

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)

[^{X1}PART TEN

TRANSITIONAL PROVISIONS, REPORTS, REVIEWS AND AMENDMENTS

TITLE I

TRANSITIONAL PROVISIONS

[^{X1}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⁽¹⁾ 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 that report, the Commission may submit proposals to amend this Regulation.

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

Status: Point in time view as at 28/06/2013.

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- a covered bonds falling within Article 129(1), (3) and (6);
- b asset items constituting claims on regional governments or local authorities of Member States where those claims would be assigned a 20 % risk weight under Part Three, Title II, Chapter 2 and other exposures to or guaranteed by those regional governments or local authorities, claims on which would be assigned a 20 % risk weight under Part Three, Title II, Chapter 2;
- c exposures, including participations or other kinds of holdings, incurred by an institution to its parent undertaking, to other subsidiaries of that parent undertaking or to its own subsidiaries, in so far as those undertakings are covered by the supervision on a consolidated basis to which the institution itself is subject, in accordance with this Regulation, Directive 2002/87/EC or with equivalent standards in force in a third country. Exposures that do not meet those criteria, whether or not exempted from Article 395(1) of this Regulation, shall be treated as exposures to a third party;
- d asset items constituting claims on and other exposures, including participations or other kinds of holdings, to regional or central credit institutions with which the credit institution belongs to a network in accordance with legal or statutory provisions and which are responsible, under those provisions, for cash-clearing operations within the network;
- e asset items constituting claims on and other exposures to credit institutions incurred by credit institutions, one of which operates on a non-competitive basis and provides or guarantees loans under legislative programmes or its statutes, to promote specified sectors of the economy under some form of government oversight and restrictions on the use of the loans, provided that the respective exposures arise from such loans that are passed on to the beneficiaries via credit institutions or from the guarantees of these loans;
- f asset items constituting claims on and other exposures to institutions, provided that those exposures do not constitute such institutions' own funds, do not last longer than the following business day and are not denominated in a major trading currency;
- g asset items constituting claims on central banks in the form of required minimum reserves held at those central banks which are denominated in their national currencies;
- h asset items constituting claims on central governments in the form of statutory liquidity requirements held in government securities which are denominated and funded in their national currencies provided that, at the discretion of the competent authority, the credit assessment of those central governments assigned by a nominated ECAI is investment grade;
- i 50 % of medium/low risk off-balance sheet documentary credits and of medium/low risk off-balance sheet undrawn credit facilities referred to in Annex I and subject to the competent authorities' agreement, 80 % of guarantees other than loan guarantees which have a legal or regulatory basis and are given for their members by mutual guarantee schemes possessing the status of credit institutions;
- j legally required guarantees used when a mortgage loan financed by issuing mortgage bonds is paid to the mortgage borrower before the final registration of the mortgage in the land register, provided that the guarantee is not used as reducing the risk in calculating the risk-weighted exposure amounts;
- k assets items constituting claims on and other exposures to recognised exchanges.

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Article 494

Transitional provisions for eligible capital

By way of derogation from points (71)(a)(ii) and (b)(ii) 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 Until 31 December 2017, the competent authorities may, by way of derogation from Chapter 3 of Part Three, exempt from the IRB treatment certain categories of equity exposures held by institutions and EU subsidiaries of institutions in that Member State as at 31 December 2007. The competent authority shall publish the categories of equity exposures which benefit from such treatment in accordance with Article 143 of Directive 2013/36/EU.

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

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

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

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

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

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

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

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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 (f) of Article 129(1), provided that both of the following conditions are fulfilled:

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

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

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

Article 497

Own funds requirements for exposures to CCPs

1 Until 15 months after the date of entry into force of the latest of the regulatory technical standards referred to in Articles 16, 25, 26, 29, 34, 41, 42, 44, 45, 47 and 49 of Regulation (EU) No 648/2012, or until a decision is made under Article 14 of that Regulation on the authorisation of the CCP, whichever is earlier, an institution may consider that CCP to be a QCCP, provided that the CCP was authorised in its Member State of establishment to provide clearing services in accordance with the national law of that Member State before all the regulatory technical standards in Articles 5, 8 to 11, 16, 18, 25, 26, 29, 34, 41, 42, 44, 45, 46, 47, 49, 56 and 81 of that Regulation have been adopted.

2 Until 15 months after the date of entry into force of the latest of the regulatory technical standards referred to in Articles 16, 26, 29, 34, 41, 42, 44, 45, 47 and 49 of Regulation (EU) No 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 is earlier, an institution may consider that CCP to be a QCCP,

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

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further six months, in exceptional circumstances where it is necessary and proportionate to avoid disruption to international financial markets.

4 Until the deadlines defined in paragraphs 1 and 2, and extended under paragraph 3, as applicable, where a CCP neither has a default fund nor has in place a binding arrangement with its clearing members that allows it to use all or part of the initial margin received from its clearing members as if they were pre-funded contributions, 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 the main business of which consists exclusively of the provision of investment services or activities in relation to the financial instruments set out in points 5, 6, 7, 9 and 10 of Section C of Annex I to Directive 2004/39/EC and to which Directive 93/22/EEC did not apply on 31 December 2006.

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 to amend this Regulation.

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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⁽²⁾ 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

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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 consulting EBA, waive the application of point (b) of paragraph 1 to institutions provided that all the requirements for the IRB 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 By 1 January 2017, the Commission shall 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⁽³⁾. Among the criteria listed in Article 2 of the Annex to that Recommendation only the annual turnover shall be taken into account;
- c the total amount owed to the institution and parent undertakings and its subsidiaries, including any exposure in default, by the obligor client or group of connected clients, but excluding claims or contingent claims secured on residential property collateral, shall not, to the knowledge of the institution, exceed EUR 1,5 million. The institution shall take reasonable steps to acquire such knowledge.

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

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

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

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

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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 \(OJ L 176, 27.6.2013, p. 1\)](#).

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- (1) [^{X1}OJ L 141, 11.6.1993, p. 27.]
- (2) [^{X1}OJ L 126, 26.5.2000, p. 1.]
- (3) [^{X1}OJ L 124, 20.5.2003, p. 36.]

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

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