

Directive 2006/48/EC of the European Parliament and of the Council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions (recast) (Text with EEA relevance) (repealed)

TITLE VII

**TRANSITIONAL AND FINAL PROVISIONS**

CHAPTER 1

**Transitional provisions**

*Article 152*

1 Credit institutions calculating risk-weighted exposure amounts in accordance with Articles 84 to 89 shall during the first, second and third twelve-month periods after 31 December 2006 provide own funds which are at all times more than or equal to the amounts indicated in paragraphs 3, 4 and 5.

2 Credit institutions using the Advanced Measurement Approaches as specified in Article 105 for the calculation of their capital requirements for operational risk shall, during the second and third twelve-month periods after 31 December 2006, provide own funds which are at all times more than or equal to the amounts indicated in paragraphs 4 and 5.

3 For the first twelve-month period referred to in paragraph 1, the amount of own funds shall be 95 % of the total minimum amount of own funds that would be required to be held during that period by the credit institution under Article 4 of Council Directive 93/6/EEC of 15 March 1993 on the capital adequacy of investment firms and credit institutions<sup>(1)</sup> as that Directive and Directive 2000/12/EC stood prior to 1 January 2007.

4 For the second twelve-month period referred to in paragraph 1, the amount of own funds shall be 90 % of the total minimum amount of own funds that would be required to be held during that period by the credit institution under Article 4 of Directive 93/6/EEC as that Directive and Directive 2000/12/EC stood prior to 1 January 2007.

5 For the third twelve-month period referred to in paragraph 1, the amount of own funds shall be 80 % of the total minimum amount of own funds that would be required to be held during that period by the credit institution under Article 4 of Directive 93/6/EEC as that Directive and Directive 2000/12/EC stood prior to 1 January 2007.

[<sup>F1</sup>5a Credit institutions calculating risk-weighted exposure amounts in accordance with Articles 84 to 89 shall until 31 December 2011 provide own funds which are at all times more than or equal to the amount indicated in paragraph 5c or paragraph 5d if applicable.

5b Credit institutions using the Advanced Measurement Approaches as specified in Article 105 for the calculation of their capital requirements for operational risk shall until 31 December 2011 provide own funds which are at all times more than or equal to the amount indicated in paragraph 5c or 5d if applicable.

5c The amount referred to in paragraphs 5a and 5b shall be 80 % of the total minimum amount of own funds that the credit institutions would be required to hold under Article 4 of Directive 93/6/EEC and Directive 2000/12/EC, as applicable prior to 1 January 2007.

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5d Subject to the approval of the competent authorities, for credit institutions referred to in paragraph 5e, the amount referred to in paragraphs 5a and 5b may amount to up to 80 % of the total minimum amount of own funds that those credit institutions would be required to hold under any of Articles 78 to 83, 103 or 104 and Directive 2006/49/EC, as applicable prior to 1 January 2011.

5e A credit institution may apply paragraph 5d only if it started to use the IRB Approach or the Advanced Measurement Approaches for the calculation of its capital requirements on or after 1 January 2010.]

6 Compliance with the requirements of paragraphs 1 to 5 shall be on the basis of amounts of own funds fully adjusted to reflect differences in the calculation of own funds under Directive 2000/12/EC and Directive 93/6/EEC as those Directives stood prior to 1 January 2007 and the calculation of own funds under this Directive deriving from the separate treatments of expected loss and unexpected loss under Articles 84 to 89 of this Directive.

7 For the purposes of paragraphs 1 to 6 of this Article, Articles 68 to 73 shall apply.

8 Until 1 January 2008 credit institutions may treat the Articles constituting the Standardised Approach set out in Title V, Chapter 2, Section 3, Subsection 1 as being replaced by Articles 42 to 46 of Directive 2000/12/EC as those Articles stood prior to 1 January 2007.

9 Where the discretion referred to in paragraph 8 is exercised, the following shall apply concerning the provisions of Directive 2000/12/EC:

- a the provisions of that Directive referred to in Articles 42 to 46 shall apply as they stood prior to 1 January 2007;
- b 'risk-adjusted value' as referred to in Article 42(1) of that Directive shall mean 'risk-weighted exposure amount';
- c the figures produced by Article 42(2) of that Directive shall be considered risk-weighted exposure amounts;
- d 'credit derivatives' shall be included in the list of 'Full risk' items in Annex II of that Directive; and
- e the treatment set out in Article 43(3) of that Directive shall apply to derivative instruments listed in Annex IV of that Directive whether on- or off-balance sheet and the figures produced by the treatment set out in Annex III shall be considered risk-weighted exposure amounts.

10 Where the discretion referred to in paragraph 8 is exercised, the following shall apply in relation to the treatment of exposures for which the Standardised Approach is used:

- a Title V, Chapter 2, Section 3, Subsection 3 relating to the recognition of credit risk mitigation shall not apply;
- b Title V, Chapter 2, Section 3, Subsection 4 concerning the treatment of securitisation may be disapplied by competent authorities.

11 Where the discretion referred to in paragraph 8 is exercised, the capital requirement for operational risk under Article 75(d) shall be reduced by the percentage representing the ratio of the value of the credit institution's exposures for which risk-weighted exposure amounts are calculated in accordance with the discretion referred to in paragraph 8 to the total value of its exposures.

12 Where a credit institution calculates risk-weighted exposure amounts for all of its exposures in accordance with the discretion referred to in paragraph 8, Articles 48 to 50 of Directive 2000/12/EC relating to large exposures may apply as they stood prior to 1 January 2007.

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13 Where the discretion referred to in paragraph 8 is exercised, references to Articles 78 to 83 of this Directive shall be read as references to Articles 42 to 46 of Directive 2000/12/EC as those Articles stood prior to 1 January 2007.

14 If the discretion referred to in paragraph 8 is exercised, Articles 123, 124, 145 and 149 shall not apply before the date referred to therein.

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**Textual Amendments**

**F1** Inserted by [Directive 2010/76/EU of the European Parliament and of the Council of 24 November 2010 amending Directives 2006/48/EC and 2006/49/EC as regards capital requirements for the trading book and for re-securitisations, and the supervisory review of remuneration policies \(Text with EEA relevance\)](#).

*Article 153*

In the calculation of risk-weighted exposure amounts for exposures arising from property leasing transactions concerning offices or other commercial premises situated in their territory and meeting the criteria set out in Annex VI, Part 1, point 54, the competent authorities may, until 31 December 2012 allow a 50 % risk weight to be assigned without the application of Annex VI, Part 1, points 55 and 56.

Until 31 December 2010, competent authorities may, for the purpose of defining the secured portion of a past due loan for the purposes of Annex VI, recognise collateral other than eligible collateral as set out under Articles 90 to 93.

[<sup>F2</sup>In the calculation of risk weighted exposure amounts for the purposes of Annex VI, Part 1, point 4, until 31 December 2015 the same risk weight shall be assigned in relation to exposures to Member States' central governments or central banks denominated and funded in the domestic currency of any Member State as would be applied to such exposures denominated and funded in their domestic currency.]

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**Textual Amendments**

**F2** Substituted by [Directive 2009/111/EC of the European Parliament and of the Council of 16 September 2009 amending Directives 2006/48/EC, 2006/49/EC and 2007/64/EC as regards banks affiliated to central institutions, certain own funds items, large exposures, supervisory arrangements, and crisis management \(Text with EEA relevance\)](#).

*Article 154*

1 Until 31 December 2011, the competent authorities of each Member State may, for the purposes of Annex VI, Part 1, point 61, set the number of days past due up to a figure of 180 for exposures indicated in Annex VI, Part 1, points 12 to 17 and 41 to 43, to counterparties situated in their territory, if local conditions make it appropriate. The specific number may differ across product lines.

Competent authorities which do not exercise the discretion provided for in the first subparagraph in relation to exposures to counterparties situated in their territory may set a higher number of days for exposures to counterparties situated in the territories of other Member States, the competent authorities of which have exercised that discretion. The specific number shall fall within 90 days and such figures as the other competent authorities have set for exposures to such counterparties within their territory.

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2 For credit institutions applying for the use of the IRB Approach before 2010, subject to the approval of the competent authorities, the three-years' use requirement prescribed in Article 84(3) may be reduced to a period no shorter than one year until 31 December 2009.

3 For credit institutions applying for the use of own estimates of LGDs and/or conversion factors, the three year use requirement prescribed in Article 84(4) may be reduced to two years until 31 December 2008.

4 Until 31 December 2012, the competent authorities of each Member State may allow credit institutions to continue to apply to participations of the type set out in Article 57(o) acquired before 20 July 2006 the treatment set out in Article 38 of Directive 2000/12/EC as that article stood prior to 1 January 2007.

[<sup>F35</sup> Until 31 December 2012, the exposure weighted average LGD for all retail exposures secured by residential properties and not benefiting from guarantees from central governments shall not be lower than 10 %.]

6 Until 31 December 2017, the competent authorities of the Member States may exempt from the IRB treatment certain equity exposures held by credit institutions and EU subsidiaries of credit institutions in that Member State at 31 December 2007.

The exempted position shall be measured as the number of shares as of 31 December 2007 and any additional share arising directly as a result of owning those holdings, as long as they do not increase the proportional share of ownership in a portfolio company.

If an acquisition increases the proportional share of ownership in a specific holding the exceeding Part of the holding shall not be subject to the exemption. Nor shall the exemption apply to holdings that were originally subject to the exemption, but have been sold and then bought back.

Equity exposures covered by this transitional provision shall be subject to the capital requirements calculated in accordance with Title V, Chapter 2, Section 3, Subsection 1.

7 Until 31 December 2011, for corporate exposures, the competent authorities of each Member State may set the number of days past due that all credit institutions in its jurisdiction shall abide by under the definition of 'default' set out in Annex VII, Part 4, point 44 for exposures to such counterparts situated within this Member State. The specific number shall fall within 90- up to a figure of 180 days if local conditions make it appropriate. For exposures to such counterparts situated in the territories of other Member States, the competent authorities shall set a number of days past due which is not higher than the number set by the competent authority of the respective Member State.

[<sup>F48</sup> Credit institutions which do not comply by 31 December 2010 with the limits set out in Article 66(1a) shall develop strategies and processes on the necessary measures to resolve this situation before the dates set out in paragraph 9 of this Article.

Those measures shall be reviewed under Article 124.

9 Instruments that by 31 December 2010, according to national law were deemed equivalent to the items referred to in points (a), (b) and (c) of Article 57 but do not fall within Article 57(a) or do not comply with the criteria set out in Article 63a, shall be deemed to fall within Article 57(ca) until 31 December 2040, subject to the following limitations:

- a up to 20 % of the sum of Article 57(a) to (ca), less the sum of points (i), (j) and (k) of Article 57 between 10 and 20 years after 31 December 2010;
- b up to 10 % of the sum of Article 57(a) to (ca), less the sum of points (i), (j) and (k) of Article 57 between 20 and 30 years after 31 December 2010.

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The Committee of European Banking Supervisors shall monitor, until 31 December 2010, the issuance of those instruments.

10 For the purpose of Section 5, assets items constituting claims on and other exposures to institutions incurred prior to 31 December 2009 shall continue to be subject to the same treatment as applied in accordance with Article 115(2) and Article 116 as they stood prior to 7 December 2009, however not longer than until 31 December 2012.

11 Until 31 December 2012, the time period referred to in Article 129(3) shall be six months.]

#### **Textual Amendments**

- F3** Substituted by [Directive 2010/76/EU of the European Parliament and of the Council of 24 November 2010 amending Directives 2006/48/EC and 2006/49/EC as regards capital requirements for the trading book and for re-securitisations, and the supervisory review of remuneration policies \(Text with EEA relevance\)](#).
- F4** Inserted by [Directive 2009/111/EC of the European Parliament and of the Council of 16 September 2009 amending Directives 2006/48/EC, 2006/49/EC and 2007/64/EC as regards banks affiliated to central institutions, certain own funds items, large exposures, supervisory arrangements, and crisis management \(Text with EEA relevance\)](#).

#### *Article 155*

Until 31 December 2012, for credit institutions the relevant indicator for the trading and sales business line of which represents at least 50 % of the total of the relevant indicators for all of its business lines accordance with Annex X, Part 2, points 1 to 4, Member States may apply a percentage of 15 % to the business line ‘trading and sales’.

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- (1) [OJ L 141, 11.6.1993, p. 1](#). Directive as last amended by Directive 2005/1/EC.