# Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (Text with EEA relevance)

[X1PART TEN

## TRANSITIONAL PROVISIONS, REPORTS, REVIEWS AND AMENDMENTS

TITLE I

## TRANSITIONAL PROVISIONS

CHAPTER 1

### Own funds requirements, unrealised gains and losses measured at fair value and deductions

Section 1

### Own funds requirements

*Article 465*

#### Own funds requirements

1 By way of derogation from points (a) and (b) of Article 92(1) the following own funds requirements shall apply during the period from 1 January 2014 to 31 December 2014:

a a Common Equity Tier 1 capital ratio of a level that falls within a range of 4 % to 4,5 %;

b a Tier 1 capital ratio of a level that falls within a range of 5,5 % to 6 %.

2 Competent authorities shall determine and publish the levels of the Common Equity Tier 1 and Tier 1 capital ratios in the ranges specified in paragraph 1 that institutions shall meet or exceed.

*Article 466*

#### First time application of International Financial Reporting Standards

By way of derogation from Article 24(2), competent authorities shall grant institutions which are required to effect the valuation of assets and off-balance sheet items and the determination of own funds in accordance with the international accounting standards as applicable under Regulation (EC) No 1606/2002 for the first time a lead time of 24 months for the implementation of the necessary internal processes and technical requirements.

## Section 2

## Unrealised gains and losses measured at fair value

### *Article 467*

### Unrealised losses measured at fair value

1 By way of derogation from Article 35, during the period from 1 January 2014 to 31 December 2017 institutions shall include in the calculation of their Common Equity Tier 1 items only the applicable percentage of unrealised losses related to assets or liabilities measured at fair value, and reported on the balance sheet, excluding those referred to in Article 33 and all other unrealised losses reported as part of the profit and loss account.

2 The applicable percentage for the purposes of paragraph 1 shall fall within following ranges:

a 20 % to 100 % during the period from 1 January 2014 to 31 December 2014;

b 40 % to 100 % during the period from 1 January 2015 to 31 December 2015;

c 60 % to 100 % during the period from 1 January 2016 to 31 December 2016; and

d 80 % to 100 % for the period from 1 January 2017 to 31 December 2017.

By way of derogation from paragraph 1, the competent authorities may, in cases where such treatment was applied before 1 January 2014, allow institutions not to include in any element of own funds unrealised gains or losses on exposures to central governments classified in the 'Available for Sale' category of EU-endorsed IAS 39.

The treatment set out in the second subparagraph shall be applied until the Commission has adopted a regulation on the basis of Regulation (EC) No 1606/2002 endorsing the International Financial Reporting Standard replacing IAS 39.

3 Competent authorities shall determine and publish the applicable percentage in the ranges specified in points (a) to (d) of paragraph 2;

### *Article 468*

### Unrealised gains measured at fair value

1 By way of derogation from Article 35, during the period from 1 January 2014 to 31 December 2017, institutions shall remove from their Common Equity Tier 1 items the applicable percentage of unrealised gains related to assets or liabilities measured at fair value and reported on the balance sheet, excluding those referred to in Article 33 and all other unrealised gains with the exception of those related to investment properties reported as part of the profit and loss account. The resulting residual amount shall not be removed from Common Equity Tier 1 items.

2 For the purposes of paragraph 1, the applicable percentage shall be 100 % during the period from 1 January 2014 to 31 December 2014, and shall, after that date, fall within the following ranges:

a 60 % to 100 % during the period from 1 January 2015 to 31 December 2015;

b 40 % to 100 % during the period from 1 January 2016 to 31 December 2016;

c 20 % to 100 % for the period from 1 January 2017 to 31 December 2017.

From 1 January 2015, where under Article 467 a competent authority requires institutions to include in the calculation of Common Equity Tier 1 capital 100 % of their unrealised losses measured at fair value, that competent authority may also permit institutions to include in that calculation 100 % of their unrealised gains at fair value.

From 1 January 2015, where under Article 467 a competent authority requires institutions to include a percentage of unrealised losses measured at fair value in the calculation of Common Equity Tier 1 capital, that competent authority shall not set an applicable percentage of unrealised gains under paragraph 2 of this Article which results in a percentage of unrealised gains that is included in the calculation of Common Equity Tier 1 capital that exceeds the applicable percentage of unrealised losses set in accordance with Article 467.

3 Competent authorities shall determine and publish the applicable percentage of unrealised gains in the ranges specified in points (a) to (c) of paragraph 2 that is removed from Common Equity Tier 1 capital.

4 By way of derogation from Article 33(1)(c), during the period from 1 January 2013 to 31 December 2017, institutions shall not include in their own funds the applicable percentage, as specified in Article 478, of the fair value gains and losses from derivative liabilities arising from changes in the own credit standing of the institution. The percentage applied to fair value losses arising from changes in the own credit standing of the institution shall not exceed the percentage applied to fair value gains arising from changes in the own credit standing of the institution.

## Section 3

## **Deductions**

### Sub-Section 1

### **Deductions from Common Equity Tier 1 items**

#### *Article 469*

#### **Deductions from Common Equity Tier 1 items**

1 By way of derogation from Article 36(1), during the period from 1 January 2014 to 31 December 2017, the following shall apply:

- a institutions shall deduct from Common Equity Tier 1 items the applicable percentage specified in Article 478 of the amounts required to be deducted pursuant to points (a) to (h) of Article 36(1), excluding deferred tax assets that rely on future profitability and arise from temporary differences;
- b institutions shall apply the relevant provisions laid down in Article 472 to the residual amounts of items required to be deducted pursuant to points (a) to (h) of Article 36(1), excluding deferred tax assets that rely on future profitability and arise from temporary differences;
- c institutions shall deduct from Common Equity Tier 1 items the applicable percentage specified in Article 478 of the total amount required to be deducted pursuant to points (c) and (i) of Article 36(1) after applying Article 470;
- d institutions shall apply the requirements laid down in Article 472(5) or (11), as applicable, to the total residual amount of items required to be deducted pursuant to points (c) and (i) of Article 36(1) after applying Article 470.

2 Institutions shall determine the portion of the total residual amount referred to in point (d) of paragraph 1, that is subject to Article 472(5), by dividing the amount specified in point (a) of this paragraph by the amount specified in point (b) of this paragraph:

- a the amount of deferred tax assets that are dependent on future profitability and arise from temporary differences referred to in point (a) of Article 470(2);
- b the sum of the amounts referred to in points (a) and (b) of Article 470(2).

3 Institutions shall determine the portion of the total residual amount referred to point (d) of paragraph 1 that is subject to Article 472(11) by dividing the amount specified in point (a) of this paragraph by the amount specified in point (b) of this paragraph:

- a the amount of direct and indirect holdings of the Common Equity Tier 1 instruments referred to in point (b) of Article 470(2);
- b the sum of the amounts referred to in points (a) and (b) of Article 470(2).

### **[**[F1] *Article 469a*

### **Derogation from deductions from Common Equity Tier 1 items for non-performing exposures**

By way of derogation from point (m) Article 36(1), institutions shall not deduct from Common Equity Tier 1 items the applicable amount of insufficient coverage for non-performing exposures where the exposure was originated prior to 26 April 2019.

Where the terms and conditions of an exposure which was originated prior to 26 April 2019 are modified by the institution in a way that increases the institution's exposure to the obligor, the exposure shall be considered as having been originated on the date when the modification applies and shall cease to be subject to the derogation provided for in the first subparagraph.**]**

**Textual Amendments**

**F1** Inserted by 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 (Text with EEA relevance).

### *Article 470*

### **Exemption from deduction from Common Equity Tier 1 items**

1 For the purposes of this Article, relevant Common Equity Tier 1 items shall comprise the Common Equity Tier 1 items of the institution calculated after applying the provisions of Articles 32 to 35 and making the deductions pursuant to points (a) to (h), (k)(ii) to (v) and (l) of Article 36(1), excluding deferred tax assets that rely on future profitability and arise from temporary differences.

2 By way of derogation from Article 48(1), during the period from 1 January 2014 to 31 December 2017, institutions shall not deduct the items listed in points (a) and (b) of this paragraph which in aggregate are equal to or less than 15 % of relevant Common Equity Tier 1 items of the institution:

a deferred tax assets that are dependent on future profitability and arise from temporary differences and in aggregate are equal to or less than 10 % of relevant Common Equity Tier 1 items;
b where an institution has a significant investment in a financial sector entity, the direct, indirect and synthetic holdings by the institution of the Common Equity Tier 1 instruments of that entity that in aggregate are equal to or less than 10 % of relevant Common Equity Tier 1 items.

3 By way of derogation from Article 48(4), the items exempt from deduction pursuant to paragraph 2 of this Article shall be risk weighted at 250 %. The items referred to in point (b) of paragraph 2 of this Article shall be subject to the requirements of Title IV of Part Three, as applicable.

*Article 471*

**Exemption from Deduction of Equity Holdings in Insurance Companies from Common Equity Tier 1 Items**

**[**[F2]1 By way of derogation from Article 49(1), during the period from 31 December 2018 to 31 December 2024, institutions may choose not to deduct equity holdings in insurance undertakings, reinsurance undertakings and insurance holding companies where the following conditions are met:
a the conditions set out in points (a), and (e) of Article 49(1);
b the competent authorities are satisfied with the level of risk control and financial analysis procedures specifically adopted by the institution in order to supervise the investment in the undertaking or holding company;
c the equity holdings of the institution in the insurance undertaking, reinsurance undertaking or insurance holding company do not exceed 15 % of the Common Equity Tier 1 instruments issued by that insurance entity as at 31 December 2012 and during the period from 1 January 2013 to 31 December 2024;
d the amount of the equity holding which is not deducted does not exceed the amount held in the Common Equity Tier 1 instruments in the insurance undertaking, reinsurance undertaking or insurance holding company as at 31 December 2012.**]**

2 The equity holdings which are not deducted pursuant to paragraph 1 shall qualify as exposures and be risk weighted at 370 %.

**Textual Amendments**
**F2** Substituted by 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 (Text with EEA relevance).

*Article 472*

**Items not deducted from Common Equity Tier 1**

1 By way of derogation from point (c) of Article 33(1) and points (a) to (i) of Article 36(1), during the period from 1 January 2014 to 31 December 2017, institutions shall apply this

Article to the residual amounts of items referred to in Article 468(4) and in points (b) and (d) of Article 469(1), as applicable.

2 The residual amount of the valuation adjustments to derivative liabilities arising from an institution's own credit risk shall not be deducted.

3 Institutions shall apply the following to the residual amount of losses of the current financial year referred to in point (a) of Article 36(1):

a losses that are material are deducted from Tier 1 items;

b losses that are not material are not deducted.

4 Institutions shall deduct the residual amount of the intangible assets referred to in point (b) of Article 36(1) from Tier 1 items.

5 The residual amount of the deferred tax assets referred to in point (c) of Article 36(1) shall not be deducted and shall be subject to a risk weight of 0 %.

6 The residual amount of the items referred to in point (d) of Article 36(1) shall be deducted half from Tier 1 items and half from Tier 2 items.

7 The residual amount of the assets of a defined benefit pension fund referred to in point (e) of Article 36(1) shall not be deducted from any element of own funds and shall be included in Common Equity Tier 1 items to the extent that amount would have been recognised as original own funds in accordance with the national transposition measures for points (a) to (ca) of Article 57 of Directive 2006/48/EC.

8 Institutions shall apply the following to the residual amount of holdings of own Common Equity Tier 1 instruments referred to in point (f) of Article 36(1):

a the amount of direct holdings is deducted from Tier 1 items;

b the amount of indirect and synthetic holdings, including own Common Equity Tier 1 instruments that an institution could be obliged to purchase by virtue of an existing or contingent contractual obligation, is not deducted and is subject to a risk weight in accordance with Chapter 2 or 3 of Title II of Part Three and to the requirements laid down in Title IV of Part Three, as applicable.

9 Institutions shall apply the following to the residual amount of holdings of Common Equity Tier 1 instruments of a financial sector entity where the institution has reciprocal cross holdings with that entity referred to in point (g) of Article 36(1):

a where an institution does not have a significant investment in that financial sector entity, the amount of its holding of the Common Equity Tier 1 instruments of that entity is treated as falling under point (h) of Article 36(1);

b where an institution has a significant investment in that financial sector entity, the amount of its holdings of Common Equity Tier 1 instruments of that entity is treated as falling under point (i) of Article 36(1).

10 Institutions shall apply the following to the residual amounts of items referred to in point (h) of Article 36(1):

a the amounts required to be deducted that relate to direct holdings are deducted half from Tier 1 items and half from Tier 2 items;

b the amounts that relate to indirect and synthetic holdings are not deducted and are subject to a risk weights in accordance with Chapter 2 or 3 of Title II of Part Three and to the requirements laid down in Title IV of Part Three, as applicable.

11 Institutions shall apply the following to the residual amounts of the items referred to in point (i) of Article 36(1):

a the amounts required to be deducted that relate to direct holdings are deducted half from Tier 1 items and half from Tier 2 items;
b the amounts that relate to indirect and synthetic holdings are not deducted and are subject to risk weights in accordance with Chapter 2 or 3 of Title II of Part Three and to the requirements laid down in Title IV of Part Three, as applicable.

*Article 473*

**Introduction of amendments to IAS 19**

1 By way of derogation from Article 481 during the period from 1 January 2014 until 31 December 2018, competent authorities may permit institutions that prepare their accounts in conformity with the international accounting standards adopted in accordance with the procedure laid down in Article 6(2) of Regulation (EC) No 1606/2002 to add to their Common Equity Tier 1 capital the applicable amount in accordance with paragraph 2 or 3 of this Article, as applicable, multiplied by the factor applied in accordance with paragraph 4.

2 The applicable amount shall be calculated by deducting from the sum derived in accordance with point (a) the sum derived in accordance with point (b):
a institutions shall determine the values of the assets of their defined benefit pension funds or plans, as applicable, in accordance with Regulation (EC) No 1126/2008[(1)] as amended by Regulation (EU) No 1205/2011[(2)]. Institutions shall then deduct from the values of these assets the values of the obligations under the same funds or plans determined according to the same accounting rules;
b institutions shall determine the values of the assets of their defined pension funds or plans, as applicable, in accordance with the rules set out in Regulation (EC) No 1126/2008. Institutions shall then deduct from the values of those assets, the values of the obligations under the same funds or plans determined in accordance with the same accounting rules.

3 The amount determined in accordance with paragraph 2 shall be limited to the amount not required to be deducted from own funds, prior to 1 January 2014, under national transposition measures of Directive 2006/48/EC, insofar as those national transposition measures would be eligible for the treatment set out in Article 481 of this Regulation in the Member State concerned.

4 The following factors apply:
a 1 in the period from 1 January 2014 to 31 December 2014;
b 0,8 in the period from 1 January 2015 to 31 December 2015;
c 0,6 in the period from 1 January 2016 to 31 December 2016;
d 0,4 in the period from 1 January 2017 to 31 December 2017;
e 0,2 in the period from 1 January 2018 to 31 December 2018.

5 Institutions shall disclose the values of assets and liabilities in accordance with paragraph 2 in their published financial statements.

### [F3 *Article 473a*

### Introduction of IFRS 9

1 By way of derogation from Article 50 and until the end of the transitional period set out in paragraph 6 of this Article, the following may include in their Common Equity Tier 1 capital the amount calculated in accordance with this paragraph:

a institutions that prepare their accounts in conformity with the international accounting standards adopted in accordance with the procedure laid down in Article 6(2) of Regulation (EC) No 1606/2002;

b institutions that, pursuant to Article 24(2) of this Regulation, effect the valuation of assets and off-balance sheet items and the determination of own funds in conformity with the international accounting standards adopted in accordance with the procedure laid down in Article 6(2) of Regulation (EC) No 1606/2002;

c institutions that effect the valuation of assets and off-balance sheet items in conformity with accounting standards under Directive 86/635/EEC and that use an expected credit loss model that is the same as the one used in international accounting standards adopted in accordance with the procedure laid down in Article 6(2) of Regulation (EC) No 1606/2002.

The amount referred to in the first subparagraph shall be calculated as the sum of the following:

a for exposures which are subject to risk weighting in accordance with Chapter 2 of Title II of Part Three, the amount ($AB_{SA}$) calculated in accordance with the following formula:

where:

| | | |
|---|---|---|
| $A_{2,SA}$ | = | the amount calculated in accordance with paragraph 2; |
| $A_{4,SA}$ | = | the amount calculated in accordance with paragraph 4 based on the amounts calculated in accordance with paragraph 3; |
| f | = | the applicable factor laid down in paragraph 6; |
| t | = | increase of Common Equity Tier 1 capital that is due to tax deductibility of the amounts $A_{2,SA}$ and $A_{4,SA}$; |

b for exposures which are subject to risk weighting in accordance with Chapter 3 of Title II of Part Three, the amount ($AB_{IRB}$) calculated in accordance with the following formula:

where:

| | | |
|---|---|---|
| $A_{2,IRB}$ | = | the amount calculated in accordance with paragraph 2 adjusted in accordance with point (a) of paragraph 5; |
| $A_{4,IRB}$ | = | the amount calculated in accordance with paragraph 4 based on the amounts calculated in accordance with paragraph 3 which are adjusted in accordance with points (b) and (c) of paragraph 5; |

| | | |
|---|---|---|
| f | = | the applicable factor laid down in paragraph 6; |
| t | = | increase of Common Equity Tier 1 capital that is due to tax deductibility of the amounts $A_{2,IRB}$ and $A_{4,IRB}$. |

2 Institutions shall calculate the amounts $A_{2,SA}$ and $A_{2,IRB}$ referred to, respectively, in points (a) and (b) of the second subparagraph of paragraph 1 as the greater of the amounts referred to in points (a) and (b) of this paragraph separately for their exposures which are subject to risk weighting in accordance with Chapter 2 of Title II of Part Three and for their exposures which are subject to risk weighting in accordance with Chapter 3 of Title II of Part Three:

a zero;

b the amount calculated in accordance with point (i) reduced by the amount calculated in accordance with point (ii):

(i) the sum of the 12-month expected credit losses determined in accordance with paragraph 5.5.5 of IFRS 9 as set out in the Annex to Commission Regulation (EC) No 1126/2008 (‘Annex relating to IFRS 9’) and the amount of the loss allowance for lifetime expected credit losses determined in accordance with paragraph 5.5.3 of the Annex relating to IFRS 9 as of 1 January 2018 or on the date of initial application of IFRS 9;

(ii) the total amount of impairment losses on financial assets classified as loans and receivables, held-to-maturity investments and available-for-sale financial assets, as defined in paragraph 9 of IAS 39, other than equity instruments and units or shares in collective investment undertakings, determined in accordance with paragraphs 63, 64, 65, 67, 68 and 70 of IAS 39 as set out in the Annex to Regulation (EC) No 1126/2008 as of 31 December 2017 or the day before the date of initial application of IFRS 9.

3 Institutions shall calculate the amount by which the amount referred to in point (a) exceeds the amount referred to in point (b) separately for their exposures which are subject to risk weighting in accordance with Chapter 2 of Title II of Part Three and for their exposures which are subject to risk weighting in accordance with Chapter 3 of Title II of Part Three:

a the sum of the 12-month expected credit losses determined in accordance with paragraph 5.5.5 of the Annex relating to IFRS 9 and the amount of the loss allowance for lifetime expected credit losses determined in accordance with paragraph 5.5.3 of the Annex relating to IFRS 9 excluding the loss allowance for lifetime expected credit losses for financial assets that are credit-impaired as defined in Appendix A to the Annex relating to IFRS 9 as of the reporting date;

b the sum of the 12-month expected credit losses determined in accordance with paragraph 5.5.5 of the Annex relating to IFRS 9 and the amount of the loss allowance for lifetime expected credit losses determined in accordance with paragraph 5.5.3 of the Annex relating to IFRS 9 excluding the loss allowance for lifetime expected credit losses for financial assets that are credit-impaired as defined in Appendix A to the Annex relating to IFRS 9 as of 1 January 2018 or on the date of initial application of IFRS 9.

4 For exposures which are subject to risk weighting in accordance with Chapter 2 of Title II of Part Three, where the amount specified in accordance with point (a) of paragraph 3 exceeds the amount specified in point (b) of paragraph 3, institutions shall set $A_{4,SA}$ as equal to the difference between those amounts, otherwise they shall set $A_{4,SA}$ as equal to zero.

For exposures which are subject to risk weighting in accordance with Chapter 3 of Title II of Part Three, where the amount specified in accordance with point (a) of paragraph 3, after applying point (b) of paragraph 5, exceeds the amount for these exposures as specified in point (b) of paragraph 3, after applying point (c) of paragraph 5, institutions shall set $A_{4,IRB}$ as equal to the difference between those amounts, otherwise they shall set $A_{4,IRB}$ as equal to zero.

5 For exposures which are subject to risk weighting in accordance with Chapter 3 of Title II of Part Three, institutions shall apply paragraphs 2 to 4 as follows:

a for the calculation of $A_{2,IRB}$ institutions shall reduce each of the amounts calculated in accordance with points (b)(i) and (ii) of paragraph 2 of this Article by the sum of expected loss amounts calculated in accordance with Article 158(5), (6) and (10) as of 31 December 2017 or the day before the date of initial application of IFRS 9. Where for the amount referred to in point (b)(i) of paragraph 2 of this Article the calculation results in a negative number, the institution shall set the value of that amount as equal to zero. Where for the amount referred to in point (b)(ii) of paragraph 2 of this Article the calculation results in a negative number, the institution shall set the value of that amount as equal to zero;

b institutions shall replace the amount calculated in accordance with point (a) of paragraph 3 of this Article by the sum of the 12-month expected credit losses determined in accordance with paragraph 5.5.5 of the Annex relating to IFRS 9 and the amount of the loss allowance for lifetime expected credit losses determined in accordance with paragraph 5.5.3 of the Annex relating to IFRS 9 excluding the loss allowance for lifetime expected credit losses for financial assets that are credit-impaired, as defined in Appendix A to the Annex relating to IFRS 9, reduced by the sum of related expected loss amounts for the same exposures calculated in accordance with Article 158(5), (6) and (10) as of the reporting date. Where the calculation results in a negative number, the institution shall set the value of the amount referred to in point (a) of paragraph 3 of this Article as equal to zero;

c institutions shall replace the amount calculated in accordance with point (b) of paragraph 3 of this Article by the sum of the 12-month expected credit losses determined in accordance with paragraph 5.5.5 of the Annex relating to IFRS 9 and the amount of the loss allowance for lifetime expected credit losses determined in accordance with paragraph 5.5.3 of the Annex relating to IFRS 9 excluding the loss allowance for lifetime expected credit losses for financial assets that are credit-impaired, as defined in Appendix A to the Annex relating to IFRS 9, as of 1 January 2018 or on the date of initial application of IFRS 9, reduced by the sum of related expected loss amounts for the same exposures calculated in accordance with Article 158(5), (6) and (10). Where the calculation results in a negative number, the institution shall set the value of the amount referred to in point (b) of paragraph 3 of this Article as equal to zero.

6 Institutions shall apply the following factors to calculate the amounts $AB_{SA}$ and $AB_{IRB}$ referred to in points (a) and (b) of the second subparagraph of paragraph 1 respectively:

a 0,95 during the period from 1 January 2018 to 31 December 2018;

b 0,85 during the period from 1 January 2019 to 31 December 2019;

c 0,7 during the period from 1 January 2020 to 31 December 2020;

d 0,5 during the period from 1 January 2021 to 31 December 2021;

e 0,25 during the period from 1 January 2022 to 31 December 2022.

Institutions whose financial year commences after 1 January 2018 but before 1 January 2019 shall adjust the dates in points (a) to (e) of the first subparagraph so that they correspond to their financial year, shall report the adjusted dates to their competent authority and shall publicly disclose them.

Institutions which start to apply accounting standards as referred to in paragraph 1 on or after 1 January 2019 shall apply the relevant factors in accordance with points (b) to (e) of the first subparagraph starting with the factor corresponding to the year of the first application of those accounting standards.

7 Where an institution includes in its Common Equity Tier 1 capital an amount in accordance with paragraph 1 of this Article, it shall recalculate all requirements laid down in this Regulation and in Directive 2013/36/EU that use any of the following items by not taking into account the effects that the expected credit loss provisions that it included in its Common Equity Tier 1 capital have on those items:

a the amount of deferred tax assets that is deducted from Common Equity Tier 1 capital in accordance with point (c) of Article 36(1) or risk weighted in accordance with Article 48(4);
b the exposure value as determined in accordance with Article 111(1) whereby the specific credit risk adjustments by which the exposure value shall be reduced shall be multiplied by the following scaling factor (sf):

where:

| | | |
|---|---|---|
| $AB_{SA}$ | = | the amount calculated in accordance with point (a) of the second subparagraph of paragraph 1; |
| $RA_{SA}$ | = | the total amount of specific credit risk adjustments; |

c the amount of Tier 2 items calculated in accordance with point (d) of Article 62.

8 During the period set out in paragraph 6 of this Article, in addition to disclosing the information required in Part Eight, institutions that have decided to apply the transitional arrangements set out in this Article shall disclose the amounts of own funds, Common Equity Tier 1 capital and Tier 1 capital, the Common Equity Tier 1 capital ratio, the Tier 1 capital ratio, the total capital ratio and the leverage ratio they would have in case they were not to apply this Article.

9 An institution shall decide whether to apply the arrangements set out in this Article during the transitional period and shall inform the competent authority of its decision by 1 February 2018. Where an institution has received the prior permission of the competent authority, it may reverse once, during the transitional period, its initial decision. Institutions shall publicly disclose any decision taken in accordance with this subparagraph.

An institution that has decided to apply the transitional arrangements set out in this Article may decide not to apply paragraph 4 in which case it shall inform the competent authority of its decision by 1 February 2018. In such a case, the institution shall set the amount $A_4$ referred to in paragraph 1 as equal to zero. Where an institution has received the prior permission of the competent authority, it may reverse once, during the transitional period, its initial decision. Institutions shall publicly disclose any decision taken in accordance with this subparagraph.

10 In accordance with Article 16 of Regulation (EU) No 1093/2010, the EBA shall issue guidelines by 30 June 2018 on the disclosure requirements laid down in this Article.]

**Textual Amendments**

**F3** Inserted by Regulation (EU) 2017/2395 of the European Parliament and of the Council of 12 December 2017 amending Regulation (EU) No 575/2013 as regards transitional arrangements for mitigating the impact of the introduction of IFRS 9 on own funds and for the large exposures treatment of certain public sector exposures denominated in the domestic currency of any Member State (Text with EEA relevance).

## Sub-Section 2

## Deductions from Additional Tier 1 items

### *Article 474*

### Deductions from Additional Tier 1 items

By way of derogation from Article 56, during the period from 1 January 2014 to 31 December 2017, the following shall apply:

(a) institutions shall deduct from Additional Tier 1 items the applicable percentage specified in Article 478 of the amounts required to be deducted pursuant to Article 56;

(b) institutions shall apply the requirements laid down in Article 475 to the residual amounts of the items required to be deducted pursuant to Article 56.

### *Article 475*

### Items not deducted from Additional Tier 1 items

1 By way of derogation from Article 56, during the period from 1 January 2014 to 31 December 2017, the requirements laid down in this Article shall apply to the residual amounts referred to in point (b) of Article 474.

2 Institutions shall apply the following to the residual amount of the items referred to in point (a) of Article 56:

a direct holdings of own Additional Tier 1 instruments are deducted at book value from Tier 1 items;

b indirect and synthetic holdings of own Additional Tier 1 instruments, including own Additional Tier 1 instruments that an institution could be obliged to purchase by virtue of an existing or contingent contractual obligation, are not deducted and are risk weighted in accordance with Chapter 2 or 3 of Title II of Part Three and subject to the requirements of Title IV of Part Three, as applicable.

3 Institutions shall apply the following to the residual amount of the items referred to in point (b) of Article 56:

a where an institution does not have a significant investment in a financial sector entity with which it has reciprocal cross holdings, the amount of its direct, indirect and synthetic holdings of those Additional Tier 1 instruments of that entity is treated as falling within point (c) of Article 56;

b where the institution has a significant investment in a financial sector entity with which it has reciprocal cross holdings, the amount of its direct, indirect and synthetic holdings of those Additional Tier 1 instruments of that entity is treated as falling within point (d) of Article 56.

4 Institutions shall apply the following to the residual amount of the items referred to in points (c) and (d) of Article 56:

- a the amount relating to direct holdings required to be deducted in accordance with points (c) and (d) of Article 56 are deducted half from Tier 1 items and half from Tier 2 items;
- b the amount relating to indirect and synthetic holdings required to be deducted in accordance with points (c) and (d) of Article 56 shall not be deducted and shall be subject to a risk weight in accordance with Chapter 2 or 3 of Title II of Part Three and to the requirements of Title IV of Part Three, as applicable.

Sub-Section 3

## Deductions from Tier 2 items

*Article 476*

### Deductions from Tier 2 items

By way of derogation from Article 66, during the period from 1 January 2014 to 31 December 2017, the following shall apply:

(a) institutions shall deduct from Tier 2 items the applicable percentage specified in Article 478 of the amounts required to be deducted pursuant to Article 66;

(b) institutions shall apply the requirements laid down in Article 477 to the residual amounts required to be deducted pursuant to Article 66.

*Article 477*

### Deductions from Tier 2 items

1 By way of derogation from Article 66, during the period from 1 January 2014 to 31 December 2017, the requirements laid down in this Article shall apply to the residual amounts referred to in point (b) of Article 476.

2 Institutions shall apply the following to the residual amount of items referred to in point (a) of Article 66:

- a direct holdings of own Tier 2 instruments are deducted at book value from Tier 2 items;
- b indirect and synthetic holdings of own Tier 2 instruments, including own Tier 2 instruments that an institution could be obliged to purchase by virtue of an existing or contingent contractual obligation are not deducted and are risk weighted in accordance with Chapter 2 or 3 of Title II of Part Three and subject to the requirements of Title IV of Part Three, as applicable.

3 Institutions shall apply the following to the residual amount of the items referred to in point (b) of Article 66:

- a where an institution does not have a significant investment in a financial sector entity with which it has reciprocal cross holdings, the amount of its direct, indirect and synthetic holdings of the Tier 2 instruments of that entity is treated as falling within point (c) of Article 66;
- b where the institution has a significant investment in a financial sector entity with which it has reciprocal cross holdings, the amount of direct, indirect and synthetic holdings of

the Tier 2 instruments of that financial sector entity are treated as falling within point (d) of Article 66.

4 Institutions shall apply the following to the residual amount of the items referred to in points (c) and (d) of Article 66:

a the amount relating to direct holdings that is required to be deducted in accordance with points (c) and (d) of Article 66 is deducted half from Tier 1 items and half from Tier 2 items;

b the amount relating to indirect and synthetic holdings that is required to be deducted in accordance with points (c) and (d) of Article 66 is not be deducted and is subject to a risk weight under Chapter 2 or 3 of Title II of Part Three and the requirements laid down in Title IV of Part Three, as applicable.

Sub-Section 4

## Applicable percentages for deduction

*Article 478*

### Applicable percentages for deduction from Common Equity Tier 1, Additional Tier 1 and Tier 2 items

1 The applicable percentage for the purposes of Article 468(4), points (a) and (c) of Article 469(1), point (a) of Article 474 and point (a) of Article 476 shall fall within the following ranges:

a 20 % to 100 % for the period from 1 January 2014 to 31 December 2014;

b 40 % to 100 % for the period from 1 January 2015 to 31 December 2015;

c 60 % to 100 % for the period from 1 January 2016 to 31 December 2016;

d 80 % to 100 % for the period from 1 January 2017 to 31 December 2017.

2 By way of derogation from paragraph 1, for the items referred in point (c) of Article 36(1) that existed prior to 1 January 2014, the applicable percentage for the purpose of point (c) of Article 469(1) shall fall within the following ranges:

a 0 % to 100 % for the period from 1 January 2014 to 31 December 2014;

b 10 % to 100 % for the period from 1 January 2015 to 31 December 2015;

c 20 % to 100 % for the period from 1 January 2016 to 31 December 2016;

d 30 % to 100 % for the period from 1 January 2017 to 31 December 2017;

e 40 % to 100 % for the period from 1 January 2018 to 31 December 2018;

f 50 % to 100 % for the period from 1 January 2019 to 31 December 2019;

g 60 % to 100 % for the period from 1 January 2020 to 31 December 2020;

h 70 % to 100 % for the period from 1 January 2021 to 31 December 2021;

i 80 % to 100 % for the period from 1 January 2022 to 31 December 2022;

j 90 % to 100 % for the period from 1 January 2023 to 31 December 2023.

3 Competent authorities shall determine and publish an applicable percentage in the ranges specified in paragraphs 1 and 2 for each of the following deductions:

a the individual deductions required pursuant to points (a) to (h) of Article 36(1), excluding deferred tax assets that rely on future profitability and arise from temporary differences;

b the aggregate amount of deferred tax assets that rely on future profitability and arise from temporary differences and the items referred to in point (i) of Article 36(1) that is required to be deducted pursuant to Article 48;
c each deduction required pursuant to points (b) to (d) of Article 56;
d each deduction required pursuant to points (b) to (d) of Article 66.

## Section 4

## minority interest and additional Tier 1 and Tier 2 instruments issued by subsidiaries

### *Article 479*

### Recognition in consolidated Common Equity Tier 1 capital of instruments and items that do not qualify as minority interests

1 By way of derogation from Title II of Part Two, during the period from 1 January 2014 to 31 December 2017, recognition in consolidated own funds of the items that would qualify as consolidated reserves in accordance with national transposition measures for Article 65 of Directive 2006/48/EC that do not qualify as consolidated Common Equity Tier 1 capital for any of the following reasons shall be determined by the competent authorities in accordance with paragraphs 2 and 3 of this Article:
a the instrument does not qualify as a Common Equity Tier 1 instrument, and the related retained earnings and share premium accounts consequently do not qualify as consolidated Common Equity Tier 1 items;
b the items do not qualify as a result of Article 81(2);
c the items do not qualify because the subsidiary is not an institution or an entity that is subject by virtue of applicable national law to the requirements of this Regulation and Directive 2013/36/EU;
d the items do not qualify because the subsidiary is not included fully in the consolidation pursuant to Chapter 2 of Title II of Part One.

2 The applicable percentage of the items referred to in paragraph 1 that would have qualified as consolidated reserves in accordance with the national transposition measures for Article 65 of Directive 2006/48/EC shall qualify as consolidated Common Equity Tier 1 capital.

3 For the purposes of paragraph 2, the applicable percentages shall fall within the following ranges:
a 0 % to 80 % for the period from 1 January 2014 to 31 December 2014;
b 0 % to 60 % for the period from 1 January 2015 to 31 December 2015;
c 0 % to 40 % for the period from 1 January 2016 to 31 December 2016;
d 0 % to 20 % for the period from 1 January 2017 to 31 December 2017.

4 Competent authorities shall determine and publish the applicable percentage in the ranges specified in paragraph 3.

*Article 480*

**Recognition in consolidated own funds of minority interests and qualifying Additional Tier 1 and Tier 2 capital**

1 By way of derogation from point (b) of Article 84(1), point (b) of Article 85(1) and point (b) of Article 87(1), during the period from 1 January 2014 to 31 December 2017, the percentages referred to in those Articles shall be multiplied by an applicable factor.

2 For the purposes of paragraph 1, the applicable factor shall fall within the following ranges:

a 0,2 to 1 in the period from 1 January 2014 to 31 December 2014;

b 0,4 to 1 in the period from 1 January 2015 to 31 December 2015;

c 0,6 to 1 in the period from 1 January 2016 to 31 December 2016; and

d 0,8 to 1 in the period from 1 January 2017 to 31 December 2017.

3 Competent authorities shall determine and publish the value of the applicable factor in the ranges specified in paragraph 2.

Section 5

**Additional filters and deductions**

*Article 481*

**Additional filters and deductions**

1 By way of derogation from Articles 32 to 36, 56 and 66, during the period from 1 January 2014 to 31 December 2017, institutions shall make adjustments to include in or deduct from Common Equity Tier 1 items, Tier 1 items, Tier 2 items or own funds items the applicable percentage of filters or deductions required under national transposition measures for Articles 57, 61, 63, 63a, 64 and 66 of Directive 2006/48/EC, and for Articles 13 and 16 of Directive 2006/49/EC, and which are not required in accordance with Part Two of this Regulation.

2 By way of derogation from Article 36(1)(i) and Article 49(1), during the period from the 1 January 2014 to 31 December 2014, competent authorities may require or permit institutions to apply the methods referred to in Article 49(1) where the requirements laid down in point (b) of Article 49(1) are not met, rather than the deduction required pursuant to Article 36(1). In such cases, the proportion of holdings of the own funds instruments of a financial sector entity in which the parent undertaking has a significant investment that is not required to be deducted in accordance with Article 49(1) shall be determined by the applicable percentage referred to in paragraph 4 of this Article. The amount that is not deducted shall be subject to the requirements of Article 49(4), as applicable.

3 For the purposes of paragraph 1, the applicable percentage shall fall within the following ranges:

a 0 % to 80 % for the period from 1 January 2014 to 31 December 2014;

b 0 % to 60 % for the period from 1 January 2015 to 31 December 2015;

c 0 % to 40 % for the period from 1 January 2016 to 31 December 2016;

d 0 % to 20 % for the period from 1 January 2017 to 31 December 2017.

4 For the purpose of paragraph 2, the applicable percentage shall fall between 0 % and 50 % for the period from 1 January 2014 to 31 December 2014.

5 For each filter or deduction referred to in paragraphs 1 and 2, competent authorities shall determine and publish the applicable percentages in the ranges specified in paragraphs 3 and 4.

6 EBA shall develop draft regulatory technical standards to specify the conditions according to which competent authorities shall determine whether adjustments made to own funds, or elements thereof, in accordance with national transposition measures for Directive 2006/48/EC or Directive 2006/49/EC that are not included in Part Two of this Regulation are, for the purposes of this Article, to be made to Common Equity Tier 1 items, Additional Tier 1 items, Tier 1 items, Tier 2 items or own funds.

EBA shall submit those draft regulatory technical standards to the Commission by 28 July 2013.

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

*Article 482*

**Scope of application for derivatives transactions with pension funds**

In respect of those transactions referred to in Article 89 of Regulation (EU) No 648/2012 and entered into with a pension scheme arrangement as defined in Article 2 of that Regulation, institutions shall not calculate own funds requirements for CVA risk as provided for in Article 382(4)(c) of this Regulation.

## CHAPTER 2

**Grandfathering of capital instruments**

### Section 1

**Instruments constituting State aid**

*Article 483*

**Grandfathering of State aid instruments**

1 By way of derogation from Articles 26 to 29, 51, 52, 62 and 63, during the period from 1 January 2014 to 31 December 2017 this Article applies to capital instruments and items where the following conditions are met:

a the instruments were issued prior to 1 January 2014;

b the instruments were issued within the context of recapitalisation measures pursuant to State aid rules. Insofar as part of the instruments are privately subscribed, they must be issued prior to 30 June 2012 and in conjunction with those parts that are subscribed by the Member State;

c the instruments were considered compatible with the internal market by the Commission under Article 107 TFEU.

Where the instruments are subscribed by both the Member State and private investors and there is a partial redemption of the instruments subscribed by the Member State, a corresponding share of the privately subscribed part of the instruments shall be grandfathered in accordance with Article 484. When all the instruments subscribed by the Member State have been redeemed, the remaining instruments subscribed by private investors shall be grandfathered in accordance with Article 484.

2 Instruments that qualified in accordance with the national transposition measures for point (a) of Article 57 of Directive 2006/48/EC shall qualify as Common Equity Tier 1 instruments notwithstanding either of the following:

a the conditions laid down in Article 28 of this Regulation are not met;

b the instruments were issued by an undertaking referred to in Article 27 of this Regulation and the conditions laid down in Article 28 of this Regulation or, where applicable, Article 29 of this Regulation are not met.

3 Instruments referred to in point (c) of paragraph 1 of this Article that do not qualify under national transposition measures for point (a) of Article 57 of Directive 2006/48/EC shall qualify as Common Equity Tier 1 instruments notwithstanding the fact that the requirements of point (a) or (b) of paragraph 2 of this Article are not met, provided that the requirements of paragraph 8 of this Article are met.

Instruments that qualify as Common Equity Tier 1 pursuant to the first subparagraph shall not qualify as Additional Tier 1 instruments or Tier 2 instruments under paragraph 5 or 7.

4 Instruments that qualified in accordance with the national transposition measures for point (ca) of Article 57 and for Article 66(1) of Directive 2006/48/EC shall qualify as Additional Tier 1 instruments notwithstanding that the conditions laid down in Article 52(1) of this Regulation are not met.

5 Instruments referred to in point (c) of paragraph 1 of this Article that do not qualify under the national transposition measures for point (ca) of Article 57 of Directive 2006/48/EC shall qualify as Additional Tier 1 instruments notwithstanding that the conditions laid down in Article 52(1) of this Regulation are not met, provided that the requirements of paragraph 8 of this Article are met.

Instruments that qualify as Additional Tier 1 instruments pursuant to the first subparagraph shall not qualify as Common Equity Tier 1 instruments or Tier 2 instruments under paragraph 3 or 7.

6 Items that qualified in accordance with national transposition measures for points (f), (g) or (h) of Article 57 and for Article 66(1) of Directive 2006/48/EC shall qualify as Tier 2 instruments notwithstanding that the items are not referred to in Article 62 of this Regulation or that the conditions laid down in Article 63 of this Regulation are not met.

7 Instruments referred to in point (c) of paragraph 1 of this Article that do not qualify under the national transposition measures for point (f), (g) or (h) of Article 57 and for Article 66(1) of Directive 2006/48/EC shall qualify as Tier 2 instruments notwithstanding that the items are not referred to in Article 62 of this Regulation or that the conditions laid down in Article 63 of this Regulation are not met, provided that the conditions in paragraph 8 of this Article are met.

Instruments that qualify as Tier 2 instruments pursuant to the first subparagraph shall not qualify as Common Equity Tier 1 instruments or Additional Tier 1 instruments under paragraph 3 or 5.

8 Instruments referred to paragraphs 3, 5 and 7 may qualify as own funds instruments referred to in those paragraphs only where the condition in point (a) of paragraph 1 is met and where they are issued by institutions that are incorporated in a Member State that is subject to an Economic Adjustment Programme, and the issuance of those instruments is agreed or eligible under that programme.

## Section 2

## **Instruments not constituting State aid**

### Sub-Section 1

### **Grandfathering eligibility and limits**

#### *Article 484*

#### **Eligibility for grandfathering of items that qualified as own funds under national transposition measures for Directive 2006/48/EC**

1 This Article shall apply only to instruments and items that were issued on or prior to 31 December 2011 and that were eligible as own funds on 31 December 2011 and are not those referred to in Article 483(1).

2 By way of derogation from Articles 26 to 29, 51, 52, 62 and 63, this Article shall apply from 1 January 2014 to 31 December 2021.

3 Subject to Article 485 of this Regulation and to the limit specified in Article 486(2) thereof, capital within the meaning of Article 22 of Directive 86/635/EEC, and the related share premium accounts, that qualified as original own funds under the national transposition measures for point (a) of Article 57 of Directive 2006/48/EC shall qualify as Common Equity Tier 1 items notwithstanding that the conditions laid down in Article 28 or, where applicable, Article 29 of this Regulation are not met.

4 Subject to the limit specified Article 486(3) of this Regulation, instruments, and the related share premium accounts, that qualified as original own funds under national transposition measures for point (ca) of Article 57 and Article 154(8) and (9) of Directive 2006/48/EC shall qualify as Additional Tier 1 items, notwithstanding that the conditions laid down in Article 52 of this Regulation are not met.

5 Subject to the limits specified in Article 486(4) of this Regulation, items, and the related share premium accounts, that qualified under national transposition measures for points (e), (f), (g) or (h) of Article 57 of Directive 2006/48/EC shall qualify as Tier 2 items, notwithstanding that those items are not included in Article 62 of this Regulation or that the conditions laid down in Article 63 of this Regulation are not met.

*Article 485*

**Eligibility for inclusion in the Common Equity Tier 1 of share premium accounts related to items that qualified as own funds under national transposition measures for Directive 2006/48/EC**

1 This Article shall apply only to instruments that were issued prior to 31 December 2010 and are not those referred to in Article 483(1).

2 Share premium accounts related to capital within the meaning of Article 22 of Directive 86/635/EEC that qualified as original own funds under the national transposition measures for point (a) of Article 57 of Directive 2006/48/EC shall qualify as Common Equity Tier 1 items if they meet the conditions laid down in points (i) and (j) of Article 28 of this Regulation.

*Article 486*

**Limits for grandfathering of items within Common Equity Tier 1, Additional Tier 1 and Tier 2 items**

1 From 1 January 2014 to 31 December 2021, the extent to which instruments and items referred to in Article 484 shall qualify as own funds shall be limited in accordance with this Article.

2 The amount of items referred to in Article 484(3) that shall qualify as Common Equity Tier 1 items is limited to the applicable percentage of the sum of the amounts specified in points (a) and (b) of this paragraph:

- a the nominal amount of capital referred to in Article 484(3) that were in issue on 31 December 2012;
- b the share premium accounts related to the items referred to in point (a).

3 The amount of items referred to in Article 484(4) that shall qualify as Additional Tier 1 items is limited to the applicable percentage multiplied by the result of subtracting from the sum of the amounts specified in points (a) and (b) of this paragraph the sum of the amounts specified in points (c) to (f) of this paragraph:

- a the nominal amount of instruments referred to in Article 484(4), that remained in issue on 31 December 2012;
- b the share premium accounts related to the instruments referred to in point (a);
- c the amount of instruments referred to in Article 484(4) which on 31 December 2012 exceeded the limits specified in the national transposition measures for point (a) of Article 66(1) and Article 66(1a) of Directive 2006/48/EC;
- d the share premium accounts related to the instruments referred to in point (c);
- e the nominal amount of instruments referred to Article 484(4) that were in issue on 31 December 2012 but do not qualify as Additional Tier 1 instruments pursuant to Article 489(4);
- f the share premium accounts related to the instruments referred to in point (e).

4 The amount of items referred to in Article 484(5) that shall qualify as Tier 2 items is limited to the applicable percentage of the result of subtracting from the sum of the amounts specified in points (a) to (d) of this paragraph the sum of amounts specified in points (e) to (h) of this paragraph:

**Status:** Point in time view as at 27/06/2019.
**Changes to legislation:** Regulation (EU) No 575/2013 of the European Parliament and of the Council, PART TEN is up to date with all changes known to be in force on or before 02 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

a the nominal amount of instruments referred to in Article 484(5) that remained in issue on 31 December 2012;
b the share premium accounts related to the instruments referred to in point (a);
c the nominal amount of subordinated loan capital that remained in issue on 31 December 2012, reduced by the amount required pursuant to national transposition measures for point (c) of Article 64(3) of Directive 2006/48/EC;
d the nominal amount of items referred to in Article 484(5), other than the instruments and subordinated loan capital referred to in points (a) and (c) of this paragraph, that were in issue on 31 December 2012;
e the nominal amount of instruments and items referred to in Article 484(5) that were in issue on 31 December 2012 that exceeded the limits specified in the national transposition measures for point (a) of Article 66(1) of Directive 2006/48/EC;
f the share premium accounts related to the instruments referred to in point (e);
g the nominal amount of instruments referred to in Article 484(5) that were in issue on 31 December 2012 that do not qualify as Tier 2 items pursuant to Article 490(4);
h the share premium accounts related to the instruments referred to in point (g).

5 For the purposes of this Article, the applicable percentages referred to in paragraphs 2 to 4 shall fall within the following ranges:

a 60 % to 80 % during the period from 1 January 2014 to 31 December 2014;
b 40 % to 70 % during the period from 1 January 2015 to 31 December 2015;
c 20 % to 60 % during the period from 1 January 2016 to 31 December 2016;
d 0 % to 50 % during the period from 1 January 2017 to 31 December 2017;
e 0 % to 40 % during the period from 1 January 2018 to 31 December 2018;
f 0 % to 30 % during the period from 1 January 2019 to 31 December 2019;
g 0 % to 20 % during the period from 1 January 2020 to 31 December 2020;
h 0 % to 10 % during the period from 1 January 2021 to 31 December 2021.

6 Competent authorities shall determine and publish the applicable percentages in the ranges specified in paragraph 5.

*Article 487*

**Items excluded from grandfathering in Common Equity Tier 1 or Additional Tier 1 items in other elements of own funds**

1 From 1 January 2014 to 31 December 2021, institutions may, by way of derogation from Articles 51, 52, 62 and 63, treat as items referred to in Article 484(4), capital, and the related share premium accounts, referred to in Article 484(3) that are excluded from Common Equity Tier 1 items because they exceed the applicable percentage specified in Article 486(2), to the extent that the inclusion of that capital and the related share premium accounts, does not exceed the applicable percentage limit referred to in Article 486(3).

2 From 1 January 2014 to 31 December 2021, institutions may, by way of derogation from Articles 51, 52, 62 and 63, treat the following as items referred to in Article 484(5), to the extent that their inclusion does not exceed the applicable percentage limit referred to in Article 486(4):

a capital, and the related share premium accounts, referred to in Article 484(3) that are excluded from Common Equity Tier 1 items because they exceed the applicable percentage specified in Article 486(2);

b instruments, and the related share premium accounts, referred to in Article 484(4) that exceed the applicable percentage referred to in Article 486(3).

3 EBA shall develop draft regulatory technical standards to specify the conditions for treating own funds instruments referred to in paragraphs 1 and 2 as falling under Article 486(4) or (5) during the period from 1 January 2014 to 31 December 2021.

EBA shall submit those draft regulatory technical standards to the Commission by 28 July 2013.

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

*Article 488*

**Amortisation of items grandfathered as Tier 2 items**

The items referred to in Article 484(5) that qualify as Tier 2 items referred to in Article 484(5) or Article 486(4) shall be subject to the requirements laid down in Article 64.

Sub-Section 2

**Inclusion of instruments with a call and incentive to redeem in additional Tier 1 and Tier 2 items**

*Article 489*

**Hybrid instruments with a call and incentive to redeem**

1 From 1 January 2014 to 31 December 2021, instruments referred to in Article 484(4) that include in their terms and conditions a call with an incentive for them to be redeemed by the institution shall, by way of derogation from Articles 51 and 52, be subject to this Article.

2 The instruments shall qualify as Additional Tier 1 instruments provided that the following conditions are met:

a the institution was able to exercise a call with an incentive to redeem only prior to 1 January 2013;

b the institution did not exercise the call;

c the conditions laid down in Article 52 are met from 1 January 2013.

3 The instruments shall qualify as Additional Tier 1 instruments with their recognition reduced in accordance with Article 484(4) until the date of their effective maturity and thereafter shall qualify as Additional Tier 1 items without limit provided that:

a the institution was able to exercise a call with an incentive to redeem only on or after 1 January 2013;

b the institution did not exercise the call on the date of the effective maturity of the instruments;

c the conditions laid down in Article 52 are met from the date of the effective maturity of the instruments.

4 The instruments shall not qualify as Additional Tier 1 instruments, and shall not be subject to Article 484(4), from 1 January 2014 where the following conditions are met:

a the institution was able to exercise a call with an incentive to redeem between 31 December 2011 and 1 January 2013;

b the institution did not exercise the call on the date of the effective maturity of the instruments;

c the conditions laid down in Article 52 are not met from the date of the effective maturity of the instruments.

5 The instruments shall qualify as Additional Tier 1 instruments with their recognition reduced in accordance with Article 484(4) until the date of their effective maturity, and shall not qualify as Additional Tier 1 instruments thereafter, where the following conditions are met:

a the institution was able to exercise a call with an incentive to redeem on or after 1 January 2013;

b the institution did not exercise the call on the date of the effective maturity of the instruments;

c the conditions laid down in Article 52 are not met from the date of the effective maturity of the instruments.

6 The instruments shall qualify as Additional Tier 1 instruments in accordance with Article 484(4) where the following conditions are met:

a the institution was able to exercise a call with an incentive to redeem only prior to or on 31 December 2011;

b the institution did not exercise the call on the date of the effective maturity of the instruments;

c the conditions laid down in Article 52 were not met from the date of the effective maturity of the instruments.

### *Article 490*

### Tier 2 items with an incentive to redeem

1 By way of derogation from Articles 62 and 63, during the period from 1 January 2014 to 31 December 2021, items referred to in Article 484(5) that qualified under the national transposition measures for point (f) or (h) of Article 57 of Directive 2006/48/EC and include in their terms and conditions a call with an incentive for them to be redeemed by the institution shall be subject to this Article.

2 The items shall qualify as Tier 2 instruments provided that:

a the institution was able to exercise a call with an incentive to redeem only prior to 1 January 2013;

b the institution did not exercise the call;

c from 1 January 2013 the conditions laid down in Article 63 are met.

3 The items shall qualify as Tier 2 items in accordance with Article 484(5) until the date of their effective maturity, and shall qualify thereafter as Tier 2 items without limit, provided that the following conditions are met:

a the institution was able to exercise a call with an incentive to redeem only on or after 1 January 2013;

b the institution did not exercise the call on the date of the effective maturity of the items;

c the conditions laid down in Article 63 are met from the date of the effective maturity of the items.

4 The items shall not qualify as Tier 2 items from 1 January 2014 where the following conditions are met:

a the institution was able to exercise a call with an incentive to redeem only between 31 December 2011 and 1 January 2013;
b the institution did not exercise the call on the date of the effective maturity of the items;
c the conditions laid down in Article 63 are not met from the date of the effective maturity of the items.

5 The items shall qualify as Tier 2 items with their recognition reduced in accordance with Article 484(5) until the date of their effective maturity, and shall not qualify as Tier 2 items thereafter, where:

a the institution was able to exercise a call with an incentive to redeem on or after 1 January 2013;
b the institution did not exercise the call on the date of their effective maturity;
c the conditions set out in Article 63 are not met from the date of effective maturity of the items.

6 The items shall qualify as Tier 2 items in accordance with Article 484(5) where:

a the institution was able to exercise a call with an incentive to redeem only prior to or on 31 December 2011;
b the institution did not exercise the call on the date of the effective maturity of the items;
c the conditions laid down in Article 63 are not met from the date of the effective maturity of the items.

*Article 491*

**Effective maturity**

For the purposes of Articles 489 and 490, effective maturity shall be determined as follows:

(a) for the items referred to in paragraphs 3 and 5 of those Articles, the date of the first call with an incentive to redeem occurring on or after 1 January 2013;

(b) for the items referred to in paragraph 4 of those Articles, the date of the first call with an incentive to redeem occurring between 31 December 2011 and 1 January 2013;

(c) for the items referred to in paragraph 6 of those Articles, the date of the first call with an incentive to redeem prior to 31 December 2011.

## CHAPTER 3

## **Transitional provisions for disclosure of own funds**

### *Article 492*

### **Disclosure of own funds**

1 Institutions shall apply this Article during the period from 1 January 2014 to 31 December 2021.

2 From 1 January 2014 to 31 December 2015, institutions shall disclose the extent to which the level of Common Equity Tier 1 capital and Tier 1 capital exceed the requirements laid down in Article 465.

3 From 1 January 2014 to 31 December 2017, institutions shall disclose the following additional information about their own funds:

- a the nature and effect on Common Equity Tier 1 capital, Additional Tier 1 capital, Tier 2 capital and own funds of the individual filters and deductions applied in accordance with Articles 467 to 470, 474, 476 and 479;
- b the amounts of minority interests and Additional Tier 1 and Tier 2 instruments, and related retained earnings and share premium accounts, issued by subsidiaries that are included in consolidated Common Equity Tier 1 capital, Additional Tier 1 capital, Tier 2 capital and own funds in accordance with 4 of Chapter 1;
- c the effect on Common Equity Tier 1 capital, Additional Tier 1 capital, Tier 2 capital and own funds of the individual filters and deductions applied in accordance with Article 481;
- d the nature and amount of items that qualify as Common Equity Tier 1 items, Tier 1 items and Tier 2 items by virtue of applying the derogations specified in Section 2 of Chapter 2.

4 From 1 January 2014 to 31 December 2021, institutions shall disclose the amount of instruments that qualify as Common Equity Tier 1 instruments, Additional Tier 1 instruments and Tier 2 instruments by virtue of applying Article 484.

5 EBA shall develop draft implementing technical standards to specify uniform templates for disclosure made in accordance with this Article. The templates shall include the items listed in points (a), (b), (d) and (e) of Article 437(1), as amended by Chapters 1 and 2 of this Title.

EBA shall submit those draft implementing technical standards to the Commission by 28 July 2013.

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

## CHAPTER 4

## Large exposures, own funds requirements, leverage and the Basel I Floor

### *Article 493*

### Transitional provisions for large exposures

1 The provisions on large exposures as laid down in Articles 387 to 403 shall not apply to investment firms whose main business consists exclusively of the provision of investment services or activities in relation to the financial instruments set out in points 5, 6, 7, 9 and 10 of Section C of Annex I to Directive 2004/39/EC and to whom Council Directive 93/22/EEC of 10 May 1993 on investment services in the securities field[(3)] did not apply on 31 December 2006. **[**[F4]This exemption is available until 31 December 2020 or the date of entry into force of any amendments pursuant to paragraph 2 of this Article, whichever is the earlier.**]**

2 By 31 December 2015, the Commission shall, on the basis of public consultations and in the light of discussions with the competent authorities, report to the European Parliament and the Council on:

- a an appropriate regime for the prudential supervision of investment firms whose main business consists exclusively of the provision of investment services or activities in relation to the commodity derivatives or derivatives contracts set out in points 5, 6, 7, 9 and 10 of Section C of Annex I to Directive 2004/39/EC;
- b the desirability of amending Directive 2004/39/EC to create a further category of investment firm whose main business consists exclusively of the provision of investment services or activities in relation to the financial instruments set out in points 5, 6, 7, 9 and 10 of Section C of Annex I to Directive 2004/39/EC relating to energy supplies.

On the basis of that report, the Commission may submit proposals to amend this Regulation.

3 By way of derogation from Article 400(2) and (3), Member States may, for a transitional period until the entry into force of any legal act following the review in accordance with Article 507, but not after 31 December 2028, fully or partially exempt the following exposures from the application of Article 395(1):

- a covered bonds falling within Article 129(1), (3) and (6);
- b asset items constituting claims on regional governments or local authorities of Member States where those claims would be assigned a 20 % risk weight under Part Three, Title II, Chapter 2 and other exposures to or guaranteed by those regional governments or local authorities, claims on which would be assigned a 20 % risk weight under Part Three, Title II, Chapter 2;
- c exposures, including participations or other kinds of holdings, incurred by an institution to its parent undertaking, to other subsidiaries of that parent undertaking or to its own subsidiaries, in so far as those undertakings are covered by the supervision on a consolidated basis to which the institution itself is subject, in accordance with this Regulation, Directive 2002/87/EC or with equivalent standards in force in a third country. Exposures that do not meet those criteria, whether or not exempted from Article 395(1) of this Regulation, shall be treated as exposures to a third party;
- d asset items constituting claims on and other exposures, including participations or other kinds of holdings, to regional or central credit institutions with which the credit institution belongs to a network in accordance with legal or statutory provisions and

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

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

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

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

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

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

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

k assets items constituting claims on and other exposures to recognised exchanges.

[F3 4 By way of derogation from Article 395(1), competent authorities may allow institutions to incur any of the exposures provided for in paragraph 5 of this Article meeting the conditions set out in paragraph 6 of this Article, up to the following limits:

a 100 % of the institution’s Tier 1 capital until 31 December 2018;

b 75 % of the institution’s Tier 1 capital until 31 December 2019;

c 50 % of the institution’s Tier 1 capital until 31 December 2020.

The limits referred to in points (a), (b) and (c) of the first subparagraph shall apply to exposure values after taking into account the effect of the credit risk mitigation in accordance with Articles 399 to 403.

5 The transitional arrangements set out in paragraph 4 shall apply to the following exposures:

a asset items constituting claims on central governments, central banks, or public sector entities of Member States;

b asset items constituting claims expressly guaranteed by central governments, central banks, or public sector entities of Member States;

c other exposures to, or guaranteed by, central governments, central banks, or public sector entities of Member States;

d asset items constituting claims on regional governments or local authorities of Member States treated as exposures to a central government in accordance with Article 115(2);

e other exposures to, or guaranteed by, regional governments or local authorities of Member States treated as exposures to a central government in accordance with Article 115(2).

For the purposes of points (a), (b) and (c) of the first subparagraph, the transitional arrangements set out in paragraph 4 of this Article shall apply only to asset items and other exposures to, or guaranteed by, public sector entities which are treated as exposures to a central government, a regional government or a local authority in accordance with Article 116(4). Where asset items and other exposures to, or guaranteed by, public sector entities are treated as exposures to a regional government or a local authority in accordance with Article 116(4), the transitional arrangements set out in paragraph 4 of this Article shall apply only where exposures to that regional government or local authority are treated as exposures to a central government in accordance with Article 115(2).

6 The transitional arrangements set out in paragraph 4 of this Article shall apply only where an exposure referred to in paragraph 5 of this Article meets all of the following conditions:

a the exposure would be assigned a risk weight of 0 % in accordance with the version of Article 495(2) in force on 31 December 2017;

b the exposure was incurred on or after 12 December 2017.

7 An exposure as referred to in paragraph 5 of this Article incurred before 12 December 2017 to which a risk weight of 0 % was assigned on 31 December 2017 in accordance with Article 495(2) shall be exempted from the application of Article 395(1).**]**

**Textual Amendments**

**F3** Inserted by Regulation (EU) 2017/2395 of the European Parliament and of the Council of 12 December 2017 amending Regulation (EU) No 575/2013 as regards transitional arrangements for mitigating the impact of the introduction of IFRS 9 on own funds and for the large exposures treatment of certain public sector exposures denominated in the domestic currency of any Member State (Text with EEA relevance).

**F4** Substituted by Regulation (EU) 2016/1014 of the European Parliament and of the Council of 8 June 2016 amending Regulation (EU) No 575/2013 as regards exemptions for commodity dealers (Text with EEA relevance).

### [F2 *Article 494*

### Transitional provisions concerning the requirement for own funds and eligible liabilities

1 By way of derogation from Article 92a, as from 27 June 2019 until 31 December 2021, institutions identified as resolution entities that are G-SIIs or part of a G-SII shall at all times satisfy the following requirements for own funds and eligible liabilities:

a a risk-based ratio of 16 %, 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) and (4);

b a non-risk-based ratio of 6 %, representing the own funds and eligible liabilities of the institution expressed as a percentage of the total exposure measure referred to in Article 429(4).

2 By way of derogation from Article 72b(3), as from 27 June 2019 until 31 December 2021, the extent to which eligible liabilities instruments referred to in

Article 72b(3) may be included in eligible liabilities items shall be 2,5 % of the total risk exposure amount calculated in accordance with Article 92(3) and (4).

3 By way of derogation from Article 72b(3), until the resolution authority assesses for the first time the compliance with the condition set out in point (c) of that paragraph, liabilities shall qualify as eligible liabilities instruments up to an aggregate amount that does not exceed, until 31 December 2021, 2,5 % and, after that date, 3,5 % of the total risk exposure amount calculated in accordance with Article 92(3) and (4), provided that they meet the conditions set out in points (a) and (b) of Article 72b(3).**]**

**Textual Amendments**

**F2** Substituted by 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 (Text with EEA relevance).

### *[F5 Article 494a*

### Grandfathering of issuances through special purpose entities

1 By way of derogation from Article 52, capital instruments not issued directly by an institution shall qualify as Additional Tier 1 instruments until 31 December 2021 only where all the following conditions are met:

- a the conditions set out in Article 52(1), except for the condition requiring that the instruments are directly issued by the institution;
- b the instruments are issued through an entity within the consolidation pursuant to Chapter 2 of Title II of Part One;
- c the proceeds are immediately available to the institution without limitation and in a form that satisfies the conditions set out in this paragraph.

2 By way of derogation from Article 63, capital instruments not issued directly by an institution shall qualify as Tier 2 instruments until 31 December 2021 only where all the following conditions are met:

- a the conditions set out in Article 63(1), except for the condition requiring that the instruments are directly issued by the institution;
- b the instruments are issued through an entity within the consolidation pursuant to Chapter 2 of Title II of Part One;
- c the proceeds are immediately available to the institution without limitation and in a form that satisfies the conditions set out in this paragraph.

**Textual Amendments**

**F5** Inserted by 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 (Text with EEA relevance).

*Article 494b*

**Grandfathering of own funds instruments and eligible liabilities instruments**

1 By way of derogation from Articles 51 and 52, instruments issued prior to 27 June 2019 shall qualify as Additional Tier 1 instruments at the latest until 28 June 2025, where they meet the conditions set out in Articles 51 and 52, except for the conditions referred to in points (p), (q) and (r) of Article 52(1).

2 By way of derogation from Articles 62 and 63, instruments issued prior to 27 June 2019 shall qualify as Tier 2 instruments at the latest until 28 June 2025, where they meet the conditions set out in Articles 62 and 63, except for the conditions referred to in points (n), (o) and (p) of Article 63.

3 By way of derogation from point (a) of Article 72a(1), liabilities issued prior to 27 June 2019 shall qualify as eligible liabilities items where they meet the conditions set out in Article 72b, except for the conditions referred to in point (b)(ii) and points (f) to (m) of Article 72b(2).**]**

**Textual Amendments**

**F5** Inserted by 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 (Text with EEA relevance).

*Article 495*

**Treatment of equity exposures under the IRB Approach**

1 Until 31 December 2017, the competent authorities may, by way of derogation from Chapter 3 of Part Three, exempt from the IRB treatment certain categories of equity exposures held by institutions and EU subsidiaries of institutions in that Member State as at 31 December 2007. The competent authority shall publish the categories of equity exposures which benefit from such treatment in accordance with Article 143 of Directive 2013/36/EU.

The exempted position shall be measured as the number of shares as at 31 December 2007 and any additional share arising directly as a result of owning those holdings, provided that 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 part of the holding which constitutes the excess shall not be subject to the exemption. Nor shall the exemption apply to holdings that were originally subject to the exemption, but have been sold and then bought back.

Equity exposures subject to this provision shall be subject to the capital requirements calculated in accordance with the Standardised Approach under Part Three, Title II, Chapter 2 and the requirements set out in Title IV of Part Three, as applicable.

Competent authorities shall notify the Commission and EBA of the implementation of this paragraph.

2 In the calculation of risk-weighted exposure amounts for the purposes of Article 114(4), until 31 December 2017 the same risk weight shall be assigned in relation to exposures to the central governments or central banks of Member States denominated and funded in the domestic currency of any Member State as would be applied to such exposures denominated and funded in their domestic currency.

3 EBA shall develop draft regulatory technical standards to specify the conditions according to which competent authorities shall afford the exemption referred to in paragraph 1.

EBA shall submit those draft regulatory technical standards to the Commission by 30 June 2014.

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

### *Article 496*

### **Own funds requirements for covered bonds**

1 **[**[F6]Competent authorities may waive in full or in part the 10 % limit for senior units issued by French Fonds Communs de Créances or by securitisation entities which are equivalent to French Fonds Communs de Créances laid down in points (d) and (f) of Article 129(1), provided that both of the following conditions are fulfilled:**]**

a the securitised residential property or commercial immovable property exposures were originated by a member of the same consolidated group of which the issuer of the covered bonds is a member, or by an entity affiliated to the same central body to which the issuer of the covered bonds is affiliated, where that common group membership or affiliation shall be determined at the time the senior units are made collateral for covered bonds;

b a member of the same consolidated group of which the issuer of the covered bonds is a member, or an entity affiliated to the same central body to which the issuer of the covered bonds is affiliated, retains the whole first loss tranche supporting those senior units.

2 Until 31 December 2014, for the purposes of point (c) of Article 129(1), the senior unsecured exposures of institutions which qualified for a 20 % risk weight under national law before 28 June 2013 shall be considered to qualify for credit quality step 1.

3 Until 31 December 2014, for the purposes of Article 129(5), the senior unsecured exposures of institutions which qualified for a 20 % risk weight under national law before 28 June 2013shall be considered to qualify for a 20 % risk weight.

**Textual Amendments**

**F6** Substituted by Commission Delegated Regulation (EU) 2017/2188 of 11 August 2017 amending Regulation (EU) No 575/2013 of the European Parliament and of the Council as regards the waiver on own funds requirements for certain covered bonds (Text with EEA relevance).

### [F2 *Article 497*

### Own funds requirements for exposures to CCPs

1 Where a third-country CCP applies for recognition in accordance with Article 25 of Regulation (EU) No 648/2012, institutions may consider that CCP as a QCCP from the date on which it submitted its application for recognition to ESMA and until one of the following dates:

a where the Commission has already adopted an implementing act referred to in Article 25(6) of Regulation (EU) No 648/2012 in relation to the third country in which the CCP is established and that implementing act has entered into force, two years after the date of submission of the application;

b where the Commission has not yet adopted an implementing act referred to in Article 25(6) of Regulation (EU) No 648/2012 in relation to the third country in which the CCP is established or where that implementing act has not yet entered into force, the earlier of the following dates:

(i) two years after the date of entry into force of the implementing act;

(ii) for CCPs that submitted the application after 27 June 2019, two years after the date of submission of the application;

(iii) for those CCPs that submitted the application before 27 June 2019, 28 June 2021.

2 Until the expiration of the deadline referred to in paragraph 1 of this Article, where a CCP referred to in that paragraph does not have a default fund and does not have in place a binding arrangement with its clearing members that allows it to use all or part of the initial margin received from its clearing members as if they were pre-funded contributions, the institution shall substitute the formula for calculating the own funds requirement in Article 308(2) with the following one:

$$K_{CM_i} = \max\left\{K_{CCP} \times \frac{IM_i}{DF_{CCP} + IM}; 8\,\% \times 2\,\% \times IM_i\right\}$$

where:

| | | |
|---|---|---|
| $K_{CM_i}$ | = | the own funds requirement; |
| $K_{CCP}$ | = | the hypothetical capital of the QCCP communicated to the institution by the QCCP in accordance with Article 50c of Regulation (EU) No 648/2012; |
| $DF_{CCP}$ | = | the pre-funded financial resources of the CCP communicated to the institution by the CCP in accordance with Article 50c of Regulation (EU) No 648/2012; |
| i | = | the index denoting the clearing member; |
| $IM_i$ | = | the initial margin posted with the CCP by clearing member i; and |
| IM | = | the total amount of initial margin communicated to the institution by the CCP in accordance with Article 89(5a) of Regulation (EU) No 648/2012. |

3 In exceptional circumstances, where it is necessary and proportionate in order to avoid disruption to international financial markets, the Commission may adopt, by way of implementing acts, and subject to the examination procedure referred to in Article 464(2), a

decision to extend once, by 12 months, the transitional provisions set out in paragraph 1 of this Article.]

**Textual Amendments**

**F2** Substituted by 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 (Text with EEA relevance).

*Article 498*

**Exemption for Commodities dealers**

1 The provisions on own funds requirements as set out in this Regulation shall not apply to investment firms the main business of which consists exclusively of the provision of investment services or activities in relation to the financial instruments set out in points 5, 6, 7, 9 and 10 of Section C of Annex I to Directive 2004/39/EC and to which Directive 93/22/EEC did not apply on 31 December 2006.

[F4This exemption shall apply until 31 December 2020 or the date of entry into force of any amendments pursuant to paragraphs 2 and 3, whichever is the earlier.]

2 By 31 December 2015, the Commission shall, on the basis of public consultations and in the light of discussions with the competent authorities, report to the European Parliament and the Council on:

a an appropriate regime for the prudential supervision of investment firms whose main business consists exclusively of the provision of investment services or activities in relation to the commodity derivatives or derivatives contracts set out in points 5, 6, 7, 9 and 10 of Section C of Annex I to Directive 2004/39/EC;

b the desirability of amending Directive 2004/39/EC to create a further category of investment firm whose main business consists exclusively of the provision of investment services or activities in relation to the financial instruments set out in points 5, 6, 7, 9 and 10 of Section C of Annex I to Directive 2004/39/EC relating to energy supplies, including electricity, coal, gas and oil.

3 On the basis of the report referred to in paragraph 2, the Commission may submit proposals to amend this Regulation.

**Textual Amendments**

**F4** Substituted by Regulation (EU) 2016/1014 of the European Parliament and of the Council of 8 June 2016 amending Regulation (EU) No 575/2013 as regards exemptions for commodity dealers (Text with EEA relevance).

*Article 499*

## Leverage

1 By way of derogation from Articles 429 and 430, during the period between 1 January 2014 and 31 December 2021, institutions shall calculate and report the leverage ratio by using both of the following as the capital measure:

a Tier 1 capital;

b Tier 1 capital, subject to the derogations laid down in Chapters 1 and 2 of this Title.

2 By way of derogation from Article 451(1), institutions may choose whether to disclose the information on the leverage ratio based on either just one or both of the definitions of the capital measure specified in points (a) and (b) of paragraph 1 of this Article. Where institutions change their decision on which leverage ratio to disclose, the first disclosure that occurs after such change shall contain a reconciliation of the information on all leverage ratios disclosed up to the moment of the change.

3 By way of derogation from Article 429(2), during the period from 1 January 2014 to 31 December 2017, competent authorities may permit institutions to calculate the end-of-quarter leverage ratio where they consider that institutions may not have data of sufficiently good quality to calculate a leverage ratio that is an arithmetic mean of the monthly leverage ratios over a quarter.

*[F2 Article 500*

## Adjustment for massive disposals

1 By way of derogation from point (a) of Article 181(1), an institution may adjust its LGD estimates by partly or fully offsetting the effect of massive disposals of defaulted exposures on realised LGDs up to the difference between the average estimated LGDs for comparable exposures in default that have not been finally liquidated and the average realised LGDs including on the basis of the losses realised due to massive disposals, as soon as all the following conditions are met:

a the institution has notified the competent authority of a plan providing the scale, composition and the dates of the disposals of defaulted exposures;

b the dates of the disposals of defaulted exposures are after 23 November 2016 but not later than 28 June 2022;

c the cumulative amount of defaulted exposures disposed of since the date of the first disposal in accordance with the plan referred to in point (a) has surpassed 20 % of the cumulative amount of all observed defaults as of the date of the first disposal referred to in points (a) and (b).

The adjustment referred to in the first subparagraph may only be carried out until 28 June 2022 and its effects may last for as long as the corresponding exposures are included in the institution's own LGD estimates.

2 Institutions shall notify the competent authority without delay when the condition set out in point (c) of paragraph 1 has been met.]

**Textual Amendments**

**F2** Substituted by 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 (Text with EEA relevance).

*Article 501*

## Capital requirements deduction for credit risk on exposures to SMEs

1 Capital requirements for credit risk on exposures to SMEs shall be multiplied by the factor 0,7619.

2 For the purpose of this Article:

- a the exposure shall be included either in the retail or in the corporates or secured by mortgages on immovable property classes. Exposures in default shall be excluded;
- b an SME is defined in accordance with Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises[(4)]. Among the criteria listed in Article 2 of the Annex to that Recommendation only the annual turnover shall be taken into account;
- c 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 claims or contingent claims secured on residential property collateral, shall not, to the knowledge of the institution, exceed EUR 1,5 million. The institution shall take reasonable steps to acquire such knowledge.

3 Institutions shall report to competent authorities every three months on the total amount of exposures to SMEs calculated in accordance with paragraph 2.

4 The Commission shall, by 28 June 2016, report on the impact of the own funds requirements laid down in this Regulation on lending to SMEs and natural persons and shall submit that report to the European Parliament and to the Council, together with a legislative proposal, if appropriate.

5 For the purpose of paragraph 4, EBA shall report on the following to the Commission:

- a an analysis of the evolution of the lending trends and conditions for SMEs over the period referred to in paragraph 4;
- b an analysis of effective riskiness of Union SMEs over a full economic cycle;
- c the consistency of own funds requirements laid down in this Regulation for credit risk on exposures to SMEs with the outcomes of the analysis under points (a) and (b).

*[F5 Article 501a*

## Adjustment to own funds requirements for credit risk for exposures to entities that operate or finance physical structures or facilities, systems and networks that provide or support essential public services

4 The Commission shall, by 28 June 2022 report on the impact of the own funds requirements laid down in this Regulation on lending to infrastructure project entities and shall

submit that report to the European Parliament and to the Council, together with a legislative proposal, if appropriate.

5 For the purposes of paragraph 4, EBA shall report on the following to the Commission:

a an analysis of the evolution of the trends and conditions in markets for infrastructure lending and project finance over the period referred to in paragraph 4;

b an analysis of the effective riskiness of entities referred to in point (b) of paragraph 1 over a full economic cycle;

c the consistency of own funds requirements laid down in this Regulation with the outcomes of the analysis under points (a) and (b) of this paragraph.

**Textual Amendments**

**F5** Inserted by 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 (Text with EEA relevance).

*Article 501b*

**Derogation from reporting requirements**

By way of derogation from Article 430, during the period between the date of application of the relevant provisions of this Regulation and the date of the first remittance of reports specified in the implementing technical standards referred to in that Article, a competent authority may waive the requirement to report information in the format specified in the templates contained in the implementing act referred to in Article 430(7) where those templates have not been updated to reflect the provisions of this Regulation.**]**

**Textual Amendments**

**F5** Inserted by 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 (Text with EEA relevance).

## TITLE II

## REPORTS AND REVIEWS

**[**F5 *Article 501c*

**Prudential treatment of exposures related to environmental and/or social objectives**

EBA, after consulting the ESRB, shall assess, on the basis of available data and the findings of the Commission High-Level Expert Group on Sustainable Finance, whether a dedicated prudential treatment of exposures related to assets or activities associated substantially with environmental and/or social objectives would be justified. In particular, EBA shall assess:

(a) methodologies for the assessment of the effective riskiness of exposures related to assets and activities associated substantially with environmental and/or social objectives compared to the riskiness of other exposure;

(b) the development of appropriate criteria for the assessment of physical risks and transition risks, including the risks related to the depreciation of assets due to regulatory changes;

(c) the potential effects of a dedicated prudential treatment of exposures related to assets and activities which are associated substantially with environmental and/or social objectives on financial stability and bank lending in the Union.

EBA shall submit a report on its findings to the European Parliament, to the Council and to the Commission by 28 June 2025.

On the basis of that report, the Commission shall, if appropriate, submit to the European Parliament and to the Council a legislative proposal.**]**

**Textual Amendments**

**F5** Inserted by 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 (Text with EEA relevance).

*Article 502*

### Cyclicality of capital requirements

The Commission, in cooperation with EBA, ESRB and the Member States, and taking into account the opinion of the ECB, shall periodically monitor whether this Regulation taken as a whole, together with Directive 2013/36/EU, has significant effects on the economic cycle and, in the light of that examination, shall consider whether any remedial measures are justified.

By 31 December 2013, EBA shall report to the Commission on whether, and if so how, methodologies of institutions under the IRB Approach should converge with a view to more comparable capital requirements while mitigating pro-cyclicality.

Based on that analysis and taking into account the opinion of the ECB, the Commission shall draw up a biennial report and submit it to the European Parliament and to the Council, together with any appropriate proposals. Contributions from credit taking and credit lending parties shall be adequately acknowledged when the report is drawn up.

By 31 December 2014, the Commission shall review, and report on, the application of Article 33(1)(c) and shall submit that report to the European Parliament and the Council, together with a legislative proposal, if appropriate.

With respect to the potential deletion of Article 33(1)(c) and its potential application at the Union level, the review shall in particular ensure that sufficient safeguards are in place to ensure financial stability in all Member States.

*Article 503*

**Own funds requirements for exposures in the form of covered bonds**

1 The Commission shall, by 31 December 2014, after consulting EBA, report to the European Parliament and to the Council, together with any appropriate proposals, on whether the risk weights laid down in Article 129 and the own funds requirements for specific risk in Article 336(3) are adequate for all the instruments that qualify for these treatments and whether the criteria in Article 129 are appropriate.

2 The report and the proposals referred to in paragraph 1 shall take into account:

a the extent to which the current regulatory capital requirements applicable to covered bonds adequately differentiate between variances in the credit quality of covered bonds and the collateral against which they are secured, including the extent of variations across Member States;

b the transparency of the covered bond market and the extent to which this facilitates comprehensive internal analysis by investors in respect of the credit risk of covered bonds and the collateral against which they are secured and the asset segregation in case of the issuer's insolvency, including the mitigating effects of the underlying strict national legal framework in accordance with Article 129 of this Regulation and Article 52(4) of Directive 2009/65/EC on the overall credit quality of a covered bond and its implications on the level of transparency needed by investors; and

c the extent to which covered bond issuance by a credit institution impacts on the credit risk to which other creditors of the issuing institution are exposed.

3 The Commission shall, by 31 December 2014, after consulting EBA, report to the European Parliament and the Council on whether loans secured by aircrafts (aircraft liens) and residential loans secured by a guarantee but not secured by a registered mortgage, should under certain conditions be considered an eligible asset in accordance with Article 129.

4 The Commission shall, by 31 December 2016, review the appropriateness of the derogation set out in Article 496 and, if relevant, the appropriateness of extending similar treatment to any other form of covered bond. In the light of that review, the Commission may, if appropriate, adopt delegated acts in accordance with Article 462 to make that derogation permanent, or make legislative proposals to extend it to other forms of covered bonds.

*Article 504*

**Capital instruments subscribed by public authorities in emergency situations**

The Commission shall, by 31 December 2016, after consulting EBA, report to the European Parliament and the Council, together with any appropriate proposals, whether the treatment set out in Article 31 needs to be amended or deleted.

*[F5 Article 504a*

**Holdings of eligible liabilities instruments**

By 28 June 2022, EBA shall report to the Commission on the amounts and distribution of holdings of eligible liabilities instruments among institutions identified as G-SIIs or O-SIIs and on potential impediments to resolution and the risk of contagion in relation to those holdings.

Based on the report by EBA the Commission shall, by 28 June 2023, report to the European Parliament and to the Council on the appropriate treatment of such holdings, accompanied by a legislative proposal, where appropriate.**]**

**Textual Amendments**

**F5** Inserted by 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 (Text with EEA relevance).

*Article 505*

**Review of long-term financing**

By 31 December 2014, the Commission shall report to the European Parliament and to the Council, together with any appropriate proposals, about the appropriateness of the requirements of this Regulation in light of the need to ensure adequate levels of funding for all forms of long-term financing for the economy, including critical infrastructure projects in the Union in the field of transport, energy and communications.

*Article 506*

**Credit risk — definition of default**

EBA shall, by 31 December 2017, report to the Commission on how replacing 90 days by 180 days past due, as provided in point (b) of Article 178(1), impacts risk-weighted exposure amounts and the appropriateness of the continued application of that provision after 31 December 2019.

On the basis of that report, the Commission may submit a legislative proposal to amend this Regulation.

*[F2 Article 507*

**Large exposures**

1 EBA shall monitor the use of exemptions set out in point (b) of Article 390(6), points (f) to (m) of Article 400(1), point (a) and points (c) to (g), (i), (j) and (k) of Article 400(2) and by 28 June 2021 submit a report to the Commission assessing the quantitative impact that the

removal of those exemptions or the setting of a limit on their use would have. That report shall assess, in particular, for each exemption provided for in those Articles:

a the number of large exposures exempted in each Member State;

b the number of institutions that make use of the exemption in each Member State;

c the aggregate amount of exposures exempted in each Member State.

2 By 31 December 2023, the Commission shall submit a report to the European Parliament and to the Council on the application of the derogations referred to in Articles 390(4) and 401(2) concerning the methods for the calculation of exposure value of securities financing transactions, and in particular the need to take account of amendments in international standards determining the methods for such calculation.**]**

**Textual Amendments**

**F2** Substituted by 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 (Text with EEA relevance).

*Article 508*

## Level of application

1 By 31 December 2014, the Commission shall review, and report on, the application of Part One, Title II, and Article 113(6) and (7) and shall submit that report to the European Parliament and the Council, together with a legislative proposal, if appropriate.

2 By 31 December 2015, the Commission shall report on whether and how the liquidity coverage requirement laid down in Part Six should apply to investment firms and shall, after consulting EBA, submit that report to the European Parliament and to the Council, together with a legislative proposal, if appropriate.

3 By 31 December 2015, the Commission shall, after consulting EBA and ESMA and in the light of discussions with the competent authorities, report to the European Parliament and to the Council on an appropriate regime for the prudential supervision of investment firms and of firms referred to in points (2)(b) and (c) of Article 4(1). Where appropriate the report shall be followed by a legislative proposal.

*Article 509*

## Liquidity requirements

1 EBA shall monitor and evaluate the reports made in accordance with Article 415(1), across currencies and across different business models. EBA shall, after consulting the ESRB, non-financial end-users, the banking industry, competent authorities and the ESCB central banks, annually and for the first time by 31 December 2013 report to the Commission on whether a specification of the general liquidity coverage requirement in Part Six based on the items to be reported in accordance with Part Six, Title II and Annex III, considered either individually or cumulatively, is likely to have a material detrimental impact on the business and risk profile of institutions established in the Union or on the stability and orderly functioning of financial

markets or on the economy and the stability of the supply of bank lending, with a particular focus on lending to SMEs and on trade financing, including lending under official export credit insurance schemes.

The report referred to in the first subparagraph shall take due account of markets and international regulatory developments as well as of the interactions of the liquidity coverage requirement with other prudential requirements under this Regulation such as the risk-based capital ratios as set out in Article 92 and the leverage ratio.

The European Parliament and the Council shall be given the opportunity to state their views on the report referred to in the first subparagraph.

2 EBA shall, in the report referred to in paragraph 1, assess the following, in particular:

a the provision of mechanisms restricting the value of liquidity inflows, in particular with a view to determining an appropriate inflow cap and the conditions for its application, taking into account different business models including pass through financing, factoring, leasing, covered bonds, mortgages, issuance of covered bonds, and the extent to which that cap should be amended or removed to cater for the specificities of specialised financing;

b the calibration of inflows and outflows referred to in Part Six, Title II, in particular under Article 422(7) and Article 425(2);

c the provision of mechanisms restricting the coverage of liquidity requirements by certain categories of liquid assets, in particular assessing the appropriate minimum percentage for liquid assets referred to in points (a), (b) and (c) of Article 416(1) to the total of liquid assets, testing a threshold of 60 % and taking into account international regulatory developments. Assets owed and due or callable within 30 calendar days should not count towards the limit unless the assets have been obtained against collateral that also qualifies under points (a), (b) and (c) of Article 416(1);

d the provision of specific lower outflow and/or higher inflow rates for intragroup flows, specifying under which conditions such specific in- or outflow rates would be justified from a prudential point of view and setting out the high level outline of a methodology using objective criteria and parameters in order to determine specific levels of inflows and outflows between the institution and the counterparty when they are not established in the same Member State;

e the calibration of the draw-down rates applicable to the undrawn committed credit and liquidity facilities that fall under Article 424(3) and (5). In particular, EBA shall test a draw-down rate of 100 %;

f the definition of retail deposit in point (2) of Article 411, in particular the appropriateness of introducing a threshold on deposits of natural persons;

g the need to introduce a new retail deposit category with a lower outflow in the light of the specific characteristics of such deposits that could justify a lower outflow rate and taking into account international developments;

h derogations from requirements on the composition of the liquid assets institutions will be required to hold, where in a given currency the institutions' collective justified needs for liquid assets are exceeding the availability of those liquid assets and conditions to which such derogations should be subject;

i the definition of Shari'ah-compliant financial products as an alternative to assets that would qualify as liquid assets for the purposes of Article 416, for the use of Shari'ah-compliant banks;

j the definition of circumstances of stress, including principles for the use of the stock of liquid assets and the necessary supervisory reactions under which institutions would be able to use their liquid assets to meet liquidity outflows and how to address non-compliance;

k the definition of an established operational relationship for non-financial customer as referred to in Article 422(3)(c);

l the calibration of the outflow rate applicable to correspondent banking and prime brokerage services as referred to in the first subparagraph of Article 422(4);

m mechanisms for the grandfathering of government guaranteed bonds issued to credit institutions as part of government support measures with Union State aid approval, such as bonds issued by the National Asset Management Agency (NAMA) in Ireland and by the Spanish Asset Management Company in Spain, designed to remove problem assets from the balance sheets of credit institutions, as assets of extremely high liquidity and credit quality until at least December 2023.

3 EBA shall, after consulting ESMA and the ECB, by 31 December 2013, report to the Commission on appropriate uniform definitions of high and of extremely high liquidity and credit quality of transferable assets for the purposes of Article 416 and appropriate haircuts for assets that would qualify as liquid assets for the purposes of Article 416, with the exception of assets referred to in points (a), (b) and (c) of Article 416(1).

The European Parliament and the Council shall be given the opportunity to state their views on that report.

The report referred to in the first subparagraph shall also consider:

a other categories of assets, in particular residential mortgage-backed securities of high liquidity and credit quality;

b other categories of central bank eligible securities or loans, such as local government bonds and commercial paper; and

c other non-central bank eligible but tradable assets, such as equities listed on a recognised exchange, gold, major index linked equity instruments, guaranteed bonds, covered bonds, corporate bonds and funds based on those assets.

4 The report referred to in paragraph 3 shall consider whether, and if so to what extent, standby credit facilities referred to in point (e) of Article 416(1) should be included as liquid assets in light of international development and taking into account European specificities, including the way monetary policy is performed in the Union.

EBA shall in particular test the adequacy of the following criteria and the appropriate levels for such definitions:

a minimum trade volume of the assets;

b minimum outstanding volume of the assets;

c transparent pricing and post-trade information;

d credit quality steps referred to in Part Three, Title II, Chapter 2;

e proven record of price stability;

f average volume traded and average trade size;

g maximum bid/ask spread;

h remaining time to maturity;

i minimum turnover ratio.

5 By 31 January 2014, EBA shall also report on the following:

a uniform definitions of high and extremely high liquidity and credit quality;

b the possible unintended consequences of the definition of liquid assets on the conduct of monetary policy operation and the extent to which:

(i) a list of liquid assets that is disconnected from the list of central bank eligible assets may incentivise institutions to submit eligible assets which are not included in the definition of liquid assets in refinancing operations;

(ii) regulation of liquidity may disincentivise institutions from lending or borrowing on the unsecured money market and whether this may lead to question the targeting of EONIA in monetary policy implementation;

(iii) the introduction of the liquidity coverage requirement may make it more difficult for central banks to ensure price stability by using the existing monetary policy framework and instruments;

c the operational requirements for the holdings of liquid assets, as referred in points (b) to (f) of Article 417, in line with international regulatory developments.

*Article 510*

**Net Stable Funding Requirements**

1 By 31 December 2015, EBA shall report to the Commission, on the basis of the items to be reported in accordance with Part Six, Title III, on whether and how it would be appropriate to ensure that institutions use stable sources of funding, including an assessment of the impact on the business and risk profile of institutions established in the Union or on financial markets or the economy and bank lending, with a particular focus on lending to SMEs and on trade financing, including lending under official export credit insurance schemes and pass through financing models, including match funded mortgage lending. In particular EBA shall analyse the impact of stable sources of funding on the refinancing structures of different banking models in the Union.

2 By 31 December 2015, EBA shall also report to the Commission, on the basis of the items to be reported in accordance with Part Six, Title III and, in accordance with the uniform reporting formats referred to in point (a) of Article 415(3) and after consulting the ESRB, on methodologies for determining the amount of stable funding available to and required by institutions and on appropriate uniform definitions for calculating such a net stable funding requirement, examining in particular the following:

a the categories and weightings applied to sources of stable funding in Article 427(1);

b the categories and weightings applied to determine the requirement for stable funding in Article 428(1);

c methodologies shall provide incentives and disincentives as appropriate to encourage a more stable longer term funding of assets, business activities, investment and funding of institutions;

d the need to develop different methodologies for different types of institutions.

3 By 31 December 2016, the Commission shall, if appropriate, taking into account the reports referred to in paragraphs 1 and 2, and taking full account of the diversity of the banking sector in the Union, submit a legislative proposal to the European Parliament and the Council on how to ensure that institutions use stable sources of funding.

[F5 4 EBA shall monitor the amount of required stable funding covering the funding risk linked to the derivative contracts listed in Annex II and credit derivatives over the one-year horizon of the net stable funding ratio, in particular the future funding risk for those derivative contracts set out in Articles 428s(2) and 428at(2), and report to the Commission on the opportunity to adopt a higher required stable funding factor or a more risk-sensitive measure by 28 June 2024. That report shall at least assess:

a the opportunity to distinguish between margined and unmargined derivative contracts;
b the opportunity to remove, increase or replace the requirement set out in Articles 428s(2) and 428at(2);
c the opportunity to change more broadly the treatment of derivative contracts in the calculation of the net stable funding ratio, as set out in Article 428d, Articles 428k(4) and 428s(2), points (a) and (b) of Article 428ag, Articles 428ah(2), 428al(4) and 428at(2), points (a) and (b) of Article 428ay and Article 428az(2), to better capture the funding risk linked to those contracts over the one-year horizon of the net stable funding ratio;
d the impact of the proposed changes on the amount of stable funding required for institutions' derivative contracts.

5 If international standards affect the treatment of derivative contracts listed in Annex II and credit derivatives for the calculation of the net stable funding ratio, the Commission shall, if appropriate and taking into account the report referred to in paragraph 4, those changes of international standards and the diversity of the banking sector in the Union, submit a legislative proposal to the European Parliament and to the Council on how to amend the provisions regarding the treatment of derivative contracts listed in Annex II and credit derivatives for the calculation of the net stable funding ratio as set out in Title IV of Part Six to take better account of the funding risk linked to those transactions.

6 EBA shall monitor the amount of stable funding required to cover the funding risk linked to securities financing transactions, including to the assets received or given in those transactions, and to unsecured transactions with a residual maturity of less than six months with financial customers and report to the Commission on the appropriateness of that treatment by 28 June 2023. That report shall at least assess:

a the opportunity to apply higher or lower stable funding factors to securities financing transactions with financial customers and to unsecured transactions with a residual maturity of less than six months with financial customers to take better account of their funding risk over the one-year horizon of the net stable funding ratio and of the possible contagion effects between financial customers;
b the opportunity to apply the treatment set out in point (g) of Article 428r(1) to securities financing transactions collateralised by other types of assets;
c the opportunity to apply stable funding factors to off-balance-sheet items used in securities financing transactions as an alternative to the treatment set out in Article 428p(5);
d the adequacy of the asymmetric treatment between liabilities with a residual maturity of less than six months provided by financial customers that are subject to a 0 % available stable funding factor in accordance with point (c) of Article 428k(3) and assets resulting from transactions with a residual maturity of less than six months with financial customers that are subject to a 0 %, 5 % or 10 % required stable funding factor in accordance with point (g) of Article 428r(1), point (c) of Article 428s(1) and point (b) of Article 428v;
e the impact of the introduction of higher or lower required stable funding factors for securities financing transactions, in particular with a residual maturity of less than six months with financial customers, on the market liquidity of assets received as collateral in those transactions, in particular of sovereign and corporate bonds;
f the impact of the proposed changes on the amount of stable funding required for those institutions' transactions, in particular for securities financing transactions with

a residual maturity of less than six months with financial customers where sovereign bonds are received as collateral in those transactions.

7 By 28 June 2024, the Commission shall, where appropriate and taking into account the report referred to in paragraph 6, any international standards and the diversity of the banking sector in the Union, submit a legislative proposal to the European Parliament and to the Council on how to amend the provisions regarding the treatment of securities financing transactions, including of the assets received or given in those transactions, and the treatment of unsecured transactions with a residual maturity of less than six months with financial customers for the calculation of the net stable funding ratio as set out in Title IV of Part Six where it considers it appropriate regarding the impact of the existing treatment on institutions' net stable funding ratio and to take better account of the funding risk linked to those transactions.

8 By 28 June 2025, the required stable funding factors applied to the transactions referred to in point (g) of Article 428r(1), point (c) of Article 428s(1) and in point (b) of Article 428v, shall be raised from 0 % to 10 %, from 5 % to 15 % and from 10 % to 15 % respectively, unless otherwise specified in a legislative act adopted on the basis of a proposal by the Commission, in accordance with paragraph 7 of this Article.

9 EBA shall monitor the amount of stable funding required to cover the funding risk linked to institutions' holdings of securities to hedge derivative contracts. EBA shall report on the appropriateness of the treatment by 28 June 2023. That report shall at least assess:

a the possible impact of the treatment on investors' ability to gain exposure to assets and the impact of the treatment on credit supply in the capital markets union;
b the opportunity to apply adjusted stable funding requirements to securities that are held to hedge derivatives which are funded by initial margin, either wholly or in part;
c the opportunity to apply adjusted stable funding requirements to securities that are held to hedge derivatives which are not funded by initial margin.

10 By 28 June 2023 or a year after an agreement on international standards that is developed by the BCBS, whichever is the earliest, the Commission shall, where appropriate and taking into account the report referred to in paragraph 9, any international standards developed by the BCBS, the diversity of the banking sector in the Union and the aims of the capital markets union, submit a legislative proposal to the European Parliament and to the Council on how to amend the provisions regarding the treatment of institutions' holdings of securities to hedge derivative contracts for the calculation of the net stable funding ratio as set out in Title IV of Part Six where it considers it appropriate regarding the impact of the existing treatment on institutions' net stable funding ratio and to take better account of the funding risk linked to those transactions.

11 EBA shall assess whether it would be justified to reduce the required stable funding factor for assets used for providing clearing and settlement services of precious metals such as gold, silver, platinum and palladium or assets used for providing financing transactions of precious metals such as gold, silver, platinum and palladium of a term of 180 days or less. EBA shall submit its report to the Commission by 28 June 2021.**]**

**Textual Amendments**

**F5** Inserted by 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 (Text with EEA relevance).

*[F2Article 511*

**Leverage**

1 The Commission shall by 31 December 2020 submit a report to the European Parliament and to the Council on whether:

a it is appropriate to introduce a leverage ratio surcharge for O-SIIs; and

b the definition and calculation of the total exposure measure referred to in Article 429(4), including the treatment of central bank reserves, is appropriate.

2 For the purposes of the report referred to in paragraph 1, the Commission shall take into account international developments and internationally agreed standards. Where appropriate, that report shall be accompanied by a legislative proposal.**]**

**Textual Amendments**

**F2** Substituted by 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 (Text with EEA relevance).

*Article 512*

**Exposures to transferred credit risk**

By 31 December 2014, the Commission shall report to the European Parliament and the Council on the application and effectiveness of the provisions of Part Five in the light of international market developments.

*[F2Article 513*

**Macroprudential rules**

1 By 30 June 2022, and every five years thereafter, the Commission shall, after consulting the ESRB and EBA, review whether the macroprudential rules contained in this Regulation and in Directive 2013/36/EU are sufficient to mitigate systemic risks in sectors, regions and Member States including assessing:

a whether the current macroprudential tools in this Regulation and in Directive 2013/36/EU are effective, efficient and transparent;

b whether the coverage and the possible degrees of overlap between different macroprudential tools for targeting similar risks in this Regulation and in Directive 2013/36/EU are adequate and, if appropriate, propose new macroprudential rules;

c how internationally agreed standards for systemic institutions interact with the provisions in this Regulation and in Directive 2013/36/EU and, if appropriate, propose new rules taking into account those internationally agreed standards;

d whether other types of instruments, such as borrower-based instruments, should be added to the macroprudential tools provided for in this Regulation and in

Directive 2013/36/EU to complement capital-based instruments and to allow for the harmonised use of the instruments in the internal market; taking into account whether harmonised definitions of those instruments and the reporting of respective data at Union level are a prerequisite for the introduction of such instruments;

e whether the leverage ratio buffer requirement as referred to in Article 92(1a) should be extended to systemically important institutions other than G-SIIs, whether its calibration should be different from the calibration for G-SIIs, and whether its calibration should depend on the level of systemic importance of the institution;

f whether the current voluntary reciprocity of macroprudnetial measures should be turned into mandatory reciprocity and whether the current ESRB framework for voluntary reciprocity is an appropriate basis for that;

g how relevant Union and national macroprudential authorities can be mandated with tools to address new emerging systemic risks arising from credit institutions exposures to the non-banking sector, in particular from derivatives and securities financing transactions markets, the asset management sector and the insurance sector.

2 By 31 December 2022, and every five years thereafter, the Commission shall, on the basis of the consultation with the ESRB and EBA, report to the European Parliament and to the Council on the assessment referred to in paragraph 1 and, where appropriate, submit a legislative proposal to the European Parliament and to the Council.**]**

**Textual Amendments**

**F2** Substituted by 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 (Text with EEA relevance).

### *[F2 Article 514*

### Method for the calculation of the exposure value of derivative transactions

1 EBA shall, by 28 June 2023, report to the Commission on the impact and the relative calibration of the approaches set out in Sections 3, 4 and 5 of Chapter 6 of Title II of Part Three to calculate the exposure values of derivative transactions.**]**

**Textual Amendments**

**F2** Substituted by 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 (Text with EEA relevance).

### *Article 515*

### Monitoring and evaluation

1 By 28 June 2014, EBA, together with ESMA, shall report on the functioning of this Regulation with the related obligations under Regulation (EU) No 648/2012 and in particular with regard to institutions operating a central counterparty, in order to avoid duplication of requirements for derivative transactions and thereby avoid increased regulatory risk and increased costs for monitoring by competent authorities.

2 EBA shall monitor and evaluate the operation of the provisions for own funds requirements for exposures to a central counterparty as set out in Section 9 of Chapter 6 of Title II of Part Three. By 1 January 2015 EBA shall report to the Commission on the impact and effectiveness of such provisions.

3 By 31 December 2016, the Commission shall review, and report on, the reconciliation of this Regulation with the related obligations under Regulation (EU) No 648/2012, the own funds requirements as set out in Section 9 of Chapter 6 of Title II of Part Three and shall submit that report to the European Parliament and the Council, and, if appropriate, a legislative proposal.

### *Article 516*

### Long-term financing

By 31 December 2015, the Commission shall report on the impact of this Regulation on the encouragement of long-term investments in growth promoting infrastructure.

### *Article 517*

### Definition of eligible capital

By 31 December 2014, the Commission shall review, and report on, the appropriateness of the definition of eligible capital being applied for the purposes of Title III of Part Two and Part Four and shall submit that report to the European Parliament and the Council, and, if appropriate, a legislative proposal.

### *Article 518*

### Review of capital instruments which may be written down or converted at the point of non-viability

By 31 December 2015, the Commission shall review, and report on, whether this Regulation should contain a requirement that Additional Tier 1 or Tier 2 capital instruments are to be written down in the event of a determination that an institution is no longer viable. The Commission shall submit that report to the European Parliament and the Council, together with a legislative proposal, if appropriate.

### *[F5Article 518a*

**Review of cross-default provisions**

By 28 June 2022, the Commission shall review and assess whether it is appropriate to require that eligible liabilities may be bailed-in without triggering cross-default clauses in other contracts, with a view to reinforcing as much as possible the effectiveness of the bail-in tool and to assessing whether a no-cross-default provision referring to eligible liabilities should be included in the terms or contracts governing other liabilities. Where appropriate, that review and assessment shall be accompanied by a legislative proposal.**]**

**Textual Amendments**

**F5** Inserted by 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 (Text with EEA relevance).

### *Article 519*

**Deduction of defined benefit pension fund assets from Common Equity Tier 1 items**

By 30 June 2014, EBA shall prepare a report on whether the revised IAS 19 in conjunction with the deduction of net pension assets as set out in Article 36(1)(e) and changes in the net pension liabilities lead to undue volatility of institutions' own funds.

Taking into account the EBA report, the Commission shall by, 31 December 2014 prepare a report for the European Parliament and the Council on the issue referred to in the first paragraph, together with a legislative proposal, if appropriate, to introduce a treatment which adjusts defined net benefit pension fund assets or liabilities for the calculation of own funds.

### *[F7Article 519a*

**Reporting and review**

By 1 January 2022, the Commission shall report to the European Parliament and the Council on the application of the provisions in Chapter 5 of Title II of Part Three in the light of developments in securitisation markets, including from a macroprudential and economic perspective. That report shall, if appropriate, be accompanied by a legislative proposal and shall, in particular, assess the following points:

(a) the impact of the hierarchy of methods set out in Article 254 and of the calculation of the risk-weighted exposure amounts of securitisation positions set out in Articles 258 to 266 on issuance and investment activity by institutions in securitisation markets in the Union;

(b) the effects on the financial stability of the Union and Member States, with a particular focus on potential immovable property market speculation and increased interconnection between financial institutions;

(c) what measures would be warranted to reduce and counter any negative effects of securitisation on financial stability while preserving its positive effect on financing, including the possible introduction of a maximum limit on exposure to securitisations; and

(d) the effects on the ability of financial institutions to provide a sustainable and stable funding channel to the real economy, with particular attention to SMEs.

The report shall also take into account regulatory developments in international fora, in particular those relating to international standards on securitisation.**]**

**Textual Amendments**

**F7** Inserted by Regulation (EU) 2017/2401 of the European Parliament and of the Council of 12 December 2017 amending Regulation (EU) No 575/2013 on prudential requirements for credit institutions and investment firms.

*[F5 Article 519b*

**Own funds requirements for market risk**

1 By 30 September 2019, EBA shall report on the impact, on institutions in the Union, of international standards to calculate the own funds requirements for market risk.

2 By 30 June 2020, the Commission shall, taking into account the results of the report referred to in paragraph 1 and the international standards and the approaches set out in Chapters 1a and 1b of Title IV of Part Three, submit a report together with a legislative proposal, where appropriate, to the European Parliament and to the Council on how to implement international standards on adequate own funds requirements for market risk.**]**

**Textual Amendments**

**F5** Inserted by 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 (Text with EEA relevance).

## [F5TITLE IIA

## IMPLEMENTATION OF RULES

### *Article 519c*

### Compliance tool

1 EBA shall develop an electronic tool aimed at facilitating institutions' compliance with this Regulation and Directive 2013/36/EU, as well as with regulatory technical standards, implementing technical standards, guidelines and templates adopted to implement this Regulation and that Directive.

2 The tool referred to in paragraph 1 shall at least enable each institution to:

a rapidly identify the relevant provisions to comply with in relation to the institution's size and business model;

b follow the changes made in legislative acts and in the related implementing provisions, guidelines and templates.]

## TITLE III

## AMENDMENTS

### *Article 520*

### Amendment of Regulation (EU) No 648/2012

Regulation (EU) No 648/2012 is amended as follows:

(1) the following Chapter is added in Title IV:

## CHAPTER 4

## Calculations and reporting for the purposes of Regulation (EU) No 575/2013

### *Article 50a*

### Calculation of $K_{CCP}$

1 For the purposes of Article 308 of Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms[(5)], a CCP shall calculate $K_{CCP}$ as specified in paragraph 2 of this Article for all contracts and transactions it clears for all its clearing members falling within the coverage of the given default fund.

2 A CCP shall calculate the hypothetical capital ($K_{CCP}$) as follows:

$$K_{CCP} = \sum_i \max\{EBRM_i - IM_i - DF_i;0\} \times RW \times \text{captial ratio}$$

where:

| | | |
|---|---|---|
| $EBRM_i$ | = | exposure value before risk mitigation that is equal to the exposure value of the CCP to clearing member i arising from all the contracts and transactions with that clearing member, calculated without taking into account the collateral posted by that clearing member; |
| $IM_i$ | = | the initial margin posted to the CCP by clearing member i; |
| $DF_i$ | = | the pre-funded contribution of clearing member i; |
| RW | = | a risk weight of 20 %; |
| capital ratio | = | 8 %. |

All values in the formula in the first subparagraph shall relate to the valuation at the end of the day before the margin called on the final margin call of that day is exchanged.

3 A CCP shall undertake the calculation required by paragraph 2 at least quarterly or more frequently where required by the competent authorities of those of its clearing members which are institutions.

4 For the purpose of paragraph 3, EBA shall develop draft implementing technical standards to specify the following:

a the frequency and dates of the calculation laid down in paragraph 2;
b the situations in which the competent authority of an institution acting as a clearing member may require higher frequencies of calculation and reporting than those referred to in point (a).

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

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

*Article 50b*

**General rules for the calculation of $K_{CCP}$**

For the purposes of the calculation laid down in Article 50a(2), the following shall apply:

(a) a CCP shall calculate the value of the exposures it has to its clearing members as follows:

(i) for exposures arising from contracts and transactions listed in Article 301(1)(a) and (d) of Regulation (EU) No 575/2013 it shall calculate them in accordance with the mark-to-market method laid down in Article 274 thereof;

(ii) for exposures arising from contracts and transactions listed in Article 301(1)(b), (c) and (e) of Regulation (EU) No 575/2013 it shall calculate them in accordance with the Financial Collateral Comprehensive Method specified in Article 223 of that Regulation with supervisory volatility adjustments, specified in Articles 223 and 224 of that Regulation. The exception set out in point (a) of Article 285(3) of that Regulation, shall not apply;

(iii) for exposures arising from transactions not listed in Article 301(1) of Regulation (EU) No 575/2013 and which entails settlement risk only it shall calculate them in accordance with Part Three, Title V of that Regulation;

(b) for institutions that fall under the scope of Regulation (EU) No 575/2013 the netting sets are the same as those defined in Part Three, Title II of that Regulation;

(c) when calculating the values referred to in point (a), the CCP shall subtract from its exposures the collateral posted by its clearing members, appropriately reduced by the supervisory volatility adjustments in accordance with the Financial Collateral Comprehensive Method specified in Article 224 of Regulation (EU) No 575/2013;

(e) where a CCP has exposures to one or more CCPs it shall treat any such exposures as if they were exposures to clearing members and include any margin or pre-funded contributions received from those CCPs in the calculation of $K_{CCP}$;

(f) where a CCP has in place a binding contractual arrangement with its clearing members that allows it to use all or part of the initial margin received from its clearing members as if they were pre-funded contributions, the CCP shall consider that initial margin as prefunded contributions for the purposes of the calculation in paragraph 1 and not as initial margin;

(h) when applying the Mark-to-Market Method as set out in Article 274 of Regulation (EU) No 575/2013, a CCP shall replace the formula in point (c)(ii) of Article 298(1) of that Regulation with the following:

$$\mathrm{PCE_{red}} = 0.15 \times \mathrm{PCE_{gross}} + 0.85 \times \mathrm{NGR} \times \mathrm{PCE_{gross}}$$

where the numerator of NGR is calculated in accordance with Article 274(1) of that Regulation and just before the variation margin is actually exchanged at the end of the settlement period, and the denominator is gross replacement cost;

(i) where a CCP cannot calculate the value of NGR as set out in point (c)(ii) of Article 298(1) of Regulation (EU) No 575/2013, it shall:

(i) notify those of its clearing members which are institutions and their competent authorities about its inability to calculate NGR and the reasons why it is unable to carry out the calculation;

(ii) for a period of three months, it may use a value of NGR of 0,3 to perform the calculation of $PCE_{red}$ specified in point (h) of this Article;

(j) where, at the end of the period specified in point (ii) of point (i), the CCP would still be unable to calculate the value of NGR, it shall do the following:

(i) stop calculating $K_{CCP}$;

(ii) notify those of its clearing members which are institutions and their competent authorities that it has stopped calculating $K_{CCP}$;

(k) for the purpose of calculating the potential future exposure for options and swaptions in accordance with the Mark-to-Market Method specified in Article 274 of Regulation (EU) No 575/2013, a CCP shall multiply the notional amount of the contract by the absolute value of the option's delta

$$(\delta V / \delta p)$$

as set out in point (a) of Article 280(1) of that Regulation;

(l) where a CCP has more than one default fund, it shall carry out the calculation laid down in Article 50a(2) for each default fund separately.

*Article 50c*

**Reporting of information**

1 For the purposes of Article 308 of Regulation (EU) No 575/2013, a CCP shall report the following information to those of its clearing members which are institutions and to their competent authorities:

a the hypothetical capital ($K_{CCP}$);
b the sum of pre-funded contributions ($DF_{CM}$);
c the amount of its pre-funded financial resources that it is required to use — by law or due to a contractual agreement with its clearing members — to cover its losses following the default of one or more of its clearing members before using the default fund contributions of the remaining clearing members ($DF_{CCP}$);
d the total number of its clearing members (N);
e the concentration factor (β), as set out in Article 50d.

Where the CCP has more than one default fund, it shall report the information in the first subparagraph for each default fund separately.

2 The CCP shall notify those of its clearing members which are institutions at least quarterly or more frequently where required by the competent authorities of those clearing members.

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

a the uniform template for the purpose of the reporting specified in paragraph 1;
b the frequency and dates of the reporting specified in paragraph 2;
c the situations in which the competent authority of an institution acting as a clearing member may require higher frequencies of reporting than those referred to in point (b).

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

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

*Article 50d*

**Calculation of specific items to be reported by the CCP**

For the purposes of Article 50c, the following shall apply:

(a) where the rules of a CCP provide that it use part or all of its financial resources in parallel to the pre-funded contributions of its clearing members in a manner that makes those resources equivalent to pre-funded contributions of a clearing member in terms of how they absorb the losses incurred by the CCP in the case of the default or insolvency of one or more of its clearing members, the CCP shall add the corresponding amount of those resources to $DF_{CM}$;

(b) where the rules of a CCP provide that it use part or all of its financial resources to cover its losses due to the default of one or more of its clearing members after it has depleted its default fund, but before it calls on the contractually committed contributions of its clearing members, the CCP shall add the corresponding amount of those additional financial resources

$$\left(DF_a^{CCP}\right)$$

to the total amount of pre-funded contributions (DF) as follows:

$$DF = DF_{CCP} + DF_{CM} + DF_a^{CCP}$$

.

(c) a CCP shall calculate the concentration factor (β) in accordance with the following formula:

$$\beta = \frac{PCE_{red,1} + PCE_{red,2}}{\sum_i PCE_{red,i}}$$

where:

| | | |
|---|---|---|
| $PCE_{red,i}$ | = | the reduced figure for potential future credit exposure for all contracts and transaction of a CCP with clearing member *i*; |
| $PCE_{red,1}$ | = | the reduced figure for potential future credit exposure for all contracts and transaction of a CCP with the clearing member that has the largest $PCE_{red}$ value; |
| $PCE_{red,2}$ | = | the reduced figure for potential future credit exposure for all contracts and transaction of a CCP with the clearing member that has the second largest $PCE_{red}$ value.; |

(2) in Article 11(15), point (b) is deleted;

(3) in Article 89, the following paragraph is inserted:

5a. Until 15 months after the date of entry into force of the latest of the regulatory technical standards referred to in Articles 16, 25, 26, 29, 34, 41, 42, 44, 45, 47 and 49, or until a decision is made under Article 14 on the authorisation of the CCP, whichever is earlier, that CCP shall apply the treatment specified in the third subparagraph of this paragraph.

Until 15 months after the date of entry into force of the latest of the regulatory technical standards referred to in Articles 16, 26, 29, 34, 41, 42, 44, 45, 47 and 49, or until a decision is made under Article 25 on the recognition of the CCP, whichever is earlier, that CCP shall apply the treatment specified in the third subparagraph of this paragraph.

Until the deadlines defined in the first two subparagraphs of this paragraph, and subject to the fourth subparagraph of this paragraph, where a CCP neither has a default fund nor has in place a binding arrangement with its clearing members that allows it to use all or part of the initial margin received from its clearing members as if they were pre-funded contributions, the information it is to report in accordance with Article 50c(1) shall include the total amount of initial margin it has received from its clearing members.

The deadlines referred to in the first and second subparagraphs of this paragraph may be extended by six months in accordance with a Commission implementing act adopted pursuant to Article 497(3) of Regulation (EU) No 575/2013. .**]**

**Editorial Information**

**X1** Substituted by Corrigendum to Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (OJ L 176, 27.6.2013, p. 1).

**(1)** [X1 Commission Regulation (EC) No 1126/2008 of 3 November 2008 adopting certain international accounting standards in accordance with Regulation (EC) No 1606/2002 of the European Parliament and of the Council (OJ L 320, 29.11.2008, p. 1).]

**(2)** [X1 Commission Regulation (EU) No 1205/2011 of 22 November 2011 amending Regulation (EC) No 1126/2008 adopting certain international accounting standards in accordance with Regulation (EC) No 1606/2002 of the European Parliament and of the Council as regards International Financial Reporting Standard (IFRS) 7 (OJ L 305, 23.11.2011, p. 16).]

**(3)** [X1 OJ L 141, 11.6.1993, p. 27.]

**(4)** [X1 OJ L 124, 20.5.2003, p. 36.]

**(5)** [X1 OJ L 176, 27.6.2013, p. 1.';]

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**X1** Substituted by Corrigendum to Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (OJ L 176, 27.6.2013, p. 1).