (34) concerning Article 104(9) of Regulation (EU) No 575/2013; point (35)(a); point 37 concerning Article 104c(4) of Regulation (EU) No 575/2013; point (42) concerning Article 111(8) of Regulation (EU) No 575/2013; point (52) concerning Article 122a(4) of Regulation (EU) No 575/2013; point (53) concerning Article 123(1), third subparagraph, of Regulation (EU) No 575/2013; point (55) concerning Article 124(11), (12) and (14) of Regulation (EU) No 575/2013; point (56) concerning Article 126a(3) of Regulation (EU) No 575/2013; points (57) and (65); point (70)(c) concerning Article 143(5) of Regulation (EU) No 575/2013; point (71)(b); point (72)(i); point 75(d); point (78)(e); point (81); point (98)(b); point (102)(d); point (104)(c); point (105)(c); point (106)(e); point (135)(c); point (152)(b)(ii); point (155) concerning Article 314(9) and (10), Article 315(3), Article 316(3), Article 317(9) and (10), Article 320(3), Article 321(2) and Article 323(2) of Regulation (EU) No 575/2013; point (156)(b); point (159)(c) concerning Article 325c(8) of Regulation (EU) No 575/2013; point (160)(c) concerning Article 325j(7) of Regulation (EU) No 575/2013; point (164)(b); point (178)(e); point (180); point (182)(d); point (183)(c); point (184)(b)(iii); point (198)(c); point (201) concerning Article 383a(4) and (5) of Regulation (EU) No 575/2013; point (204); point (205)(b)(i); points (214)(a) and (c); points (222) and (223); point (229) concerning Article 449a(3) of Regulation (EU) No 575/2013; points (232), (235), (236) and (238); point (239)(a); point (242) concerning Article 495b(2) and (4) and Article 495c(2) of Regulation (EU) No 575/2013; points (243), (244), (248) and (249); point (250) concerning Article 506 of Regulation*

(EU) No 575/2013; point (251) concerning Articles 506e and 506f of Regulation (EU) No 575/2013; points (252), (253) and (254).

This Regulation shall be binding in its entirety and directly applicable in *all* Member States ■ .

Done at ...,

For the European Parliament

The President

For the Council

The President

ANNEX

‘ANNEX I

Classification of off-balance-sheet items

Bucket	Items
1	<p><i>(a) Credit derivatives and general guarantees of indebtedness, including standby letters of credit serving as financial guarantees for loans and securities, and acceptances, including endorsements with the character of acceptances, as well as any other direct credit substitutes;</i></p> <p><i>(b) Sale and repurchase agreements and asset sales with recourse where the credit risk remains with the institution;</i></p> <p><i>(c) Securities lent by the institution or securities posted by the institution as collateral, including instances where those arise out of repo-style transactions;</i></p> <p><i>(d) Forward asset purchases, forward deposits and partly paid shares and securities, which represent commitments with certain drawdown;</i></p> <p><i>(e) Off-balance-sheet items constituting a credit substitute where not explicitly included in any other category;</i></p> <p><i>(f) Other off-balance-sheet items carrying similar risk and as communicated to EBA.</i></p>
2	<p><i>(a) Note issuance facilities (NIFs) and revolving underwriting facilities (RUFs) regardless of the maturity of the underlying facility;</i></p> <p><i>(b) Performance bonds, bid bonds, warranties and standby letters of credit related to particular transactions and similar transaction-related contingent items, excluding trade finance off-balance-sheet items referred to in bucket 4;</i></p> <p><i>(c) Other off-balance-sheet items carrying similar risk, as communicated to EBA.</i></p>

3	<p><i>(a) The undrawn amount of commitments, regardless of the maturity of the underlying facility, unless they fall under another category;</i></p> <p><i>(b) Other off-balance-sheet items carrying similar risk, as communicated to EBA.</i></p>
4	<p><i>(a) Trade finance off-balance-sheet items:</i></p> <p><i>(i) warranties, including tender and performance bonds and associated advance payment and retention guarantees, and guarantees not having the character of credit substitutes;</i></p> <p><i>(ii) irrevocable standby letters of credit not having the character of credit substitutes;</i></p> <p><i>(iii) short-term, self-liquidating trade letters of credit arising from the movement of goods, in particular documentary credits collateralised by the underlying shipment, in case of an issuing institution or a confirming institution;</i></p> <p><i>(b) Other off-balance-sheet items carrying similar risk, as communicated to EBA.</i></p>
5	<p><i>(a) The undrawn amount of unconditionally cancellable commitments;</i></p> <p><i>(b) The undrawn amount of retail credit lines for which the terms permit the institution to cancel them to the full extent allowable under consumer protection and related legal acts;</i></p> <p><i>(c) Undrawn credit facilities for tender and performance guarantees which may be cancelled unconditionally at any time without prior notice, or that do effectively provide for automatic cancellation due to deterioration in a borrower's creditworthiness;</i></p> <p><i>(d) Other off-balance-sheet items carrying similar risk, as communicated to EBA.'.</i></p>

Statement by the Commission with respect to Article 1, point (253), of Regulation (EU) 2024/...⁺ of the European Parliament and of the Council concerning Article 518c of Regulation (EU) No 575/2013

The Commission undertakes to carry out a fair and balanced assessment of the state of the Single Market for banking, taking into consideration in particular prudential requirements, including the level of application of the output floor and the provisions on the waiver of capital and liquidity requirements. It will carry out this mandate based on inputs from the European Banking Authority and from the European Central Bank/Single Supervisory Mechanism, and will consult with interested parties to ensure that the various perspectives are appropriately considered. The Commission will, where appropriate, present a legislative proposal based on the report.

⁺ OJ: Please insert in the text the number of the Regulation contained in document PE-CONS 80/23 (2021/0342(COD)).