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)

PART 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 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.

Status: *This is the original version (as it was originally adopted).*

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 may not set an applicable percentage of unrealised gains under paragraph 2 of this Article 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 not 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 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 their own credit risk.

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).

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

1 By way of derogation from Article 49(1), during the period from 1 January 2014 to 31 December 2022, competent authorities may permit institutions to not deduct equity holdings in insurance undertakings, reinsurance undertakings and insurance holding companies where the following conditions are met:

a the conditions laid down in points (a), (c) 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 2022;

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 %.

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, according to 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 according to 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.

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 …, 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 2 January 2015;

b 10 % to 100 % for the period from 2 January 2015 to 2 January 2016;

c 20 % to 100 % for the period from 2 January 2016 to 2 January 2017;

d 30 % to 100 % for the period from 2 January 2017 to 2 January 2018;

e 40 % to 100 % for the period from 2 January 2018 to 2 January 2019;

f 50 % to 100 % for the period from 2 January 2019 to 2 January 2020;

g 60 % to 100 % for the period from 2 January 2020 to 2 January 2021;

h 70 % to 100 % for the period from 2 January 2021 to 2 January 2022;

i 80 % to 100 % for the period from 2 January 2022 to 2 January 2023;
j 90 % to 100 % for the period from 2 January 2023 to 2 January 2024.

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) and (3), 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 points (b) and (e) 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 1 February 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 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;

d in cases where the instruments are subscribed by both the Member State and private investors, where 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 requirements of point (a) or (b) of paragraph 2 of this Article not being 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 may 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 the conditions laid down in Article 52(1) of this Regulation not being 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 the conditions laid down in Article 52(1) of this Regulation not being 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 may 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 the items not being referred to in Article 62 of this Regulation or the conditions laid down in Article 63 of this Regulation not being 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 the items not being referred to in Article 62 of this Regulation or the conditions laid down in Article 63 of this Regulation not being met, provided the conditions in paragraph 8 of this Article are met.

Instruments that qualify as Tier 2 instruments pursuant to the first subparagraph may 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 or were eligible as own funds prior to 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 during the period 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 capital not meeting the conditions laid down in Article 28 or, where applicable, Article 29 of this Regulation.

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 the conditions laid down in Article 52 of this Regulation not being 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 those items not being included in Article 62 of this Regulation or the conditions laid down in Article 63 of this Regulation not being 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 During the period 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:

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, 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 By way of derogation from Articles 51, 52, 62 and 63, during the period from 1 January 2014 to 31 December 2021, institutions may 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 By way of derogation from Articles 51, 52, 62 and 63, during the period from 1 January 2014 to 31 December 2021, institutions may 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 1 February 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 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 By way of derogation from Articles 51 and 52, during the period 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 be subject to the requirements laid down in paragraphs 2 to 7 of this Article.

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

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

b the institution did not exercise the call;

c the conditions laid down in Article 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:

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 the requirements laid down in paragraphs 2 to 7 of this Article.

2 The items shall qualify as Tier 2 instruments provided:

- a the institution was able to exercise a call with an incentive to redeem only prior to 1 January 2013;
- b the institution did not exercise the call;
- c from 1 January 2013 the conditions laid down in Article 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 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 2013 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, it is the date of the first call with an incentive to redeem occurring on or after 1 January 2013;

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

(c) for the items referred to in paragraph 6 of those Articles, it is the date of the first call with an incentive to redeem prior to 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 During the period 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 During the period 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 Section 4 of Chapter 1;
- c the effect on Common Equity Tier 1 capital, Additional Tier 1 capital, Tier 2 capital and own funds of the individual filters and deductions applied in accordance with Article 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 During the period 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 1 February 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.

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. This exemption is available until 31 December 2017 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 this report, the Commission may submit proposals for amendments to 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 2 January 2029, 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 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.

Article 494

Transitional provisions for eligible capital

By way of derogation from point (71)(b) of Article 4(1), eligible capital may include Tier 2 capital up to the following amounts:

(a) 100 % of Tier 1 capital during the period from 1 January 2014 to 31 December 2014;

(b) 75 % of Tier 1 capital during the period from 1 January 2015 to 31 December 2015;

(c) 50 % of Tier 1 capital during the period from 1 January 2016 to 31 December 2016.

Article 495

Treatment of equity exposures under the IRB Approach

1 By way of derogation from Chapter 3 of Part Three, until 31 December 2017, the competent authorities may exempt from the IRB treatment certain categories of equity exposures held by institutions and EU subsidiaries of institutions in that Member State as at 31 December 2007. The competent authority shall publish the categories of equity exposures which benefit from that 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 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 2015 the same risk weight shall be assigned in relation to exposures to the central governments or central banks of Member States denominated and funded in the domestic currency of any Member State as would be applied to such exposures denominated and funded in their domestic currency.

3 EBA shall develop draft regulatory technical standards to specify the conditions according to which 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 Until 31 December 2017 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 (e) of Article 129(1), provided that both of the following conditions are fulfilled:

a the securitised residential or commercial immovable property exposures were originated by a member of the same consolidated group of which the issuer of the covered bonds is 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), institutions' senior unsecured exposures which qualified for a 20 % risk weight under national law before the entry into force of this Regulation shall be considered to qualify for credit quality step 1.

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

Article 497

Own funds requirements for exposures to CCPs

1 Up until 15 months after the date of entry into force of the latest of the eleven regulatory technical standards referred to at the end of the first subparagraph of Article 89(3) of Regulation (EU) 648/2012, or until a decision is made under Article 14 of that Regulation on the authorisation of the CCP, whichever date is earlier, an institution may consider that CCP to be a Q_{CCP}, provided that the condition laid down in the first part of that subparagraph has been met.

2 Up until 15 months after the date of entry into force of the latest of the ten regulatory technical standards referred to at the end of the second subparagraph of Article 89(3) of Regulation (EU) 648/2012, or until a decision is made under Article 25 of that Regulation on the recognition of the CCP established in a third country, whichever date is earlier, an institution may consider that CCP to be a Q_{CCP},

3 The Commission may adopt an implementing act under Article 5 of Regulation (EU) No 182/2011 extending the transitional provisions in paragraphs 1 and 2 of this Article by a further six months, in exceptional circumstances where it is necessary and proportionate to avoid disruption to international financial markets.

4 Up until the deadlines defined in paragraphs 1 and 2, and extended under paragraph 3, as applicable, where a CCP does not have a default fund and it 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, an institution shall substitute the right formula for calculating the own funds requirement (K_i) in Article 308(2) with the following one:

$$K_i = \left(1 + \beta \cdot \frac{N}{N-2}\right) \cdot \frac{IM_i}{IM} \cdot K_{CM}$$

where

IM_i = the initial margin posted to the CCP by clearing member i

IM = the total amount of initial margin communicated to the institution by the CCP.

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 whose main business consists exclusively of the provision of investment services or activities in relation to the financial instruments set out in points 5, 6, 7, 9 and 10 of Section C of Annex I to Directive 2004/39/EC and to whom Directive 93/22/EEC did not apply on 31 December 2006.

This exemption shall apply until 31 December 2017 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 for amendments to this Regulation.

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.

Article 500

Transitional provisions – Basel I floor

1 Until 31 December 2017, institutions calculating risk-weighted exposure amounts in accordance with Part Three, Title II, Chapter 3 and institutions using the Advanced Measurement Approaches as specified in Part Three, Title III, Chapter 4 for the calculation of their own funds requirements for operational risk shall meet both of the following requirements:

a they shall hold own funds as required by Article 92;

b they shall hold own funds which are at all times more than or equal to 80 % of the total minimum amount of own funds that the institution would be required to hold under Article 4 of Directive 93/6/EEC as that Directive and Directive 2000/12/EC of

the European Parliament and of the Council of 20 March 2000 relating to the taking up and pursuit of the business of credit institutions[4] stood prior to 1 January 2007.

2 Subject to the approval of the competent authorities, the amount referred to in point (b) of paragraph 1 may be replaced by a requirement to hold own funds which are at all times more than or equal to 80 % of the own funds that the institution would be required to hold under Article 92 calculating risk weighted exposure amounts in accordance with Part Three, Title II, Chapter 2, and Part Three, Title III, Chapter 2 or 3, as applicable, instead of in accordance with Part Three, Title II, Chapter 3, or Part Three, Title III, Chapter 4, as applicable.

3 A credit institution may apply paragraph 2 only if it started to use the IRB Approach or the Advanced Measurements Approaches for the calculation of its capital requirements on or after 1 January 2010.

4 Compliance with the requirements of point (b) of paragraph 1 shall be on the basis of amounts of own funds fully adjusted to reflect differences in the calculation of own funds under Directive 93/6/EEC and Directive 2000/12/EC as those Directives stood prior to 1 January 2007 and the calculation of own funds under this Regulation deriving from the separate treatments of expected loss and unexpected loss under Part Three, Title II, Chapter 3, of this Regulation.

5 The competent authorities may, after having consulted EBA, waive the application of point (b) of paragraph 1 to institutions provided that all the requirements for the Internal Ratings Based Approach set out in Part Three, Title II, Chapter 3, Section 6 or the qualifying criteria for the use of the Advanced Measurement Approach set out in Part Three, Title III, Chapter 4, as applicable, are met.

6 The Commission shall by 1 January 2017 submit a report to the European Parliament and the Council on whether it is appropriate to extend the application of the Basel I floor beyond 31 December 2017 to ensure that there is a backstop to internal models, taking into account international developments and internationally agreed standards. That report shall be accompanied by a legislative proposal if appropriate.

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[5]. 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 this 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 2 January 2017, 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 the following to the Commission:

a analysis of the evolution of the lending trends and conditions for SMEs over the period referred to in paragraph 4;

b 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).

TITLE II

REPORTS AND REVIEWS

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 if and how methodologies of institutions under the IRB Approach should converge with a view to more comparable capital requirements while mitigating pro-cyclicality.

Based on that analysis and taking into account the 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 elimination of the 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 have regard to:

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 whether residential loans secured by a guarantee, but not secured by a registered mortgage, should under certain conditions be considered as 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 removed.

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.

Article 507

Large exposures

By 31 December 2015, the Commission shall review and report on the application of Article 400(1)(j) and Article 400(2), including whether the exemptions set out in Article 400(2) is to be discretionary, and shall submit that report to the European Parliament and to the Council, together with a legislative proposal if appropriate.

With respect to the potential elimination of the national discretion under Article 400(2)(c) and its potential application at the Union level, the review shall in particular take into account the efficiency of group risk management while ensuring that sufficient safeguards are in place to ensure financial stability in all Member States in which an entity belonging to a group is incorporated.

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 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, for example local government bonds and commercial paper; and
- c other non-central bank eligible but tradable assets, for example 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, 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 furthermore 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 to lend or borrow 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, and 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.

Article 511

Leverage

1 Based on the results of the report referred to in paragraph 3, the Commission shall submit by 31 December 2016 a report on the impact and effectiveness of the leverage ratio to the European Parliament and the Council.

2 Where appropriate, the report shall be accompanied by a legislative proposal on the introduction of an appropriate number of levels of the leverage ratio that institutions following different business models would be required to meet, suggesting an adequate calibration for those levels and any appropriate adjustments to the capital measure and the total exposure measure as referred to in Article 429, together with any connected flexibility measures if necessary, including appropriate amendments to Article 458 to introduce the leverage ratio within the scope of measures included in that Article.

3 For the purposes of paragraph 1, EBA shall report to the Commission by 31 October 2016 on at least the following:

a whether the leverage ratio framework provided by this Regulation and Articles 87 and 98 of Directive 2013/36/EU is the appropriate tool to suppress the risk of excessive leverage on the part of the institutions in a satisfactory manner and degree;

b on identifying business models that reflect the overall risk profiles of the institutions and on introducing differentiated levels of the leverage ratio for those business models;

c whether the requirements laid out in Articles 76 and 87 of Directive 2013/36/EU in accordance with Articles 73 and 97 of Directive 2013/36/EU for addressing the risk of excessive leverage are sufficient to ensure sound management of this risk by institutions and, if not, which further enhancements are needed in order to ensure these objectives;

d whether – and if so, which - changes to the calculation methodology referred to in Article 429 would be necessary to ensure that the leverage ratio can be used as an appropriate indicator of an institution's risk of excessive leverage;

e whether, in the context of the calculation of the total exposure measure of the leverage ratio, the exposure value of contracts listed in Annex II determined by using the Original Exposure Method differs in a material way from the exposure value determined by using the Mark-to-Market Method;

f whether using either own funds or Common Equity Tier 1 capital as the capital measure of the leverage ratio could be more appropriate for the intended purpose of tracking the risk of excessive leverage and, if so, what would be the appropriate calibration of the leverage ratio;

g whether the conversion factor referred to in point (a) of Article 429(10) for undrawn credit facilities, which may be cancelled unconditionally at any time without notice, is appropriately conservative based on the evidence collected during the observation period;

h whether the frequency and format of the disclosure of items referred to in Article 451 are adequate;

i what would be the appropriate level for the leverage ratio for each of the business models indentified in accordance with point (b);

j whether a range for each level of the leverage ratio should be defined;

k whether introducing the leverage ratio as a requirement for institutions would necessitate any changes to the leverage ratio framework provided by this Regulation and, if so, which ones;

l whether introducing the leverage ratio as a requirement for institutions would effectively constrain the risk of excessive leverage on the part of those institutions, and, if so, whether the level for the leverage ratio should be the same for all institutions or should be determined according to the risk profile and business model as well as the size of institutions and, with regard to this, which additional calibrations or transition period would be required.

4 The report referred to in paragraph 3 shall cover at least the period from 1 January 2014 until 30 June 2016 and shall take account of at least the following:

a the impact of introducing the leverage ratio, determined in accordance with Article 429, as a requirement that institutions would have to meet on:

(i) financial markets in general and markets for repurchase transactions, derivatives and covered bonds in particular;

(ii) the robustness of institutions;

(iii) business models and balance-sheet structures of institutions; in particular as regards low-risk areas of business, such as promotional credit by public development banks, municipal loans, financing of residential property and other low-risk areas regulated under national law;

(iv) the migration of exposures to entities which are not subject to prudential supervision;

(v) financial innovation, in particular the development of instruments with embedded leverage;

(vi) institutions' risk-taking behaviour;

(vii) clearing, settlement and custody activities and the operation of a central counterparty;

(viii) cyclicality of the capital measure and the total exposure measure of the leverage ratio;

(ix) bank lending, with a particular focus on lending to SMEs, local authorities, regional governments and public sector entities and on trade financing, including lending under official export credit insurance schemes;

b the interaction of the leverage ratio with the risk-based own funds requirements and the liquidity requirements as specified in this Regulation;

c the impact of accounting differences between accounting standards applicable under Regulation (EC) No 1606/2002, accounting standards applicable under Directive 86/635/EEC and other applicable accounting framework and other relevant accounting frameworks on the comparability of the leverage ratio.

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.

Article 513

Macroprudential rules

1 By 30 June 2014, the Commission shall, after consulting the ESRB and EBA, review whether the macroprudential rules contained in this Regulation and 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 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 Directive 2013/36/EU are adequate and, if appropriate, propose new macroprudential rules;
- c how internationally agreed standards for systemic institutions interacts with the provisions in this Regulation and Directive 2013/36/EU and, if appropriate, propose new rules taking into account those internationally agreed standards.

2 By 31 December 2014, the Commission shall, on the basis of the consultation with the ESRB and EBA, report to the European Parliament and the Council on the assessment referred to in paragraph 1 and, where appropriate, submit a legislative proposal to the European Parliament and the Council.

Article 514

Counterparty Credit Risk and the Original Exposure Method

By 31 December 2016 the Commission shall review and report on the application of Article 275 and shall submit that report to the European Parliament and the Council, and, if appropriate, a legislative proposal.

Article 515

Monitoring and evaluation

1 EBA, together with ESMA, shall by 2 January 2015 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.

Article 519

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

EBA shall by 30 June 2014 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 to 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.

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[(6)], where a CCP has received the notification referred to in Article 301(2)(b) of that Regulation, it 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:

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

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 %.

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

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;

(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;

(d) a CCP shall calculate its securities financing transaction exposures to its clearing members in accordance with the Financial Collateral Comprehensive method, with supervisory volatility adjustments, specified in Articles 223 and 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;

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

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

;

where the numerator of NGR is calculated in accordance with Article 274(1) of Regulation (EU) No 575/2013 and just before the variation margin is actually exchanged at the end of the settlement period, and the denominator is the gross replacement cost;

(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:

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

where the numerator of NGR is calculated in accordance with Article 274(1) of that Regulation and just before variation margins are 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 (g);

(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;

f the sum of all of the contractually committed contributions (DF_c^{CM}) .

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. Up until 15 months after the date of entry into force of the latest of the eleven regulatory technical standards referred to at the end of the first subparagraph of paragraph 3, or until a decision is made under Article 14 on the authorisation of the CCP, whichever date is earlier, that CCP shall apply the treatment specified in the third subparagraph of this paragraph.

Up until 15 months after the date of entry into force of the latest of the eleven regulatory technical standards referred to at the end of the second subparagraph of

paragraph 3, or until a decision is made under Article 25 on the recognition of the CCP, whichever date is earlier, that CCP shall apply the treatment specified in the third subparagraph of this paragraph.

Where a CCP does not have a default fund and it 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 information it shall report in accordance with Article 50c(1) shall include the total amount of initial margin it has received from its clearing members (IM).

The deadlines in the first and second subparagraphs of this paragraph may be extended by an additional six months where the Commission has adopted the implementing act referred to in Article 497(3) of Regulation (EU) No 575/2013.

(**1**) 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**) 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**) OJ L 141, 11.6.1993, p. 27.

(**4**) OJ L 126, 26.5.2000, p. 1.

(**5**) OJ L 124, 20.5.2003, p. 36.

(**6**) OJ L 176, 27.6.2013, p. 1.";