

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 THREE

CAPITAL REQUIREMENTS

TITLE IV

OWN FUNDS REQUIREMENTS FOR MARKET RISK

[^{X1}CHAPTER 2

Own funds requirements for position risk

Section 1

General provisions and specific instruments

Article 326

Own funds requirements for position risk

The institution's own funds requirement for position risk shall be the sum of the own funds requirements for the general and specific risk of its positions in debt and equity instruments. Securitisation positions in the trading book shall be treated as debt instruments.

Article 327

Netting

1 The absolute value of the excess of an institution's long (short) positions over its short (long) positions in the same equity, debt and convertible issues and identical financial futures, options, warrants and covered warrants shall be its net position in each of those different instruments. In calculating the net position, positions in derivative instruments shall be treated as laid down in Articles 328 to 330. Institutions' holdings of their own debt instruments shall be disregarded in calculating specific risk capital requirements under Article 336.

2 No netting shall be allowed between a convertible and an offsetting position in the instrument underlying it, unless the competent authorities adopt an approach under which the likelihood of a particular convertible's being converted is taken into account or require an own funds requirement to cover any loss which conversion might entail. Such approaches or own funds requirements shall be notified to EBA. EBA shall monitor the range of practices in this area and shall, in accordance with Article 16 of Regulation (EU) No 1093/2010, issue guidelines.

Status: Point in time view as at 28/06/2013.

Changes to legislation: Regulation (EU) No 575/2013 of the European Parliament and of the Council, CHAPTER 2 is up to date with all changes known to be in force on or before 10 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

3 All net positions, irrespective of their signs, shall be converted on a daily basis into the institution's reporting currency at the prevailing spot exchange rate before their aggregation.

Article 328

Interest rate futures and forwards

1 Interest-rate futures, forward-rate agreements (FRAs) and forward commitments to buy or sell debt instruments shall be treated as combinations of long and short positions. Thus a long interest-rate futures position shall be treated as a combination of a borrowing maturing on the delivery date of the futures contract and a holding of an asset with maturity date equal to that of the instrument or notional position underlying the futures contract in question. Similarly a sold FRA will be treated as a long position with a maturity date equal to the settlement date plus the contract period, and a short position with maturity equal to the settlement date. Both the borrowing and the asset holding shall be included in the first category set out in Table 1 in Article 336 in order to calculate the own funds requirement for specific risk for interest-rate futures and FRAs. A forward commitment to buy a debt instrument shall be treated as a combination of a borrowing maturing on the delivery date and a long (spot) position in the debt instrument itself. The borrowing shall be included in the first category set out in Table 1 in Article 336 for purposes of specific risk, and the debt instrument under whichever column is appropriate for it in the same table.

2 For the purposes of this Article, 'long position' means a position in which an institution has fixed the interest rate it will receive at some time in the future, and 'short position' means a position in which it has fixed the interest rate it will pay at some time in the future.

Article 329

Options and warrants

1 Options and warrants on interest rates, debt instruments, equities, equity indices, financial futures, swaps and foreign currencies shall be treated as if they were positions equal in value to the amount of the underlying instrument to which the option refers, multiplied by its delta for the purposes of this Chapter. The latter positions may be netted off against any offsetting positions in the identical underlying securities or derivatives. The delta used shall be that of the exchange concerned. For OTC-options, or where delta is not available from the exchange concerned, the institution may calculate delta itself using an appropriate model, subject to permission by the competent authorities. Permission shall be granted if the model appropriately estimates the rate of change of the option's or warrant's value with respect to small changes in the market price of the underlying.

2 Institutions shall adequately reflect other risks, apart from the delta risk, associated with options in the own funds requirements.

3 EBA shall develop draft regulatory technical standards defining a range of methods to reflect in the own funds requirements other risks, apart from delta risk, referred to in paragraph 2 in a manner proportionate to the scale and complexity of institutions' activities in options and warrants.

EBA shall submit those draft regulatory technical standards to the Commission by 31 December 2013.

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

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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.

4 Before the entry into force of the technical standards referred to in paragraph 3, competent authorities may continue to apply the existing national treatments, where the competent authorities have applied those treatments before 31 December 2013.

Article 330

Swaps

Swaps shall be treated for interest-rate risk purposes on the same basis as on-balance-sheet instruments. Thus, an interest-rate swap under which an institution receives floating-rate interest and pays fixed-rate interest shall be treated as equivalent to a long position in a floating-rate instrument of maturity equivalent to the period until the next interest fixing and a short position in a fixed-rate instrument with the same maturity as the swap itself.

Article 331

Interest rate risk on derivative instruments

1 Institutions which mark to market and manage the interest-rate risk on the derivative instruments covered in Articles 328 to 330 on a discounted-cash-flow basis may, subject to permission by the competent authorities, use sensitivity models to calculate the positions referred to in those Articles and may use them for any bond which is amortised over its residual life rather than via one final repayment of principal. Permission shall be granted if these models generate positions which have the same sensitivity to interest-rate changes as the underlying cash flows. This sensitivity shall be assessed with reference to independent movements in sample rates across the yield curve, with at least one sensitivity point in each of the maturity bands set out in Table 2 in Article 339. The positions shall be included in the calculation of own funds requirements for general risk of debt instruments.

2 Institutions which do not use models under paragraph 1 may, treat as fully offsetting any positions in derivative instruments covered in Articles 328 to 330 which meet the following conditions at least:

- a the positions are of the same value and denominated in the same currency;
- b the reference rate (for floating-rate positions) or coupon (for fixed-rate positions) is closely matched;
- c the next interest-fixing date or, for fixed coupon positions, residual maturity corresponds with the following limits:
 - (i) less than one month hence: same day;
 - (ii) between one month and one year hence: within seven days;
 - (iii) over one year hence: within 30 days.

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Article 332

Credit Derivatives

1 When calculating the own funds requirement for general and specific risk of the party who assumes the credit risk (the ‘protection seller’), unless specified differently, the notional amount of the credit derivative contract shall be used. Notwithstanding the first sentence, the institution may elect to replace the notional value by the notional value plus the net market value change of the credit derivative since trade inception, a net downward change from the protection seller's perspective carrying a negative sign. For the purpose of calculating the specific risk charge, other than for total return swaps, the maturity of the credit derivative contract, rather than the maturity of the obligation, shall apply. Positions are determined as follows:

- a a total return swap creates a long position in the general risk of the reference obligation and a short position in the general risk of a government bond with a maturity equivalent to the period until the next interest fixing and which is assigned a 0 % risk weight under Title II, Chapter 2. It also creates a long position in the specific risk of the reference obligation;
- b a credit default swap does not create a position for general risk. For the purposes of specific risk, the institution shall record a synthetic long position in an obligation of the reference entity, unless the derivative is rated externally and meets the conditions for a qualifying debt item, in which case a long position in the derivative is recorded. If premium or interest payments are due under the product, these cash flows shall be represented as notional positions in government bonds;
- c a single name credit linked note creates a long position in the general risk of the note itself, as an interest rate product. For the purpose of specific risk, a synthetic long position is created in an obligation of the reference entity. An additional long position is created in the issuer of the note. Where the credit linked note has an external rating and meets the conditions for a qualifying debt item, a single long position with the specific risk of the note need only be recorded;
- d in addition to a long position in the specific risk of the issuer of the note, a multiple name credit linked note providing proportional protection creates a position in each reference entity, with the total notional amount of the contract assigned across the positions according to the proportion of the total notional amount that each exposure to a reference entity represents. Where more than one obligation of a reference entity can be selected, the obligation with the highest risk weighting determines the specific risk;
- e a first-asset-to-default credit derivative creates a position for the notional amount in an obligation of each reference entity. If the size of the maximum credit event payment is lower than the own funds requirement under the method in the first sentence of this point, the maximum payment amount may be taken as the own funds requirement for specific risk.

A -n-th-asset-to-default credit derivative creates a position for the notional amount in an obligation of each reference entity less the n-1 reference entities with the lowest specific risk own funds requirement. If the size of the maximum credit event payment is lower than the own funds requirement under the method in the first sentence of this point, this amount may be taken as the own funds requirement for specific risk.

Where an n-th-to-default credit derivative is externally rated, the protection seller shall calculate the specific risk own funds requirement using the rating of the derivative and apply the respective securitisation risk weights as applicable.

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2 For the party who transfers credit risk (the protection buyer), the positions are determined as the mirror principle of the protection seller, with the exception of a credit linked note (which entails no short position in the issuer). When calculating the own funds requirement for the 'protection buyer', the notional amount of the credit derivative contract shall be used. Notwithstanding the first sentence, the institution may elect to replace the notional value by the notional value plus the net market value change of the credit derivative since trade inception, a net downward change from the protection seller's perspective carrying a negative sign. If at a given moment there is a call option in combination with a step-up, such moment is treated as the maturity of the protection.

3 Credit derivatives in accordance with Article 338(1) or (3) shall be included only in the determination of the specific risk own funds requirement in accordance with Article 338(4).

Article 333

Securities sold under a repurchase agreement or lent

The transferor of securities or guaranteed rights relating to title to securities in a repurchase agreement and the lender of securities in a securities lending shall include these securities in the calculation of its own funds requirement under this Chapter provided that such securities are trading book positions.

Section 2

Debt instruments

Article 334

Net positions in debt instruments

Net positions shall be classified according to the currency in which they are denominated and shall calculate the own funds requirement for general and specific risk in each individual currency separately.

Sub-Section 1

Specific risk

Article 335

Cap on the own funds requirement for a net position

The institution may cap the own funds requirement for specific risk of a net position in a debt instrument at the maximum possible default-risk related loss. For a short position, that limit may be calculated as a change in value due to the instrument or, where relevant, the underlying names immediately becoming default risk-free.

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Article 336

Own funds requirement for non-securitisation debt instruments

1 The institution shall assign its net positions in the trading book in instruments that are not securitisation positions as calculated in accordance with Article 327 to the appropriate categories in Table 1 on the basis of their issuer or obligor, external or internal credit assessment, and residual maturity, and then multiply them by the weightings shown in that table. It shall sum its weighted positions resulting from the application of this Article regardless of whether they are long or short in order to calculate its own funds requirement against specific risk.

TABLE 1

Categories	Specific risk own funds requirement
Debt securities which would receive a 0 % risk weight under the Standardised Approach for credit risk.	0 %
Debt securities which would receive a 20 % or 50 % risk weight under the Standardised Approach for credit risk and other qualifying items as defined in paragraph 4.	0,25 % (residual term to final maturity six months or less) 1,00 % (residual term to final maturity greater than six months and up to and including 24 months) 1,60 % (residual term to maturity exceeding 24 months)
Debt securities which would receive a 100 % risk weight under the Standardised Approach for credit risk.	8,00 %
Debt which would receive a 150 % risk weight under the Standardised Approach for credit risk.	12,00 %

2 For institutions which apply the IRB Approach to the exposure class of which the issuer of the debt instrument forms part, to qualify for a risk weight under the Standardised Approach for credit risk as referred to in paragraph 1, the issuer of the exposure shall have an internal rating with a PD equivalent to or lower than that associated with the appropriate credit quality step under the Standardised Approach.

3 Institutions may calculate the specific risk requirements for any bonds that qualify for a 10 % risk weight in accordance with the treatment set out in Article 129(4), (5) and (6) as half of the applicable specific risk own funds requirement for the second category in Table 1.

4 Other qualifying items are:

- a long and short positions in assets for which a credit assessment by a nominated ECAI is not available and which meet all of the following conditions:
 - (i) they are considered by the institution concerned to be sufficiently liquid;
 - (ii) their investment quality is, according to the institution's own discretion, at least equivalent to that of the assets referred to under Table 1 second row;

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- (iii) they are listed on at least one regulated market in a Member State or on a stock exchange in a third country provided that the exchange is recognised by the competent authorities of the relevant Member State;
- b long and short positions in assets issued by institutions subject to the own funds requirements set out in this Regulation which are considered by the institution concerned to be sufficiently liquid and whose investment quality is, according to the institution's own discretion, at least equivalent to that of the assets referred to under Table 1 second row;
- c securities issued by institutions that are deemed to be of equivalent, or higher, credit quality than those associated with credit quality step 2 under the Standardised Approach for credit risk of exposures to institutions and that are subject to supervisory and regulatory arrangements comparable to those under this Regulation and Directive 2013/36/EU.

Institutions that make use of point (a) or (b) shall have a documented methodology in place to assess whether assets meet the requirements in those points and shall notify this methodology to the competent authorities.

Article 337

Own funds requirement for securitisation instruments

1 For instruments in the trading book that are securitisation positions, the institution shall weight with the following its net positions as calculated in accordance with Article 327(1):

- a for securitisation positions that would be subject to the Standardised Approach for credit risk in the same institution's non-trading book, 8 % of the risk weight under the Standardised Approach as set out in Title II, Chapter 5, Section 3;
- b for securitisation positions that would be subject to the Internal Ratings Based Approach in the same institution's non-trading book, 8 % of the risk weight under the Internal Ratings Based Approach as set out in Title II, Chapter 5, Section 3.

2 The Supervisory Formula Method set out in Article 262 may be used where the institution can produce estimates of PD, and where applicable exposure value and LGD as inputs into the Supervisory Formula Method in accordance with the requirements for the estimation of those parameters under the Internal Ratings Based Approach in accordance with Title II, Chapter 3.

An institution other than an originator institution that could apply it for the same securitisation position in its non-trading book may only use that method subject to permission by the competent authorities, which shall be granted where the institution fulfils the condition in the first subparagraph.

Estimates of PD and LGD as inputs to the Supervisory Formula Method may alternatively also be determined based on estimates that are derived from an IRC approach of an institution that has been granted permission to use an internal model for specific risk of debt instruments. The latter alternative may be used only subject to permission by the competent authorities, which shall be granted if those estimates meet the quantitative requirements for the Internal Ratings Based Approach set out in Title II, Chapter 3.

In accordance with Article 16 of Regulation (EU) No 1093/2010, EBA shall issue guidelines on the use of estimates of PD and LGD as inputs when those estimates are based on an IRC approach.

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3 For securitisation positions that are subject to an additional risk weight in accordance with Article 407, 8 % of the total risk weight shall be applied.

Except for securitisation positions treated in accordance with Article 338(4), the institution shall sum its weighted positions resulting from the application of this Article (regardless of whether they are long or short) in order to calculate its own funds requirement against specific risk.

4 By way of derogation from the second subparagraph of paragraph 3, for a transitional period ending 31 December 2014, the institution shall sum separately its weighted net long positions and its weighted net short positions. The larger of those sums shall constitute the specific risk own funds requirement. The institution shall, however, quarterly report to the competent authority of the home Member State the total sum of its weighted net long and net short positions, broken down by types of underlying assets.

5 Where an originator institution of a traditional securitisation does not meet the conditions for significant risk transfer in Article 243, it shall include in the calculation of the own funds requirement under this Article the securitised exposures instead of its securitisation positions from this securitisation.

Where an originator institution of a synthetic securitisation does not meet the conditions for significant risk transfer in Article 244, it shall include in the calculation of the own funds requirement under this Article the securitised exposures from this securitisation, but not any credit protection obtained for the securitised portfolio.

Article 338

Own funds requirement for the correlation trading portfolio

1 The correlation trading portfolio shall consist of securitisation positions and n-th-to-default credit derivatives that meet all of the following criteria:

- a the positions are neither re-securitisation positions, nor options on a securitisation tranche, nor any other derivatives of securitisation exposures that do not provide a pro-rata share in the proceeds of a securitisation tranche;
- b all reference instruments are either of the following:
 - (i) single-name instruments, including single-name credit derivatives, for which a liquid two-way market exists;
 - (ii) commonly-traded indices based on those reference entities.

A two-way market is deemed to exist where there are independent bona fide offers to buy and sell so that a price reasonably related to the last sales price or current bona fide competitive bid and offer quotations can be determined within one day and settled at such price within a relatively short time conforming to trade custom.

2 Positions which reference any of the following shall not be part of the correlation trading portfolio:

- a an underlying that is capable of being assigned to the exposure class 'retail exposures' or to the exposure class 'exposures secured by mortgages on immovable property' under the Standardised Approach for credit risk in an institution's non-trading book;
- b a claim on a special purpose entity, collateralised, directly or indirectly, by a position that would itself not be eligible for inclusion in the correlation trading portfolio in accordance with paragraph 1 and this paragraph.

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3 An institution may include in the correlation trading portfolio positions which are neither securitisation positions nor n-th-to-default credit derivatives but which hedge other positions of that portfolio, provided that a liquid two-way market as described in the last subparagraph of paragraph 1 exists for the instrument or its underlyings.

4 An institution shall determine the larger of the following amounts as the specific risk own funds requirement for the correlation trading portfolio:

- a the total specific risk own funds requirement that would apply just to the net long positions of the correlation trading portfolio;
- b the total specific risk own funds requirement that would apply just to the net short positions of the correlation trading portfolio.

Sub-Section 2

General risk

Article 339

Maturity-based calculation of general risk

1 In order to calculate own funds requirements against general risk all positions shall be weighted according to maturity as explained in paragraph 2 in order to compute the amount of own funds required against them. This requirement shall be reduced when a weighted position is held alongside an opposite weighted position within the same maturity band. A reduction in the requirement shall also be made when the opposite weighted positions fall into different maturity bands, with the size of this reduction depending both on whether the two positions fall into the same zone, or not, and on the particular zones they fall into.

2 The institution shall assign its net positions to the appropriate maturity bands in column 2 or 3, as appropriate, in Table 2 in paragraph 4. It shall do so on the basis of residual maturity in the case of fixed-rate instruments and on the basis of the period until the interest rate is next set in the case of instruments on which the interest rate is variable before final maturity. It shall also distinguish between debt instruments with a coupon of 3 % or more and those with a coupon of less than 3 % and thus allocate them to column 2 or column 3 in Table 2. It shall then multiply each of them by the weighing for the maturity band in question in column 4 in Table 2.

3 The institution shall then work out the sum of the weighted long positions and the sum of the weighted short positions in each maturity band. The amount of the former which are matched by the latter in a given maturity band shall be the matched weighted position in that band, while the residual long or short position shall be the unmatched weighted position for the same band. The total of the matched weighted positions in all bands shall then be calculated.

4 The institution shall compute the totals of the unmatched weighted long positions for the bands included in each of the zones in Table 2 in order to derive the unmatched weighted long position for each zone. Similarly, the sum of the unmatched weighted short positions for each band in a particular zone shall be summed to compute the unmatched weighted short position for that zone. That part of the unmatched weighted long position for a given zone that is matched by the unmatched weighted short position for the same zone shall be the matched weighted position for that zone. That part of the unmatched weighted long or unmatched weighted short position for a zone that cannot be thus matched shall be the unmatched weighted position for that zone.

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TABLE 2

Zone	Maturity band		Weighting (in %)	Assumed interest rate change (in %)
	Coupon of 3 % or more	Coupon of less than 3 %		
One	0 ≤ 1 month	0 ≤ 1 month	0,00	—
	> 1 ≤ 3 months	> 1 ≤ 3 months	0,20	1,00
	> 3 ≤ 6 months	> 3 ≤ 6 months	0,40	1,00
	> 6 ≤ 12 months	> 6 ≤ 12 months	0,70	1,00
Two	> 1 ≤ 2 years	> 1,0 ≤ 1,9 years	1,25	0,90
	> 2 ≤ 3 years	> 1,9 ≤ 2,8 years	1,75	0,80
	> 3 ≤ 4 years	> 2,8 ≤ 3,6 years	2,25	0,75
Three	> 4 ≤ 5 years	> 3,6 ≤ 4,3 years	2,75	0,75
	> 5 ≤ 7 years	> 4,3 ≤ 5,7 years	3,25	0,70
	> 7 ≤ 10 years	> 5,7 ≤ 7,3 years	3,75	0,65
	> 10 ≤ 15 years	> 7,3 ≤ 9,3 years	4,50	0,60
	> 15 ≤ 20 years	> 9,3 ≤ 10,6 years	5,25	0,60
	> 20 years	> 10,6 ≤ 12,0 years	6,00	0,60
		> 12,0 ≤ 20,0 years	8,00	0,60
	> 20 years	12,50	0,60	

5 The amount of the unmatched weighted long or short position in zone one which is matched by the unmatched weighted short or long position in zone two shall then be the matched weighted position between zones one and two. The same calculation shall then be undertaken with regard to that part of the unmatched weighted position in zone two which is left over and the unmatched weighted position in zone three in order to calculate the matched weighted position between zones two and three.

6 The institution may reverse the order in paragraph 5 so as to calculate the matched weighted position between zones two and three before calculating that position between zones one and two.

7 The remainder of the unmatched weighted position in zone one shall then be matched with what remains of that for zone three after the latter's matching with zone two in order to derive the matched weighted position between zones one and three.

8 Residual positions, following the three separate matching calculations in paragraphs 5, 6 and 7 shall be summed.

9 The institution's own funds requirement shall be calculated as the sum of:

- a 10 % of the sum of the matched weighted positions in all maturity bands;
- b 40 % of the matched weighted position in zone one;

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- c 30 % of the matched weighted position in zone two;
- d 30 % of the matched weighted position in zone three;
- e 40 % of the matched weighted position between zones one and two and between zones two and three;
- f 150 % of the matched weighted position between zones one and three;
- g 100 % of the residual unmatched weighted positions.

Article 340

Duration-based calculation of general risk

1 Institutions may use an approach for calculating the own funds requirement for the general risk on debt instruments which reflects duration, instead of the approach set out in Article 339, provided that the institution does so on a consistent basis.

2 Under the duration-based approach referred to in paragraph 1, the institution shall take the market value of each fixed-rate debt instrument and hence calculate its yield to maturity, which is implied discount rate for that instrument. In the case of floating-rate instruments, the institution shall take the market value of each instrument and hence calculate its yield on the assumption that the principal is due when the interest rate can next be changed.

3 The institution shall then calculate the modified duration of each debt instrument on the basis of the following formula:

$$\text{modified duration} = \frac{D}{1+R}$$

where:

D = duration calculated according to the following formula:

$$D = \frac{\sum_{t=1}^M \frac{t \cdot C_t}{(1+R)^t}}{\sum_{t=1}^M \frac{C_t}{(1+R)^t}}$$

where:

- R = yield to maturity;
- C_t = cash payment in time t;
- M = total maturity.

Correction shall be made to the calculation of the modified duration for debt instruments which are subject to prepayment risk. EBA shall, in accordance with Article 16 of Regulation (EU) No 1093/2010, issue guidelines about how to apply such corrections.

4 The institution shall then allocate each debt instrument to the appropriate zone in Table 3. It shall do so on the basis of the modified duration of each instrument.

TABLE 3

Zone	Modified duration(in years)	Assumed interest (change in %)
One	> 0 ≤ 1,0	1,0

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Two	$> 1,0 \leq 3,6$	0,85
Three	$> 3,6$	0,7

5 The institution shall then calculate the duration-weighted position for each instrument by multiplying its market price by its modified duration and by the assumed interest-rate change for an instrument with that particular modified duration (see column 3 in Table 3).

6 The institution shall calculate its duration-weighted long and its duration-weighted short positions within each zone. The amount of the former which are matched by the latter within each zone shall be the matched duration-weighted position for that zone.

The institution shall then calculate the unmatched duration-weighted positions for each zone. It shall then follow the procedures laid down for unmatched weighted positions in Article 339(5) to (8).

7 The institution's own funds requirement shall then be calculated as the sum of the following:

- a 2 % of the matched duration-weighted position for each zone;
- b 40 % of the matched duration-weighted positions between zones one and two and between zones two and three;
- c 150 % of the matched duration-weighted position between zones one and three;
- d 100 % of the residual unmatched duration-weighted positions.

Section 3

Equities

Article 341

Net positions in equity instruments

1 The institution shall separately sum all its net long positions and all its net short positions in accordance with Article 327. The sum of the absolute values of the two figures shall be its overall gross position.

2 The institution shall calculate, separately for each market, the difference between the sum of the net long and the net short positions. The sum of the absolute values of those differences shall be its overall net position.

3 EBA shall develop draft regulatory technical standards defining the term market referred to in paragraph 2.

EBA shall submit those draft regulatory technical standards to the Commission by 31 January 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.

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Article 342

Specific risk of equity instruments

The institution shall multiply its overall gross position by 8 % in order to calculate its own funds requirement against specific risk.

Article 343

General risk of equity instruments

The own funds requirement against general risk shall be the institution's overall net position multiplied by 8 %.

Article 344

Stock indices

1 EBA shall develop draft implementing technical standards listing the stock indices for which the treatments set out in the second sentence of paragraph 4 is available.

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.

2 Before the entry into force of the technical standards referred to in paragraph 1, institutions may continue to apply the treatment set out in the second sentence of paragraph 4, where the competent authorities have applied that treatment before 1 January 2014.

3 Stock-index futures, the delta-weighted equivalents of options in stock-index futures and stock indices collectively referred to hereafter as 'stock-index futures', may be broken down into positions in each of their constituent equities. These positions may be treated as underlying positions in the equities in question, and may, be netted against opposite positions in the underlying equities themselves. Institutions shall notify the competent authority of the use they make of that treatment.

4 Where a stock-index future is not broken down into its underlying positions, it shall be treated as if it were an individual equity. However, the specific risk on this individual equity can be ignored if the stock-index future in question is exchange traded and represents a relevant appropriately diversified index.

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Section 4

Underwriting

Article 345

Reduction of net positions

1 In the case of the underwriting of debt and equity instruments, an institution may use the following procedure in calculating its own funds requirements. The institution shall first calculate the net positions by deducting the underwriting positions which are subscribed or sub-underwritten by third parties on the basis of formal agreements. The institution shall then reduce the net positions by the reduction factors in Table 4 and calculate its own funds requirements using the reduced underwriting positions.

TABLE 4

working day 0:	100 %
working day 1:	90 %
working days 2 to 3:	75 %
working day 4:	50 %
working day 5:	25 %
after working day 5:	0 %.

‘Working day zero’ shall be the working day on which the institution becomes unconditionally committed to accepting a known quantity of securities at an agreed price.

2 The institutions shall notify to the competent authorities the use they make of paragraph 1.

Section 5

Specific risk own funds requirements for positions hedged by credit derivatives

Article 346

Allowance for hedges by credit derivatives

1 An allowance shall be given for hedges provided by credit derivatives, in accordance with the principles set out in paragraphs 2 to 6.

2 Institutions shall treat the position in the credit derivative as one ‘leg’ and the hedged position that has the same nominal, or, where applicable, notional amount, as the other ‘leg’.

3 Full allowance shall be given when the values of the two legs always move in the opposite direction and broadly to the same extent. This will be the case in the following situations:

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- a the two legs consist of completely identical instruments;
- b a long cash position is hedged by a total rate of return swap (or vice versa) and there is an exact match between the reference obligation and the underlying exposure (i.e., the cash position). The maturity of the swap itself may be different from that of the underlying exposure.

In these situations, a specific risk own funds requirement shall not be applied to either side of the position.

4 An 80 % offset will be applied when the values of the two legs always move in the opposite direction and where there is an exact match in terms of the reference obligation, the maturity of both the reference obligation and the credit derivative, and the currency of the underlying exposure. In addition, key features of the credit derivative contract shall not cause the price movement of the credit derivative to materially deviate from the price movements of the cash position. To the extent that the transaction transfers risk, an 80 % specific risk offset will be applied to the side of the transaction with the higher own funds requirement, while the specific risk requirements on the other side shall be zero.

5 Partial allowance shall be given, absent the situations in paragraphs 3 and 4, in the following situations:

- a the position falls under paragraph 3(b) but there is an asset mismatch between the reference obligation and the underlying exposure. However, the positions meet the following requirements:
 - (i) the reference obligation ranks *pari passu* with or is junior to the underlying obligation;
 - (ii) the underlying obligation and reference obligation share the same obligor and have legally enforceable cross-default or cross-acceleration clauses;
- b the position falls under paragraph 3(a) or paragraph 4 but there is a currency or maturity mismatch between the credit protection and the underlying asset. Such currency mismatch shall be included in the own funds requirement for foreign exchange risk;
- c the position falls under paragraph 4 but there is an asset mismatch between the cash position and the credit derivative. However, the underlying asset is included in the (deliverable) obligations in the credit derivative documentation.

In order to give partial allowance, rather than adding the specific risk own funds requirements for each side of the transaction, only the higher of the two own funds requirements shall apply.

6 In all situations not falling under paragraphs 3 to 5, an own funds requirement for specific risk shall be calculated for both sides of the positions separately.

Article 347

Allowance for hedges by first and nth-to default credit derivatives

In the case of first-to-default credit derivatives and nth-to-default credit derivatives, the following treatment applies for the allowance to be given in accordance with Article 346:

- (a) where an institution obtains credit protection for a number of reference entities underlying a credit derivative under the terms that the first default among the assets shall trigger payment and that this credit event shall terminate the contract, the

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institution may offset specific risk for the reference entity to which the lowest specific risk percentage charge among the underlying reference entities applies in accordance with Table 1 in Article 336;

- (b) where the *n*th default among the exposures triggers payment under the credit protection, the protection buyer may only offset specific risk if protection has also been obtained for defaults 1 to *n*-1 or when *n*-1 defaults have already occurred. In such cases, the methodology set out in point (a) for first-to-default credit derivatives shall be followed appropriately amended for *n*th-to-default products.

Section 6

Own funds requirements for CIUs

Article 348

Own funds requirements for CIUs

1 Without prejudice to other provisions in this Section, positions in CIUs shall be subject to an own funds requirement for position risk, comprising specific and general risk, of 32 %. Without prejudice to Article 353 taken together with the amended gold treatment set out in Article 352(4) and Article 367(2)(b) positions in CIUs shall be subject to an own funds requirement for position risk, comprising specific and general risk, and foreign-exchange risk of 40 %.

2 Unless noted otherwise in Article 350, no netting is permitted between the underlying investments of a CIU and other positions held by the institution.

Article 349

General criteria for CIUs

CIUs shall be eligible for the approach set out in Article 350, where all the following conditions are met:

- (a) the CIU's prospectus or equivalent document shall include all of the following:
- (i) the categories of assets in which the CIU is authorised to invest;
 - (ii) where investment limits apply, the relative limits and the methodologies to calculate them;
 - (iii) where leverage is allowed, the maximum level of leverage;
 - (iv) where concluding OTC financial derivatives transactions or repurchase transactions or securities borrowing or lending is allowed, a policy to limit counterparty risk arising from these transactions;
- (b) the business of the CIU shall be reported in half-yearly and annual reports to enable an assessment to be made of the assets and liabilities, income and operations over the reporting period;
- (c) the shares or units of the CIU shall be redeemable in cash, out of the undertaking's assets, on a daily basis at the request of the unit holder;

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- (d) investments in the CIU shall be segregated from the assets of the CIU manager;
- (e) there shall be adequate risk assessment of the CIU, by the investing institution;
- (f) CIUs shall be managed by persons supervised in accordance with Directive 2009/65/EC or equivalent legislation.

Article 350

Specific methods for CIUs

1 Where the institution is aware of the underlying investments of the CIU on a daily basis, the institution may look through to those underlying investments in order to calculate the own funds requirements for position risk, comprising specific and general risk. Under such an approach, positions in CIUs shall be treated as positions in the underlying investments of the CIU. Netting shall be permitted between positions in the underlying investments of the CIU and other positions held by the institution, provided that the institution holds a sufficient quantity of shares or units to allow for redemption/creation in exchange for the underlying investments.

2 Institutions may calculate the own funds requirements for position risk, comprising specific and general risk, for positions in CIUs by assuming positions representing those necessary to replicate the composition and performance of the externally generated index or fixed basket of equities or debt securities referred to in point (a), subject to the following conditions:

- a the purpose of the CIU's mandate is to replicate the composition and performance of an externally generated index or fixed basket of equities or debt securities;
- b a minimum correlation coefficient between daily returns on the CIU and the index or basket of equities or debt securities it tracks of 0,9 can be clearly established over a minimum period of six months.

3 Where the institution is not aware of the underlying investments of the CIU on a daily basis, the institution may calculate the own funds requirements for position risk, comprising specific and general risk, subject to the following conditions:

- a it will be assumed that the CIU first invests to the maximum extent allowed under its mandate in the asset classes attracting the highest own funds requirement for specific and general risk separately, and then continues making investments in descending order until the maximum total investment limit is reached. The position in the CIU will be treated as a direct holding in the assumed position;
- b institutions shall take account of the maximum indirect exposure that they could achieve by taking leveraged positions through the CIU when calculating their own funds requirement for specific and general risk separately, by proportionally increasing the position in the CIU up to the maximum exposure to the underlying investment items resulting from the mandate;
- c if the own funds requirement for specific and general risk together in accordance with this paragraph exceed that set out in Article 348(1) the own funds requirement shall be capped at that level.

4 Institutions may rely on the following third parties to calculate and report own funds requirements for position risk for positions in CIUs falling under paragraphs 1 to 4, in accordance with the methods set out in this Chapter:

- a the depository of the CIU provided that the CIU exclusively invests in securities and deposits all securities at this depository;

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- b for other CIUs, the CIU management company, provided that the CIU management company meets the criteria set out in Article 132(3)(a).

The correctness of the calculation shall be confirmed by an external auditor.]

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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