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

[X1PART TEN

TRANSITIONAL PROVISIONS, REPORTS, REVIEWS AND AMENDMENTS

TITLE I

TRANSITIONAL PROVISIONS

CHAPTER 1

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

[X1Section 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.

Status: Point in time view as at 28/06/2013.
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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);

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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.

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

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

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

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

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

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

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

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

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

Article 473

Introduction of amendments to IAS 19

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

2 The applicable amount shall be calculated by deducting from the sum derived in accordance with point (a) the sum derived in accordance with point (b):

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

b institutions shall determine the values of the assets of their defined pension funds or plans, as applicable, in accordance with the rules set out in Regulation (EC) No 1126/2008. Institutions shall then deduct from the values of those assets, the values of the obligations under the same funds or plans determined in accordance with the same accounting rules.

3 The amount determined in accordance with paragraph 2 shall be limited to the amount not required to be deducted from own funds, prior to 1 January 2014, under

national transposition measures of Directive 2006/48/EC, insofar as those national transposition measures would be eligible for the treatment set out in Article 481 of this Regulation in the Member State concerned.

4 The following factors apply:

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

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

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:

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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.

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

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

b where the institution has a significant investment in a financial sector entity with which it has reciprocal cross holdings, the amount of direct, indirect and synthetic holdings of the Tier 2 instruments of that financial sector entity are treated as falling within point (d) of Article 66.

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

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

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

Sub-Section 4

Applicable percentages for deduction

Article 478

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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i 80 % to 100 % for the period from 1 January 2022 to 31 December 2022;
j 90 % to 100 % for the period from 1 January 2023 to 31 December 2023.

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

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

Editorial Information

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

Status: *Point in time view as at 28/06/2013.*
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(**1**) **[**[X1]Commission Regulation (EC) No 1126/2008 of 3 November 2008 adopting certain international accounting standards in accordance with Regulation (EC) No 1606/2002 of the European Parliament and of the Council (OJ L 320, 29.11.2008, p. 1).**]**

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

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