

Directive 2000/12/EC of the European Parliament and of the Council of 20 March 2000 relating to the taking up and pursuit of the business of credit institutions

TITLE V

**PRINCIPLES AND TECHNICAL INSTRUMENTS
FOR PRUDENTIAL SUPERVISION**

CHAPTER 2

TECHNICAL INSTRUMENTS OF PRUDENTIAL SUPERVISION

Section 2

Solvency ratio

Article 43

Risk weightings

1 The following weightings shall be applied to the various categories of asset items, although the competent authorities may fix higher weightings as they see fit:

a Zero weighting

- (1) cash in hand and equivalent items;
- (2) asset items constituting claims on Zone A central governments and central banks;
- (3) asset items constituting claims on the European Communities;
- (4) asset items constituting claims carrying the explicit guarantees of Zone A central governments and central banks or of the European Communities;
- (5) asset items constituting claims on Zone B central governments and central banks denominated and funded in the national currencies of the borrowers;
- (6) asset items constituting claims carrying the explicit guarantees of Zone B central governments and central banks denominated and funded in the national currency common to the guarantor and the borrower;
- (7) asset items secured to the satisfaction of the competent authorities, by collateral in the form of Zone A central government or central bank securities or securities issued by the European Communities or by cash deposits placed with the lending institution or by certificates of deposit or similar instruments issued by and lodged with the latter;

b 20 % weighting

- (1) asset items constituting claims on the EIB;

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- (2) asset items constituting claims on multilateral development banks;
 - (3) asset items constituting claims carrying the explicit guarantee of the EIB;
 - (4) asset items constituting claims carrying the explicit guarantees of multilateral development banks;
 - (5) asset items constituting claims on Zone A regional governments or local authorities, subject to Article 44;
 - (6) asset items constituting claims carrying the explicit guarantees of Zone A regional governments or local authorities, subject to Article 44;
 - (7) asset items constituting claims on Zone A credit institutions but not constituting such institutions' own funds;
 - (8) asset items constituting claims with a maturity of one year or less, on Zone B credit institutions, other than securities issued by such institutions which are recognised as components of their own funds;
 - (9) asset items carrying the explicit guarantees of Zone A credit institutions;
 - (10) asset items constituting claims with a maturity of one year or less carrying the explicit guarantees of Zone B credit institutions;
 - (11) asset items secured, to the satisfaction of the competent authorities, by collateral in the form of securities issued by the EIB or by multilateral development banks;
 - (12) cash items in the process of collection;
- c 50 % weighting
- (1) loans fully and completely secured, to the satisfaction of the competent authorities, by mortgages on residential property which is or will be occupied or let by the borrower, and loans fully and completely secured, to the satisfaction of the competent authorities, by shares in Finnish residential housing companies, operating in accordance with the Finnish Housing Company Act of 1991 or subsequent equivalent legislation, in respect of residential property which is or will be occupied or let by the borrower;
- ‘mortgage-backed securities’ which may be treated as loans referred to in the first subparagraph or in Article 62(1), if the competent authorities consider, having regard to the legal framework in force in each Member State, that they are equivalent in the light of the credit risk. Without prejudice to the types of securities which may be included in and are capable of fulfilling the conditions in this point 1, ‘mortgage-backed securities’ may include instruments within the meaning of Section B(1)(a) and (b) of the Annex to Council Directive 93/22/EEC⁽¹⁾. The competent authorities must in particular be satisfied that:
- (i) such securities are fully and directly backed by a pool of mortgages which are of the same nature as those defined in the first subparagraph or in Article 62(1) and are fully performing when the mortgage-backed securities are created;
 - (ii) an acceptable high-priority charge on the underlying mortgage-asset items is held either directly by investors in mortgage-backed

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securities or on their behalf by a trustee or mandated representative in the same proportion to the securities which they hold;

- (2) prepayments and accrued income: these assets shall be subject to the weighting corresponding to the counterparty where a credit institution is able to determine it in accordance with Directive 86/635/EEC. Otherwise, where it is unable to determine the counterparty, it shall apply a flat-rate weighting of 50 %;
- d 100 % weighting
- (1) asset items constituting claims on Zone B central governments and central banks except where denominated and funded in the national currency of the borrower;
 - (2) asset items constituting claims on Zone B regional governments or local authorities;
 - (3) asset items constituting claims with a maturity of more than one year on Zone B credit institutions;
 - (4) asset items constituting claims on the Zone A and Zone B non-bank sectors;
 - (5) tangible 'Assets' within the meaning of Article 4(10) of Directive 86/635/EEC;
 - (6) holdings of shares, participation and other components of the own funds of other credit institutions which are not deducted from the own funds of the lending institutions;
 - (7) all other assets except where deducted from own funds.

2 The following treatment shall apply to off-balance-sheet items other than those covered in paragraph 3. They shall first be grouped according to the risk groupings set out in Annex II. The full value of the full-risk items shall be taken into account, 50 % of the value of the medium-risk items and 20 % of the medium/low-risk items, while the value of low-risk items shall be set at zero. The second stage shall be to multiply the off-balance-sheet values, adjusted as described above, by the weightings attributable to the relevant counterparties in accordance with the treatment of asset items prescribed in paragraph 1 and Article 44. In the case of asset sale and repurchase agreements and outright forward purchases, the weightings shall be those attaching to the assets in question and not to the counterparties to the transactions. The portion of unpaid capital subscribed to the European Investment Fund may be weighted at 20 %.

3 The methods set out in Annex III shall be applied to the off-balance-sheet items listed in Annex IV except for:

- contracts traded on recognised exchanges,
- foreign-exchange contracts (except contracts concerning gold) with an original maturity of 14 calendar days or less.

Until 31 December 2006, the competent authorities of Member States may exempt from the application of the methods set out in Annex III over-the-counter (OTC) contracts cleared by a clearing house where the latter acts as the legal counterparty and all participants fully collateralise on a daily basis the exposure they present to the clearing house, thereby providing a protection covering both the current exposure and the potential future exposure. The competent authorities must be satisfied that the posted collateral gives the same level of protection as collateral which complies with paragraph 1(a)(7) and that the risk of a build-up of the clearing house's exposures beyond

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the market value of posted collateral is eliminated. Member States shall inform the Commission of the use they make of this option.

4 Where off-balance-sheet items carry explicit guarantees, they shall be weighted as if they had been incurred on behalf of the guarantor rather than the counterparty. Where the potential exposure arising from off-balance-sheet transactions is fully and completely secured, to the satisfaction of the competent authorities, by any of the asset items recognised as collateral in paragraph 1(a)(7) and (b)(11), weightings of 0 % or 20 % shall apply depending on the collateral in question.

The Member States may apply a 50 % weighting to off-balance-sheet items which are sureties or guarantees having the character of credit substitutes and which are fully guaranteed, to the satisfaction of the competent authorities, by mortgages meeting the conditions set out in paragraph 1(c)(1), subject to the guarantor having a direct right to such collateral.

5 Where asset and off-balance-sheet items are given a lower weighting because of the existence of explicit guarantees or collateral acceptable to the competent authorities, the lower weighting shall apply only to that part which is guaranteed or which is fully covered by the collateral.

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- (1) Council Directive 93/22/EEC of 10 May 1993 on investment services in the securities field (OJ L 141, 11.6.1993, p. 27). Directive as last amended by Directive 97/9/EC (OJ L 84, 26.3.1997, p. 22).